

CONTRACT ROUTING SHEET

Date Prepared: 9-26-16

Need Date: 11-02-16

PROCESSING DEPARTMENT:

Department: Community Development Agency

Dept. Contact: Claudia Wade

Phone #: 530-621-5977

Department: _____

Head Signature: 

CONTRACTOR:

Name: N/A

Address: _____

Phone: _____

CONTRACTING DEPARTMENT: CDA, Long Range Planning

Service Requested: Resolution Review and Approval

Contract Term: N/A Contract Amendment Value: _____

Compliance with Human Resources requirements? Yes: _____ No: _____

Compliance verified by: _____

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: RES ONLY ✓ Disapproved: _____ Date: 10-25-16 By: D. Livingston

Approved: _____ Disapproved: _____ Date: _____ By: _____

The final hearing for the Major Update to the Capital Improvement Program (CIP) and Traffic Impact Mitigation (TIM) Fee Program is scheduled for December 6, 2016, Legistar #14-0245. The attached Resolution XXX-2016 is to adopt the TIM Fee Administrative Manual.

Resolution requires County Counsel review and approval – initials confirm approval. 

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)

Approved: _____ Disapproved: _____ Date: 10-27-16 By: MS

Approved: _____ Disapproved: _____ Date: _____ By: _____

Nothing for Risk

EDCHR/RISK

16 OCT 25 PM 02:12

OTHER APPROVAL: (Specify department(s) participating or directly affected by this contract).

Departments: _____

Approved: _____ Disapproved: _____ Date: _____ By: _____

Approved: _____ Disapproved: _____ Date: _____ By: _____



COUNTY OF EL DORADO
COMMUNITY DEVELOPMENT AGENCY
OFFICE OF THE DIRECTOR

INTEROFFICE MEMORANDUM

Date: September 19, 2016

To: Don Ashton, Chief Administrative Officer
Joe Harn, Auditor/Controller

From: Steve Pedretti, Director

Subject: Delegation of Signature Authority for Thursday and Friday, September 22 and September 23, and on Tuesday through Friday, September 27 through September 30, 2016

I will be out of the office on Thursday and Friday of this week, September 22 and September 23, and again next week on Tuesday through Friday, September 27 through September 30, 2016. During my absence, I am delegating my signature authority to Kate Sampson, Assistant Director, Administration & Finance Division.

A handwritten signature in cursive script, appearing to read "K. Sampson".

Kate Sampson, Assistant Director
Community Development Agency, Administration & Finance Division

Please call Lauri Stutts at Extension 7593 or Kate Sampson at Extension 4008 should administrative assistance be needed during my absence.

Thank-you,

A handwritten signature in cursive script, appearing to read "Steve M. Pedretti".

Steve Pedretti, Director
Community Development Agency

SMP:lks

cc: Community Development Agency, Long Range Planning
Kate Sampson, Assistant Director, Administration & Finance Division
Greg Stanton, Director, Environmental Management
Bard Lower, Director, Transportation
Roger Trout, Director, Development Services
Ruth Young, Chief Financial Officer
Karen Feathers, CAO's Office
Melanie Young, Auditor/Controller's Office



RESOLUTION 001-2017

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

Adopting the County of El Dorado Traffic Impact Mitigation (TIM) Fee Administrative Manual

WHEREAS, the County Board of Supervisors has long recognized the need for new development to help fund the roadway, bridge and transit improvements necessary to serve that new development; and

WHEREAS, starting in 1984 and continuing until the present time, the Board of Supervisors has adopted and updated various fee resolutions to ensure that new development on the western slope pay to fund its fair share of the costs of improving the County and state roadways necessary to serve that new development; and

WHEREAS, pursuant to Government Code Section 66001 et seq., the County adopted the 2004 General Plan TIM Fee Program on August 22, 2006, with Resolution 266-2006; and

WHEREAS, with Resolutions 205-2008, 114-2009, 070-2010, 021-2012, the Board of Supervisors have adopted various increases or decreases in fees relative to the economy; and

WHEREAS, General Plan Policy TC-Xb requires the County to “at least every five years, prepare a TIM Fee Program specifying roadway improvements to be completed within the next 20 years to ensure compliance with all applicable level of service and other standards in this plan;” and

WHEREAS, the Board of Supervisors have adopted Ordinance No. 5045 which codified the TIM Fee Program and Resolution 191-2016 that provides the TIM Fee Program Fee Schedule; and

WHEREAS, the Board of Supervisors shall amend the TIM Fee Program Fee Schedule in accordance with the General Plan; and

WHEREAS, Board of Supervisors desires a document to provide uniform guidance to County staff as they implement the TIM Fee Program; and

WHEREAS, the TIM Fee Administrative Manual details the implementation of the program, and an appeals process, should the need arise.

THEREFORE, BE IT HEREBY RESOLVED,

- A. The Board of Supervisors hereby adopts the TIM Fee Administrative Manual as attached in Exhibit A.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the (date) day of (Month) 2016, by the following vote of said Board:

Attest:
James S. Mitrisin
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By: _____
Deputy Clerk

_____ Chair, Board of Supervisors

COUNTY OF EL DORADO

TRAFFIC IMPACT MITIGATION FEE

ADMINISTRATIVE MANUAL

Adopted by Board Resolution 001-2017 on January 24, 2017.

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Note: Acronyms and terms (shown with “initial capitalization”) are defined in the Glossary in Appendix A.

I. PURPOSE

El Dorado County (EDC) Ordinance Code 12.28.010

The purpose of this administrative manual is to assist County staff with implementation of the Traffic Impact Mitigation (TIM) Fee Program. The TIM Fee Program is used to fund transportation improvements needed to accommodate growth anticipated over the next 20 years within the unincorporated area of the western slope of El Dorado County (generally defined as the unincorporated area of the County west of the Sierra crest as defined by the TIM Fee zone boundaries in the TIM Fee Program Schedule). Improvements funded by the TIM Fee Program include new roadways, roadway widenings, roadway intersection improvements and, where appropriate, bridge, bicycle, pedestrian, and transit improvements.

EDC Ordinance Code 12.28.040

The TIM Fee Program Schedule is based on the funding needed for capital improvements required to accommodate growth for a period of 20 years as determined by the level of service policy in General Plan Policy TC-Xd. These capital improvements are part of the TIM Fee Program and become part of the County’s Capital Improvement Program (CIP).

II. APPLICABILITY OF TIM FEE

A. Development Projects

EDC Ordinance Code 12.28.030

The TIM Fee shall apply to any Development Project unless exempt (see Section II.B). Unless exempt, the Applicant for any Development Project must pay the County the required TIM Fee. The Applicant may be eligible for TIM Fee credit or reimbursement through the provisions for Developer-Constructed Facilities (see Section V).

A Development Project includes either:

- ◆ New construction, whether a new building or an addition to an existing building,
- ◆ Change and Intensification of Use of an existing building as part of a Nonresidential Project,
- ◆ Additional Dwelling Units in an existing building as part of a Residential Project,

- ♦ Any change in land use, regardless of whether a building permit is required, that adds vehicle trips to the County roadway network, such as an RV storage facility, solar farm, athletic field, etc.

B. Exemptions

The following types of Development Projects are exempt from the TIM Fee:

1. Residential Additions

Additions to existing residential buildings, inclusive of detached accessory structures, that do not result in Additional Dwelling Units are exempt from the TIM Fee because the Development Project would not generate additional vehicle trips.

2. Local Government Facilities

A Nonresidential Project owned by the County of El Dorado, or a school or special district within El Dorado County that provides public services within TIM Fee Zones may be exempt from the TIM Fee if it can be demonstrated that the need for these facilities is caused by other Development Projects.

3. Affordable Housing

The Board may offset TIM Fees on Affordable Housing projects upon determination of the eligibility of the project. If eligible, the Board may authorize an equal or partial contribution of funds for construction of capital improvements in the TIM Fee Program Schedule from other non-tax sources such as State and Federal grants to backfill the Program. The Board must approve an application for the offset program for the offset to be valid. See Board Policy B-14 in **Appendix D**.

4. Secondary Dwelling Units

Secondary Dwelling Units are exempt from the TIM Fee. The Board has authorized an equal contribution of funds for construction of capital improvements in the TIM Fee Program Schedule from other non-tax sources. Non-tax sources such as State and Federal grants are used to backfill the program, and to offset the traffic impacts from Secondary Dwelling Units.

5. Accessory Structures

TIM Fees are not collected for residential and non-residential accessory structures that do not generate additional vehicle trips.

III. CALCULATION OF TIM FEES

A. Fee calculation

EDC Ordinance Code 12.28.050

The formula for calculating the TIM Fee for a Development Project is shown below. To calculate the TIM Fee, the following information is required:

- ◆ TIM Fee Use Category applicable to the Development Project (see Section III.B and **Appendix B** for more details).
- ◆ TIM Fee Zone in which the Development Project is located (see Section III.C and **Appendix C** for more details).
- ◆ Applicable TIM Fee per Dwelling Unit or per square foot (see the TIM Fee Program Schedule).
- ◆ Size of the Development Project in terms of Additional Dwelling Units for Residential Projects or building square feet for Nonresidential Projects (as indicated on the Building Permit application).

1. Residential Projects (New Construction and Existing Buildings)

$$\text{TIM Fee} = \left(\begin{array}{l} \text{TIM Fee per Dwelling Unit} \\ \text{(based on TIM Fee Zone} \\ \text{and TIM Fee Use Category)} \end{array} \right) \times \begin{array}{l} \text{Additional} \\ \text{Dwelling} \\ \text{Units} \end{array}$$

2. Nonresidential Projects (New Construction)

$$\text{TIM Fee} = \left(\begin{array}{l} \text{TIM Fee per square foot} \\ \text{(based on TIM Fee Zone} \\ \text{and TIM Fee Use Category)} \end{array} \right) \times \begin{array}{l} \text{Additional} \\ \text{Square} \\ \text{Feet} \end{array}$$

3. Nonresidential Projects (Existing Buildings)

A TIM Fee for Nonresidential Projects in existing buildings is applicable only if there is a Change and Intensification of Use from a lower to a higher TIM Fee based on the TIM Fee Use Category.

$$\text{TIM Fee} = \left[\begin{array}{l} \text{TIM Fee per square foot} \\ \text{based on TIM Fee Zone} \\ \text{and } \underline{\text{proposed}} \text{ TIM Fee} \\ \text{Use Category} \end{array} - \begin{array}{l} \text{TIM Fee per square foot} \\ \text{based on TIM Fee Zone and} \\ \text{highest TIM Fee Use Category} \\ \text{for } \underline{\text{current}} \text{ permitted use} \end{array} \right] \times \begin{array}{l} \text{Additional} \\ \text{Square} \\ \text{Feet} \end{array}$$

There is no impact from a Development Project and therefore no TIM Fee if the fee per square foot for the proposed TIM Fee Use Category is less than the highest TIM Fee for

the current permitted use. Refunds are not provided if the Project would result in lower TIM Fee based on the TIM Fee Use Category. See Section III.B.3 for more explanation.

B. TIM Fee Use Category

TIM Fees vary based on the TIM Fee Use Category of the Development Project. See **Appendix B** for a list of uses and the applicable TIM Fee Use Category. Appendix B does not have a comprehensive list and CDA will make the final determination of the appropriate TIM Fee Use Category. TIM Fee Use Categories found in the TIM Fee Program Schedule are shown below in **Table 1**. Following the list are guidelines on how to classify specific types of Development Projects.

Table 1: TIM Fee Use Categories

Residential	Nonresidential
Single-family Not Age Restricted	General Commercial
Single-family Age Restricted	Hotel/Motel/B&B
Multi-family Not Age Restricted	Church
Multi-family Age Restricted	Office/Medical
	Industrial/Warehouse

For a Development Project that is not consistent with any of the TIM Fee Use Categories in Table 1, see Section III.D - Alternative TIM Fee Calculation Method.

1. TIM Fee Use Categories for Residential Activities

Single family: Includes Dwelling Units that are Single Family Detached, Manufactured Homes, Patio Homes, and Mobile Homes not located in a Mobile Home Park.

Multi-family: Includes Dwelling Units that are: Apartments, Condominiums, Multiplexes, Manufactured Housing, Mobile Homes located in a Mobile Home Park, Modular Units, Quadplexes, Townhouses, Triplexes, and Two-Family Units.

See **Appendix A** for definitions of residential activity terms.

2. Unknown Uses

If the type of activity within a Development Project is not indicated in the permit application sufficient to determine the TIM Fee Use Category, then determine the most likely activity and related TIM Fee Use Category based on further analysis of the Project.

3. Development Projects in Existing Buildings

Residential Projects: There is no TIM Fee for a Development Project in an existing building, such as addition and remodel projects, unless the Project would result in Additional Dwelling units.

Nonresidential Projects: There is no TIM Fee on a Nonresidential Project in an existing building unless there is a Change and Intensification of Use. A Change and Intensification of Use occurs when the activity within an existing building associated with a Development Project would change from a TIM Fee Use Category with a lower fee to a TIM Fee Use Category with a higher fee. There is no fee or refund if the change in use is from a higher to a lower TIM Fee Use Category. See Board Policy J-5 in **Appendix D**.

4. TIM Fee Use Category for Mixed-Use Development Projects

For a Development Project with multiple TIM Fee Use Categories, the TIM Fee is calculated separately for each TIM Fee Use Category, and then summed to calculate the total fee for the Project.

C. TIM Fee Zones

The amount of the TIM Fee varies depending on the location of the Development Project based on the TIM Fee Zones included in the TIM Fee Program Schedule. See **Appendix C** for a map of TIM Fee Zones.

1. Development Projects in Multiple TIM Fee Zones

If a Development Project is split between multiple zones, then the TIM Fee is calculated separately for each zone based on the portion of the Project located in that zone.

2. Development Projects on State and Federal Lands

Based on the nexus analysis the TIM Fee is applicable to Development Projects on State and Federal lands in the same manner as it would be applied to privately-owned lands. The Director should consult with County Counsel if the Applicant asserts that they are not subject to payment of the TIM Fee due to the jurisdictional status of the land.

D. Alternate TIM Fee Calculation Method

If a Development Project would result in a use not consistent with any of the Use Fee Categories used in the TIM Fee Program Schedule, then a TIM Fee specific to the Development Project may be calculated as follows:

1. Calculate net new evening peak hour vehicle trip generation rate using data from the Institute of Transportation Engineers, *Trip Generation* manual and other sources as appropriate:
 - a. Estimate the evening peak hour trip generation rate for the Project.
 - b. Estimate percent new trips for the Project (exclude diverted and passby trips).
 - c. Multiply (1.a) by (1.b) to calculate the net new evening peak hour vehicle trip generation rate. See **Table 2**, on the following page, for comparison of factors used in the TIM Fee nexus model.
2. Calculate the equivalent dwelling unit (EDU) factor:
 - a. Identify the appropriate adjustment factor for local-serving businesses applicable to the Project (**1.0** for Residential Projects and **0.293** for Nonresidential Projects).¹
 - b. Multiply (1.c) by (2.a) to calculate the EDU factor for the Project (same as the net new evening peak hour vehicle trip generation rate for Residential Projects).
3. Calculate the Hwy. 50 TIM Fee component for the Project:
 - a. Identify the applicable Hwy. 50 cost per EDU for the Project based on zone and land use (residential or nonresidential) from Table 17 in the nexus model, adjusted for inflation consistent with adjustments to the TIM Fee Program Schedule since the TIM Fee Program Schedule was updated using the nexus model.
 - b. Multiply (2.b) by (3.a) to calculate the Hwy. 50 cost per unit of development for the Project.
 - c. Multiply (3.b) by the size of the Project to calculate the Hwy. 50 fee. The units used for project size (dwelling units, rooms, square feet, etc.) should be the same as the units used for the trip generation rate in Step (1).
4. Calculate the local roads TIM Fee component for the Project:
 - a. Identify the applicable local roads cost per EDU for the Project based on zone and land use (residential or nonresidential) from Table 18 in the nexus model, adjusted for inflation consistent with adjustments to the TIM Fee Program Schedule since the TIM Fee Program Schedule was updated using the nexus model.
 - b. Multiply (2.b) by (4.a) to calculate the local roads cost per unit of development for the Project.

¹ The local-serving business adjustment factor is based on the ratio of the "Final EDU" to the "Preliminary EDU" factors in Table 4 of the nexus model.

- c. Multiply (4.b) by the size of the Project to calculate the local roads fee. The units used for project size (dwelling units, rooms, square feet, etc.) should be the same as the units used for the trip generation rate in Step (1).

Calculate the total fee by adding (3.c) and (4.c).

Table 2: Vehicle Trip Generation Rates

TIM Fee Use Category	Units	Evening Peak Hour Vehicle Trip Generation Rate	Percent New Vehicle Trips (excludes diverted and passby trips)	Net New Evening Peak Hour Vehicle Trip Generation Rate
Residential				
Single-family Not Age Restricted	per Dwelling Unit	1.00	100%	1.00
Single-family Age Restricted		0.27	100%	0.27
Multi-family Not Age Restricted		0.62	100%	0.62
Multi-family Age Restricted		0.25	100%	0.25
Nonresidential				
Hotel/Motel/B&B	per room	0.47	58%	0.27
General Commercial	per 1,000 sq. ft.	3.71	47%	1.74
Church		0.55	64%	0.35
Office/Medical		1.49	77%	1.15
Industrial/Warehouse		0.97	79%	0.77
Source: Institute of Transportation Engineers, <i>Trip Generation 9th Edition</i> , 2012; San Diego Association of Governments, <i>Brief Guide of Vehicular Trip Generation Rates</i> , April 2002.				

IV. PAYMENT OF TIM FEES

EDC Ordinance Code 12.28.060

Consistent with the intent of this section, no Development Project may be finalized by the County (i.e., occupancy, encroachment permit approval, etc.) unless the applicable TIM Fee has been paid to the County. TIM Fee is due upon issuance of any permit (e.g.,

encroachment permit, etc.) or to comply with a condition of approval of a Development Project.

A. Development Projects Not Subject to Fee Deferral Policy

Payment of TIM Fees shall be due prior to the issuance of a Building Permit or prior to finalizing of appropriate permits (i.e., occupancy, encroachment, etc.) of an approved Development Project. Payment shall be in the amount of one hundred percent (100%) of the applicable TIM Fee.

B. Development Projects Subject to Fee Deferral Policy

An alternative method for payment of the TIM Fee is by application of a Board-adopted fee deferral policy. Fee deferral is an option for all Nonresidential Projects. See **Appendix D** for Board-adopted fee deferral policy (Board Policy B-3).

V. CREDITS AND REIMBURSEMENTS FOR DEVELOPER-CONSTRUCTED FACILITIES

EDC Ordinance Code 12.28.110

Developer-Constructed Facilities are capital improvements that are included in the TIM Fee Program Schedule and constructed by an Applicant. An Applicant may provide Developer-Constructed Facilities to offset some or all of the Development Project's TIM Fee obligation. Developer-Constructed Facilities are constructed by an Applicant and upon completion are accepted by the County as a public asset.

The Director has sole discretion to determine whether Developer-Constructed Facilities are eligible for TIM Fee credit or reimbursement. The Director may require transportation improvements as a condition of approval for a Development Project that are not eligible for a credit or reimbursement.

A. Credits Versus Reimbursements

Credits: Credits occur if the Applicant seeks to offset some or all of the Applicant's TIM Fee obligation.

Reimbursements: Reimbursements occur if either (1) the cost of Developer-Constructed Facilities eligible for reimbursement exceeds the applicable TIM Fee obligation, and/or (2) the Applicant seeks reimbursement for prior TIM Fee payments. The TIM Fee accounts shall be the sole sources of reimbursements for Developer-Constructed Facilities.

The sum of credits and reimbursements for Developer-Constructed Facilities associated with a Credit and Reimbursement Agreement (see Section V.C) shall equal the total cost

of Developer-Constructed Facilities eligible for credit and reimbursement as identified in the Credit and Reimbursement Agreement.

B. Total Eligible Cost for Credit and Reimbursement

The total eligible cost for a credit and, if applicable, a reimbursement, shall equal the actual cost of the Developer-Constructed Facilities up to the amount identified for the same capital improvement in the TIM Fee Program Schedule, adjusted for inflation. Costs may include, for example, land, design and engineering, environmental review, permits, surveys and inspection, performance bond premiums, construction, furnishings and equipment, and project management.

C. Credit and Reimbursement Agreement

To enable Developer-Constructed Facilities to offset a TIM Fee obligation, the Applicant must execute a Credit and Reimbursement Agreement (Agreement) with the County. Whether to enter into such an Agreement is within the sole and absolute discretion of the Director. The Agreement must include provisions that address the following topics:

- ♦ **Preparation and Approval:** The Director shall prepare the Agreement. The Board and Applicant must each approve the Agreement for the Agreement to take effect.
- ♦ **Facility Description:** The description of the Developer-Constructed Facilities shall include location, size, and any other characteristics needed to identify the Facilities.
- ♦ **Facility Cost:** The total eligible cost for the Developer-Constructed Facilities as defined in Section V.B. Actual cost shall be supported by documentation provided by the Applicant including, for example, land acquisition contracts, construction contracts, invoices, and payment records. If land was purchased well in advance of construction, land costs shall be based on a current appraisal conducted by an appraiser with a current California license that is applicable to the type of land being appraised. The Director has sole discretion whether to accept submitted documentation.

If the Agreement is executed prior to construction of the Developer-Constructed Facilities, then the Agreement shall include the estimated eligible cost as supported by documentation provided by the Applicant including, for example, construction unit costs and quantities, and lump sum estimates for design, engineering, and other soft costs.

- ♦ **Acceptance of Facility:** Include the time when the Developer-Constructed Facilities were accepted by the County, or an estimated schedule for acceptance and any conditions associated with acceptance.

- ◆ **Credits:** The total credit amount shall equal the eligible cost of Developer-Constructed Facilities or the actual applicable TIM Fee obligation, whichever is less. If the actual cost of Development Constructed Facilities, and/or the actual TIM Fee obligation, is not known at the time the Agreement is executed, then amounts may be estimated.
- ◆ **Reimbursements:** The total reimbursement amount shall equal the eligible cost of the Developer-Constructed Facilities minus the applicable TIM Fee credit. Indicate how payments are calculated, funded, and scheduled. Options include:
 - **Calculation of Payments:**
 - **Fixed Percentage Payment:** Reimbursement payments are based on a fixed percentage of annual TIM Fee revenues for the TIM Fee account funding the reimbursement. This approach can protect the County from over-commitment to reimbursement payments during years of low fee revenue.
 - **Fixed Amount Payment:** Reimbursement payments are based on an annual fixed amount. This approach may be appropriate if the payments are small relative to anticipated fee revenues net of committed funding for capital improvements and outstanding reimbursements due on other Agreements.
 - **Interest on Unpaid Balances:** Indicate whether the reimbursement balance is adjusted annually, and if so the index to be used for that adjustment. An index is typically the interest rate associated with a specified type of U.S. Treasury debt or commercial bank lending.
 - **Funding:** The County shall make reimbursement payments only from the TIM Fee account(s) that otherwise would be obligated to fund the Developer-Constructed Facilities. The Agreement should state that:
 - The County's general fund is not liable for payment of any obligations arising from the Agreement.
 - The credit or taxing power of the County is not pledged for any obligations arising from the Agreement.
 - The Applicant shall not compel the exercise of the County taxing power or the forfeiture of any of its property to satisfy obligations arising from the Agreement.
 - Obligations arising from the Agreement are not a debt of the County, nor a legal or equitable pledge, charge, lien, or encumbrance, upon any of its property, or upon any of its income, receipts, or revenues.
- ◆ **Timing of Credits and Reimbursements:**

- **Credits:** Outstanding credit balances shall be reduced based on the TIM Fee obligation calculated at time of submittal of a Building Permit application.
- **Reimbursements:** Payments on outstanding reimbursement balances must be made no less often than once annually.
- **Delay in Granting Credits and Reimbursements:** If the County has not accepted the Developer-Constructed Facilities, and the total amount of credits and reimbursements to date is 90 percent or more of the estimated Facilities cost, then the County may delay the remaining credits or reimbursements until the County accepts the Facility. In the case of outstanding credits, this delay would require payment of the TIM Fee, as applicable, and an increase in the reimbursement amount due pursuant to the Agreement.
- ♦ **Security:** If the Applicant seeks credits and/or reimbursements prior to County acceptance of the Developer-Constructed Facilities, then the Applicant shall post a performance bond to ensure satisfactory completion of the Facilities.
- ♦ **Agreement Preparation and Administrative Costs:** The agreement may include provisions for the County to recoup preparation and administrative costs from the Applicant.
- ♦ **Termination:** The Agreement shall be terminated when the County accepts the Developer-Constructed Facilities, or all credit and reimbursement obligations have been satisfied, whichever occurs later.

If all credit and reimbursement obligations have been satisfied based on an estimated cost of Developer-Constructed Facilities and prior to County acceptance of Facilities, then upon acceptance by the County:

- If the actual cost is greater than the total amount of credits and reimbursements made to date, then the County, at its sole discretion, may seek the Applicant's approval to amend the Agreement to enable an additional credit and/or reimbursement amounts.
- If the actual cost is less than the total amount of credits and reimbursements, then the Applicant shall reimburse the County for the difference. As described above under "Timing of Credits and Reimbursements", once 90 percent of the estimated cost has been funded through credits and/or reimbursements, the County can delay remaining credits or reimbursement payments until acceptance of the Facilities. This capability enables the County to avoid this circumstance in which the Applicant would need to reimburse the County for over-funding credits and reimbursements.

VI. APPEALS

A. Types of Reductions

EDC Ordinance Code 12.28.070(A)

1. Incorrect Fee Application

If the requirements of this Administrative Manual have been incorrectly applied to a Development Project, because of an incorrect TIM Fee Use Category or an incorrect trip generation rate, then an adjustment in the applicable TIM Fee is justified to reflect the correct application of this Administrative Manual. Refer to Alternative TIM Fee Calculation Method in Section III.D for calculation of the adjusted TIM Fee.

2. Unlawful Fee Application

If the application of the requirements of this Administrative Manual to a Development Project is unlawful under and/or conflicts with federal, state, or local law and/or regulation, then a reduction in the applicable TIM Fee is justified. The justification for such a reduction includes circumstances where application of the TIM Fee would result in an unlawful taking of property without just compensation.

B. Application for Appeal

EDC Ordinance Code 12.28.070(B)

Authorization of an appeal of the TIM Fee must meet the following requirements:

- ◆ The Applicant must appeal the TIM Fee no later than the date of application for the Building Permit for the Development Project on a form provided by the County.
- ◆ The Applicant shall pay the TIM Fee pursuant to this Administrative Manual pending the resolution of the application for an appeal.
- ◆ The burden of establishing satisfactory factual proof of the applicability and elements of this section shall be on the Applicant.
- ◆ The Applicant must submit full information in support of their submittal as requested by the Director.
- ◆ Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court.
- ◆ Failure to submit such an application shall preclude such person from challenging the TIM Fee in court. The Director may require, at the expense of the Applicant, review of the submitted materials by a third party.

C. Determination of Appeal

EDC Ordinance Code 12.28.070(C)

The Director shall mail the Applicant a final, written determination on the appeal. The Applicant may appeal the Director's decision to the Hearing Officer. The Hearing Officer's decision is final and not administratively appealable.

VII. COLLECTION AND ACCOUNTING OF TIM FEES

A. Fee Accounts

All TIM Fee payments shall be deposited in the accounts listed below. The Director shall administer each account and have the authority to regulate the use of each account.

- ♦ TIM – Zone 8 El Dorado Hills
- ♦ TIM - Silva Valley Interchange
- ♦ TIM – Zones 1-7
- ♦ TIM – HWY 50

No Comingling of Funds: Use of these accounts shall avoid any comingling of revenue from TIM Fees with any other revenues and funds, including other impact fees, except for temporary investments to earn interest on fund balances.

Interest Earned on Fund Balances: Any interest income earned by moneys in each account shall be deposited in that account and shall be expended only for the purpose for which the TIM Fee was originally collected.

B. Transfers

EDC Ordinance Code 12.28.120

Transfers and/or noninterest earning loans shall be allowed between the different TIM Fee accounts upon the recommendation of the Director and shall comply with the following:

- ♦ The transfer or loan is to provide funding for a capital improvement included in the TIM Fee Program Schedule.
- ♦ Transferred or loaned funds will be repaid as funds become available.
- ♦ The Board is notified of and approves the transfer through the annual budget process pursuant to the Mitigation Fee Act requirements (see Section VII D).
- ♦ The Director determines in writing that special circumstances exist to justify the loan. "Special circumstances" shall include, but is not be limited to, opportunities to obtain grants or other funding, coordination with other capital improvement(s)

and/or capital improvement timing. The Board is notified of and approves the loan pursuant to the Mitigation Fee Act requirements.

C. Annual TIM Fee Adjustment

EDC Ordinance Code 12.28.050

The fee amounts in the TIM Fee Program Schedule shall be adjusted for inflation in accordance with the percentage change published by the Engineering News Record Construction Cost Index, or if such index ceased to be published, by an equivalent index chosen by the Director, with appropriate adjustments for regional and local construction costs as necessary.

The Director shall notify the Board at a public meeting of the proposed annual fee adjustment. No annual fee adjustment shall be effective until approved by the Board. Any annual fee adjustment approved by the Board shall be effective on July 1st of the year in which the action is taken, or at such other time as is provided by law.

D. Annual TIM Fee Program Report

Schedule: The Director shall, prior to December 27th of each year (within 180 days following the end of the fiscal year), make available to the public information regarding activity within each account for the prior fiscal year.

Report Content: The annual TIM Fee Program report shall contain the following information for the prior fiscal year:

- ◆ A brief description of each TIM Fee account.
- ◆ The amount of the TIM fees as shown in the TIM Fee Program Schedule.
- ◆ The beginning and ending balance of each TIM Fee account.
- ◆ The amount of TIM Fee revenue collected and the interest earned on each TIM Fee account balance.
- ◆ An identification of the capital improvements for which TIM Fees were expended and the amount of the expenditures on each capital improvement, including the total percentage of the cost of the capital improvement that was funded with TIM Fees.
- ◆ A description of each interfund transfer or loan made from the account, including the capital improvements on which the transferred or loaned funds will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
- ◆ If a specific capital improvement has been identified in the County's CIP for funding by TIM Fees, and if sufficient TIM Fees have been collected to complete funding of the capital improvement, then the approximate date by which the construction of that capital improvement will commence. If a date is not

identified, then TIM Fees may have to be refunded pursuant to Government Code Sections 66001(e) and (f).

- ♦ The amount of TIM Fee offset granted to Affordable Housing and Secondary Dwelling Units (see Section II.B.3 and II.B.4) and the transfers made into the TIM Fee accounts for the offset.

Board Review: The Board shall review this information at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public.

Public Notice to Interested Parties: Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the Director for mailed notice of the meeting. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The Board may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

General Plan Consistency Finding: Changes to the TIM Fee projects in the CIP require a General Plan Consistency Finding by the Planning Commission or the Board, at its discretion, can make the consistency finding.

E. Five-year TIM Fee Program Review

Schedule: Every five years the Director will prepare a five-year TIM Fee Program review. The five-year program review shall be released to the public and reviewed by the Board on the same schedule as the annual TIM Fee Program report (see Section VII.D).

Content: The primary purpose of the five-year program review is to justify continued collection of the TIM Fee pursuant to the Mitigation Fee Act in Sections 66000-66025 of Government Code (Act). Content shall include:

- ♦ An update of the nexus analysis based on current information.
- ♦ Support the findings required in Section 66001(a) and (b) of the Act.
- ♦ Identify specific capital improvements, or types of capital improvements, for use of the prior year ending fund balance consistent with the nexus analysis and findings made pursuant to the Act.

F. Enforcement

EDC Ordinance Code 12.28.090

Failure of an Applicant to comply with any of the provisions of these administrative procedures is prima facie evidence of an existing major violation and shall be abated by the Director in accordance with the provisions these procedures. Any person in violation will be subject to civil penalties, civil action and/or other legal remedies.

If the Applicant fails to comply with any provisions of these administrative procedures, including failure to timely pay the TIM Fee, the County may take any or all of the following actions:

- ◆ Withhold issuance of the building-related permits.
- ◆ Record a Special Assessment or other lien or liens against the real property which is the subject of the Development Project for the amount of the TIM Fee.
- ◆ Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the Development Project.
- ◆ Take any other action necessary and appropriate to secure payment, with interest accruing from the date of nonpayment.
- ◆ Assess civil penalties against an Applicant and/or associated parcel owner.

VIII. USE OF TIM FEE FUNDS

EDC Ordinance Code 12.28.040, 12.28.080, and 12.28.100

A. Use of TIM Fees for TIM Fee Capital Improvements

Once TIM Fee capital improvements are identified and included in the TIM Fee Program Schedule, the County shall construct the capital improvements based on priorities established by the Board. Funds for these capital improvements shall come from the TIM Fee Program and other non-tax sources as determined by the Board.

The Director shall review the County CIP during CDA's annual budget preparation period. Based on this review the Director shall recommend to the Board funding priorities for the coming fiscal year among the capital improvements included in the TIM Fee Program Schedule.

TIM Fee funds may be used:

- ◆ To pay for capital improvements listed in the TIM Fee Program Schedule, including planning, design, administration, environmental compliance, bridge matching funds as appropriate and construction;
- ◆ To acquire right-of-way for capital improvements listed in the TIM Fee Program Schedule for which funding is expressly provided for right-of-way acquisition;
- ◆ To reimburse the County for construction of such capital improvements listed in the TIM Fee Program Schedule;
- ◆ To reimburse Applicants for Developer-Constructed Facilities pursuant to an adopted Credit and Reimbursement Agreement (see Section V.C).

Funding for a capital improvement is limited to the amount shown in the TIM Fee Program Schedule, unless expressly approved by the Board.

B. Use of TIM Fees for Administrative Costs

The TIM Fee may be used to fund administrative costs directly associated with the TIM Fee Program and not otherwise funded through processing fees or any other funding source. Administrative costs eligible for funding by TIM Fees include:

- ◆ Reasonable administrative or related expenses of the County including costs associated with the annual TIM Fee adjustment, annual TIM Fee Program report, and five-year TIM Fee Program review described in Section VII.
- ◆ Costs reasonably related to preparation and revision of plans, policies, and studies associated with identifying the capital improvements included in the TIM Fee Program Schedule and described in Section VIII.A
- ◆ Nexus studies required to make any findings and determinations required by the Mitigation Fee Act for the TIM Fee Program.

APPENDIX A: GLOSSARY*EDC Ordinance Code 12.28.020*

Term	Definition
Accessory Structures	Structures consistent with the primary use, established or constructed at the same time or after the establishment or construction of the primary use or structure on a lot. (See EDC Ordinance Code Sec. 130.40.030).
Additional Square Feet	The net increase in square feet of building floor area associated with a Development Project. "Net increase" is the floor area of the Development Project less the floor area (a) legally removed by authorized remodeling, demolition or relocation, or by accidental destruction or natural disaster, during the year preceding submittal of the Building Permit application or (b) authorized to be removed prior to or during construction of the Development Project. "Building floor area" is floor area within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Floor area not provided with surrounding walls shall be included if such area is included in the horizontal projection of a roof or floor above.
Additional Dwelling Units	The net increase in the number of Dwelling Units associated with a Development Project. Additional Dwelling Units equal the number of new Dwelling Units less the number of Dwelling Units (a) legally removed by authorized remodeling, demolition or relocation, or by accidental destruction or natural disaster, during the year preceding submittal of the Building Permit application or (b) authorized to be removed prior to or during the construction of the Development Project. Remodels and additions that do not result in an additional Dwelling Unit are not Additional Dwelling Units.
Affordable Housing	A Residential Project that is restricted to occupancy by moderate-income, low-income, and/or very low-income households as defined in the Zenovich-Moscone-Chacon Housing and Home Finance Act in California Health and Safety Code sections 50000 et seq.
Apartment	<ol style="list-style-type: none"> 1) One or more rooms of a building used as a place to live, in a building containing at least one other Unit used for the same purpose; 2) A separate suite, not owner occupied, that includes kitchen facilities and is designed for and rented as the home, residence, or sleeping place of one or more persons living as a single housekeeping unit.

Term	Definition
Applicant	Any individual, person, firm, partnership, association, joint venture, corporation, limited liability company, entity, combination of entities or authorized representative thereof, who undertakes, proposes or applies to the County for a Development Project.
Approval	An actual use entitlement granted by El Dorado County, not an acceptance of an application as complete.
Board	El Dorado County Board of Supervisors.
Building Permit	The permit required by El Dorado County to do or cause to be done any work regulated by the County's building codes.
Capital Improvement Program (CIP)	The CIP is a planning document that identifies all capital improvement projects (e.g., roads and bridges) a local government or public agency intends to build, replace or improve over a certain time horizon. The CIP provides a means for the Board to determine the capital improvement projects and funding priorities over a 20-Year horizon as required by the General Plan.
CDA	Community Development Agency.
Change and Intensification of Use	A Nonresidential Project that will change the use of building floor area, as defined in the California Building Standards Code, from the highest TIM Fee Use Category for the current permitted use to a higher TIM Fee Use Category. Change of Intensification of Use can also include a Project which may not require a building permit, however adds traffic to the County roadway network, such as an RV storage facility.
Condominium	A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and buildings) is owned in common by the owners of the individual units.
County	County of El Dorado.
Credit and Reimbursement Agreement	See Section VI.
Developer-Constructed Facilities	Capital improvements included in the TIM Fee Program Schedule that are constructed by an Applicant.

Term	Definition
Development Project	Includes either (1) new construction, whether a new building or an addition to an existing building, (2) Change and Intensification of Use of an existing building as part of a Nonresidential Project, (3) Additional Dwelling Units in an existing building as part of a Residential Project, or (4) any change in land use, regardless of whether or not building permit is required, that adds vehicle trips to the County roadway network, such as a recreational vehicle storage facility, solar farm, athletic field, etc.
Director	El Dorado County CDA Director or designee.
Dwelling Unit	A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), that constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.
Hearing Officer	The person appointed by the Board of Supervisors who is deemed to have sufficient knowledge of the Mitigation Fee Act (Government Code Section 66000-66008) and the administrative process.
Manufactured Housing	Residential structures that are constructed entirely in the factory, and which since June 15, 1976, have been regulated by the federal Manufactured Home Construction and Safety Standards Act of 1974 under the administration of the U.S. Department of Housing and Urban Development (HUD). (See also “Mobile Home” and “Modular Unit”)
Mobile Home	<p>A structure, transportable in one or more sections, built on a permanent chassis and designed for use as a Single-Family Dwelling Unit and which</p> <ol style="list-style-type: none"> 1) has a minimum of 400 square feet of living space; 2) has a minimum width in excess of 102 inches; 3) is connected to all available permanent utilities; and 4) is: <ol style="list-style-type: none"> a) tied down to a permanent foundation on a lot either owned or leased by the homeowner; b) tied down to a temporary foundation, when authorized by a Temporary Mobile Home Permit; or c) set on piers, with wheels removed and skirted, in a mobile home.

Term	Definition
Mobile Home Park	A site with required improvements and utilities for the long-term parking of mobile homes, and which may include facilities and services for the residents.
Modular Unit	A factory-fabricated, transportable building or major component designed for use by itself or for incorporation with similar units on-site into a similar structure for residential, commercial, educational, or industrial use. Differs from mobile homes and manufactured housing (in addition to lacking an integral chassis or permanent hitch to allow future movement) being subject to California's housing law design standards. California standards are more restrictive than federal standards in some respects (e.g., plumbing and energy conservation). Also called Factory-built Housing and regulated by the California State law of that title. (See also "Mobile Home" and "Manufactured Housing")
Multifamily	A dwelling containing more than two Dwelling Units for rent.
Multiplex	A term encompassing two-family (duplex), triplex, and quadraplex dwelling-type structures.
Nonresidential Project	A Development Project with the following TIM Fee Use Categories: Hotel/Motel/B&B, Industrial/Warehouse, General Commercial, Office/Medical, and Church.
Patio Home	A detached single-family unit, typically situated on a reduced-sized lot, that orients outdoor activity within rear or side yard patio areas for better utilization of the site for outdoor living space.
Quadraplex	Four attached dwellings, available for rent, in one structure in which each unit has two open space exposures and shares one or two walls with adjoining unit or units.
Residential Project	A Development Project with the following TIM Fee Use Categories: Single Family Housing, Multi-Family Housing, Single Family Age Restricted Housing, or Multi-Family Age Restricted Housing.
Second Residential Unit or Secondary Dwelling Unit	A self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single lot. Also called a "Granny Flat."
Single Family Attached	A Dwelling Unit occupied, or intended for occupancy by only one household that is structurally connected with at least one other such Dwelling Unit; distinguished from a multifamily dwelling as the unit is separately saleable (e.g., townhouse).

Term	Definition
Single Family Detached	A Dwelling Unit occupied, or intended for occupancy by only one household that is structurally independent from any other such Dwelling Unit or structure intended for residential use.
TIM Fee	The Traffic Impact Mitigation (TIM) Fee imposed under Chapter 12.28 of the El Dorado County Ordinance Code. Fees may be adjusted for inflation pursuant to Section 12.28.050.
TIM Fee Program	The TIM Fee levied by El Dorado County to ensure that Development Projects pay for all or a portion of the costs of providing public infrastructure or services to the Project.
TIM Fee Program Schedule	The Zone boundaries, capital improvements list, and TIM Fee schedule on file with the Director and as adopted by Resolution.
TIM Fee Zone	Any of the several geographic areas where TIM Fees are applicable to a Development Project as shown in the El Dorado County TIM Fee Program Schedule.
TIM Fee Use Category	The land use categories used to calculate the TIM Fee on a Development Project (see Appendix C).
Two-family Dwelling	A structure on a single lot containing two Dwelling Units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both Dwelling Units.
Townhouse	A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, each unit is separated from any other unit by one or more common fire resistant walls, and each unit is separately saleable.
Triplex	A dwelling containing three Dwelling Units, each of which has direct access to the outside or to a common hall.

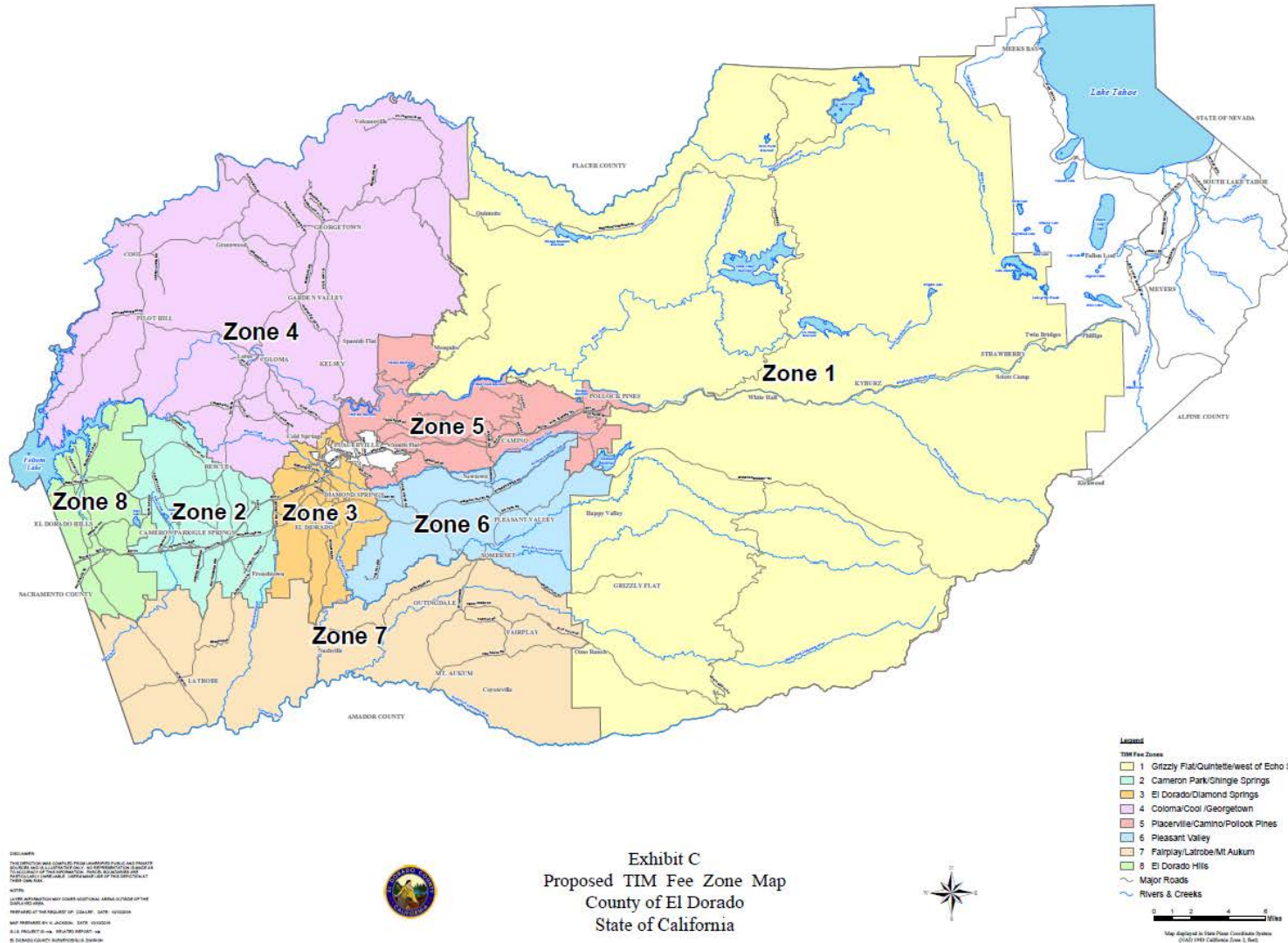
APPENDIX B: USE FEE CATEGORIES

The following table includes examples of zoning designations and the appropriate TIM Fee Use Category. CDA makes the final determination of the appropriate TIM Fee Use Category.

EXAMPLES OF TIM FEE USE CATEGORY PER ZONING CODE THIS IS NOT A COMPREHENSIVE LIST FINAL DETERMINATION TO BE MADE BY CDA	
TIM Fee Use Category	Planning Activity Examples
Single Family Not Age Restricted	Single-Family Dwelling unit, Mobile Home <u>not</u> in a Mobile Home Park, Patio Homes.
Single Family Age Restricted	Single-Family Dwelling Unit in Zones 2, 3 or 8 that meets the requirements for Age Restricted Development.
Multi-Family Not Age Restricted	Apartment, condominium, mobile home in a mobile/manufactured home park, modular unit, townhouse, triplex, two-family dwelling, quadraplex.
Multi-Family Age Restricted	Multi-Family Dwelling Unit in Zones 2, 3 or 8 that meets the requirements for Age Restricted Development.
General Commercial	Grocery store, retail store, gas stations with convenience stores, auto sales and rentals, banks, breweries, day care, restaurants, winery.
Hotel/Motel/B&B	
Church	
Office/Medical	General office, doctor's office, hospital.
Industrial/Warehouse	Light industrial and light manufacturing, printing and publishing, wholesale storage and distribution.

APPENDIX C: TIM FEE ZONES

The amount of the TIM Fee depends on the TIM Fee Zone in which the Development Project is located. The boundaries of TIM Fee Zones are shown on the map on the following page.



DISCLAIMER
 This document was developed from available public and private records and is not intended to be a legal document. It is provided as a reference only and should not be used as a basis for any legal action. The County of El Dorado is not responsible for any errors or omissions in this document.
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Exhibit C
 Proposed TIM Fee Zone Map
 County of El Dorado
 State of California



APPENDIX D: BOARD POLICIES

This appendix includes:

- ◆ Traffic Impact Fee Deferral policy adopted by the Board for Nonresidential Projects (Policy B-3)
- ◆ TIM Fee Offset Program for Developments with Affordable Housing Units (Policy B-14)
- ◆ TIM Fee Credit to Account for Prior Occupancy Use (Policy J-5)



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT FEE DEFERRAL	Policy Number B-3	Page Number: 1 of 3
	Date Adopted: 02/28/1995	Revised Date:

BACKGROUND:

The Board of Supervisors wishes to encourage the development of non-residential uses in El Dorado County. One method to make commercial and industrial development more attractive is to create a system that allows the traffic impact mitigation (TIM) fee to be deferred. Commercial/industrial projects provide benefits in the following four categories:

- (a) *Creation of new jobs* - Local jobs for county residents would create countywide benefits such as an increase in the standard of living for county residents employed in the new industries, increased payroll taxes generated, and a potential overall decrease in reliance on other county services such as those provided by the community services and social services departments.
- (b) *Reverse Commutes* - Vehicles coming into the county from other counties would be traveling in the less congested direction. There would be less pollution from stop-and-go traffic, and the individuals working in the county would likely patronize local businesses during their lunch breaks or other out-of-office business meetings.
- (c) *Increased Property Tax Revenue* - Property tax revenues from commercial property increases as the property is improved. These increased revenues help the county finance other services it is required to provide.
- (d) *Increased Sales Tax Revenue* - Increased sales tax revenues generated from existing commercial businesses that choose to expand, or from new businesses that locate in the county could likewise help the county finance other services it is required to provide, including roadway safety improvements, and other road maintenance work.

POLICY:



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT FEE DEFERRAL	Policy Number B-3	Page Number: 2 of 3
	Date Adopted: 02/28/1995	Revised Date:

1. To further the development of overall business growth and location in the county, the TIM fee shall be deferred for commercial/industrial development located on the county’s west slope.

A. Program One: Development on which the TIM fee equals \$10,000 or more is eligible to defer the fee. An account receivable shall be created on the county’s books, with the TIM fee fund carrying the notes receivable. The Developer/Builder (DB) will be charged interest on the deferred fee. Future payment of the fee will be secured by a trust deed, a written agreement between county and DB, (or other form of security acceptable to County Counsel) on the land on which the development is to take place. A title company is to be used to process the paperwork. The DB will be required to pay for the title company’s costs along with the document recording fee. Interest charged will be the 11th District Cost of Funds plus one point.

The fee repayment obligation shall run with the land and be binding on heirs and successors. If the DB goes into bankruptcy, the agreement is void. The next DB is required to pay the TIM fees upon recommencement of the project, or enter into a new fee deferral agreement.

1. Repayment Timeline: Repayment of the fee is over a five year period. A 20% down-payment is required once the developer has obtained permanent financing, or prior to the final sign off (certificate of occupancy) on the building permit, whichever is earlier. The remainder is to be paid monthly after the initial down-payment, with the final payment due at the end of the five-year period with no prepayment penalty, if he/she wishes to do so.

B. Program Two: Commercial/Industrial projects on which the TIM fee equals \$9,999 or less shall pay the fee once the developer has obtained permanent financing, or prior to the final sign off on the building permit (certificate of occupancy), whichever



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT FEE DEFERRAL	Policy Number B-3	Page Number: 3 of 3
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is earlier.

Request for fee deferrals as referenced Policy Paragraph 1 are to be directed to the Director of Transportation. Special requests for fee deferrals where the fee equals from \$5,000 up to \$9,999 are to be directed to the Director of Transportation or his designee for determination of eligibility. Such determination shall be made based on financial information submitted to the Department of Transportation.

Primary Department: Department of Transportation

References: None



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number B-14	Page Number: 1 of 6
	Date Adopted: 12/11/2007	Revised Date: 12/17/2013

BACKGROUND:

A goal of the El Dorado County General Plan is to provide housing incentives through programs which assist developers in providing affordable housing opportunities while protecting the public health, safety and welfare of citizens. The Board of Supervisors has established a specific goal of studying means to create affordable housing within the County. The Traffic Impact Mitigation (TIM) fee offset is one potential incentive in the process of developing affordable housing in the unincorporated areas of El Dorado County.

The Board of Supervisors has long recognized that high traffic impact fees, while appropriate to address traffic impacts from development, have a negative effect on efforts to develop housing affordable for lower-income households.

The TIM Fee Program includes a provision to allow for an affordable housing TIM fee offset that provides up to a total of \$1.0 million per year of TIM fee offset for qualifying affordable housing development. The Board of Supervisors has authorized \$1.0 million annually, beginning in 2007, to be used to reduce fees for eligible affordable units. Additional offsets over the annual \$1.0 million may be recommended subject to Board of Supervisors' approval. This Fee Offset will be allocated annually among selected, eligible affordable housing projects that apply. The first cycle of the fee offset requests will be processed in December 2007. This allocation is only for the affordable units in a project. The TIM Fee offset program is not a cash subsidy to developers.

DEFINITIONS:

Very Low-Income Households: A very low-income household is one with total gross income that, at the time of eligibility, does not exceed fifty (50) percent of the median monthly income for El Dorado County, as defined by the U. S. Department of Housing and Urban Development.

Low-Income Households: A low-income household is one with total gross income that, at the time of eligibility, does not exceed eighty (80) percent of the median monthly income for El Dorado County, as defined by the U.S. Department of Housing and Urban Development.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number	Page Number:
	B-14	2 of 6
	Date Adopted:	Revised Date:

Moderate-Income Households: A moderate-income household is one with total gross income that, at the time of eligibility, does not exceed one hundred twenty (120) percent of the median monthly income for El Dorado County, as defined by the U.S. Department of Housing and Urban Development.

Qualifying Household: Qualifying incomes are based upon the total gross income of all household members, ages eighteen (18) and older.

Household Size: Means the total number of people living in a single dwelling unit whether owner-occupied or rented.

Affordable Rental Housing: Rental dwellings for which the total monthly expense (rent plus the standard El Dorado County Housing Authority utility allowance) does not exceed thirty (30) percent of the maximum gross monthly income limit for very low- and low-income households in El Dorado County.

Affordable Ownership Housing: Affordable homeownership housing serves both families and individuals with annual gross incomes at or below one hundred twenty (120) percent of area median income and is housing where the total housing expense (Principal, Interest, Taxes, and Insurance [PITI]) of a household's total gross monthly income, plus other expenses such as homeowner association fees, does not exceed thirty-five (35) percent. Affordable homeownership housing must be deed restricted.

Affordable Sales Price: Affordable sales price is the price at which very low-, low-, or moderate-income households, as defined above, can qualify for the purchase of for-sale units with a total housing expense of no more than thirty-five (35) percent of the gross annual household income of the given income group. For purposes of calculation, housing expenses include PITI and other related assessments.

Deed Restricted: Deed restricted affordable units are single-family units, secondary dwellings, and/or multi-family rental units that are income-restricted for purchase or rent by very low-, low-, or moderate-income households for a specific period of time, secured through an Affordable Housing Agreement. Deed restricted for-sale units are further secured through a Buyer's Occupancy and Resale Restriction Agreement.



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number B-14	Page Number: 3 of 6
	Date Adopted:	Revised Date:

Secondary Dwelling: Secondary dwellings may consist of the expansion of an existing single-family dwelling or the construction of a detached single-family residential unit as defined in that portion of the El Dorado County Zoning Ordinance defining: Secondary Dwellings.

POLICY:

Residential developers who are developing five (5) or more units, or homeowners building a secondary dwelling, with housing for very-low-, low- and moderate-income households in the unincorporated areas of El Dorado County are eligible to apply for an offset of their TIM fees. Currently, the Board of Supervisors has authorized \$1.0 million annually to be used to offset fees for eligible affordable units. Funds will be allocated annually for use among selected eligible affordable housing projects.

The TIM fee offset request for projects of five (5) or more units will be reviewed twice each year in February and August, or as otherwise determined. Requests for a TIM fee offset from homeowners building a secondary dwelling can be reviewed at any time throughout the year.

1. TIM fee offset allocations are provided in order to assist very-low-, low-, and moderate-income households to afford ownership or rental housing in the unincorporated areas of El Dorado County. The definitions of those income levels are based on standard affordable housing industry practices as established by the U.S. Department of Housing and Urban Development (HUD).
 - a. Developments of five (5) or more units, where at least twenty (20) percent of the units will be affordable to very-low-, low-, or moderate-income households, are eligible to apply for TIM fee offsets based on the percentage of units designated affordable. **Only the income-restricted units are eligible for a TIM fee offset.**
 - b. Table 1 includes a fee schedule for the potential TIM fee offset an applicant may receive based on the income affordability level of the units that are being provided in each project. For example, if a developer provides at least twenty (20) percent of the units as very-low-income units in a subdivision, they may receive a one hundred (100) percent TIM fee offset for each very low-income unit they produce, up to the maximum offset granted to a project.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number B-14	Page Number: 4 of 6
	Date Adopted:	Revised Date:

Table 1 TIM Fee Offset			
Applies to Ownership Units			
Affordability Level	Very Low	Low	Moderate
20 years	100%	75%	25%
15 years	75%	50%	0%
10 years	50%	25%	0%
Applies to Rental Units			
Affordability Level	Very Low	Low	Moderate
20 years (minimum)	100%	75%	25%

2. New residential developments of five (5) or more units or homeowners building a second unit that provide legal and deed restricted affordable secondary units that do not exceed maximum square feet limitations, or second- dwelling units that do not exceed thirty (30) percent of the primary unit's floor area, and where one (1) of the units on a parcel is owner-occupied, may be eligible for up to a one hundred (100) percent offset of TIM fees for the secondary dwelling.
 - a. Table 2 sets forth the percent of the offset an applicant may receive based on the length of affordability:

Table 2 Second Units			
Existing Homeowner Building a 2nd Unit		New Construction	
Length of Affordability	% of TIM Offset	Length of Affordability	% of TIM Offset
20 years	100%	Not less than 20 years	100%
15 years	75%		
10 years	50%		

The developer or homeowner must demonstrate that the project can receive all necessary approvals to begin construction within two (2) years of the TIM fee offset approval.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number	Page Number:
	B-14	5 of 6
	Date Adopted:	Revised Date:

PROCEDURE:

1. The Advisory Committee, as defined in the TIM Fee Offset Program Procedure Manual, shall recommend the allocation of TIM fee offsets up to the amount available in the fund. Upon recommendation of the Advisory Committee, and with Board of Supervisors approval, total offsets in excess of the annual balance may be awarded. However, at the sole discretion of the Board of Supervisors, the County reserves the right to not allocate all or any of the TIM fee offset funds available in a given year. Any balance remaining at the end of a fiscal year shall be carried forward to be added to the new allocation for the next fiscal year. It is the desire of the County to fund the most effective projects as possible in a given year in order to most effectively address affordable housing needs.
2. The Advisory Committee shall forward recommendations to the Chief Administrative Officer (CAO). The CAO will provide a recommendation to the Board of Supervisors for developments with five (5) or more units that include a total TIM fee offset allocation for each residential project application for which offsets are recommended.
3. The Board of Supervisors will award tentative approval of the TIM Fee offset twice each year for developments with five (5) or more units. The Board of Supervisors must make a finding that the project will provide a significant community benefit by providing housing that is affordable to very low-, low- and/or moderate-income households. Offsets for projects that fail to proceed according to program timelines will be withdrawn and the offset amount will be placed back in the offset pool.
4. Homeowners building a secondary dwelling are eligible to complete and submit an application for a TIM fee offset at any time throughout the year when at least one of the units on a parcel is owner-occupied. The CAO may approve or disapprove the request for a TIM fee offset for secondary dwellings in accordance with the provisions set forth in this policy and report said offsets to the Board of Supervisors annually.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC IMPACT MITIGATION (TIM) FEE OFFSET PROGRAM FOR DEVELOPMENTS WITH AFFORDABLE HOUSING UNITS	Policy Number	Page Number:
	B-14	6 of 6
	Date Adopted:	Revised Date:

5. Failure to obtain a building permit or other similar permit within two (2) years of approval will void the TIM fee offset allocation unless an application for an extension is submitted in writing and is granted by the CAO. Extensions may be granted in one (1) year increments but shall not exceed more than three (3) extensions. Possible reasons for extensions may include County, state or federal issues, or other matters not controllable by the applicant.

PRIMARY DEPARTMENTS:

- Chief Administrative Office
- Community Development Agency
 - Development Services, Transportation, and Environmental Management Divisions
- Chief Administrative Office /Housing, Community and Economic Development Programs

REFERENCES:

Resolution No. 266-2006: Resolution Adopting the 2004 General Plan Traffic Impact Mitigation (TIM) Fee Program and Adopting New TIM Fee Rates.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC FEE CREDIT TO ACCOUNT FOR PRIOR OCCUPANCY USE	Policy Number J-5	Page Number: 1 of 4
	Date Adopted: 11/07/2000	Revised Date:

POLICY:

When calculating a traffic fee for a new development project pursuant to the County’s traffic fee ordinances, the Department of Transportation shall determine any prior use of the parcel as evidenced by any pre-existing structure. A credit shall be given in the new fee calculation for any approved, documented prior use in effect after October 1961. Further, said credit shall be limited in dollar amount to the fee for the new development project for which the fee is calculated.

Determination of Prior Parcel Usage:

1. Building Department Records - Department of Transportation staff shall review the Building Department records to determine the previous building size, the previously represented use, and whether or not any traffic fees were previously paid.

To be eligible for credit, any square footage of building area must have been appropriately permitted, inspected and approved by the Building Department. Pre-existing buildings, constructed after October 1961 without a valid permit history, will not be eligible for credit.

2. County Assessor’s Records - When Building Department Records do not confirm a previously represented use, Department of Transportation staff shall inform the applicant that Building Department records do not document an eligible use. The applicant may then obtain an “Assessor’s Computation” sheet from the County Assessor’s office and submit same to staff for further review. This sheet will show what, if any structure’s exist on the site, the date that the Assessor first recognized the structure, the structure’s use, the building size and other related details. If an “Assessor’s Computation” sheet contains adequate information that reflects the



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC FEE CREDIT TO ACCOUNT FOR PRIOR OCCUPANCY USE	Policy Number J-5	Page Number: 2 of 4
	Date Adopted: 11/07/2000	Revised Date:

existence of an creditable structure then staff will consider it as acceptable evidence to document a prior site use for a traffic fee credit.

Determination of Credit Towards Traffic Fee:

When a prior use is determined to be eligible for a credit, staff will proceed to calculate the amount of credit to apply to a current fee calculation. An eligible use shall be credited the corresponding fee amount that the use would be charged under the current fee schedule.

1. Non-Residential Prior Use - For most non-residential uses, the fee is currently, categorized by use and calculated on the basis of documented square footage of pre-existing building floor area. Fees for gas stations are based on number of pumps, for golf courses are based on number of holes and fees for campgrounds are based on number of sites.

In those situations where the prior use is not identified in any of the categories on the adopted fee schedule, then staff will determine the trip generation rates for the eligible use as provided in the most recent edition of the "Trip Generation Manual" published by the institute of Traffic Engineers. Staff will then equate the trip generation rates to a recognized category in the adopted fee schedule to determine the fee credit.

2. Residential Prior Use:

For residential uses, the fee is currently calculated per each building unit as either a single-family use or as a multi-family use.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC FEE CREDIT TO ACCOUNT FOR PRIOR OCCUPANCY USE	Policy Number J-5	Page Number: 3 of 4
	Date Adopted: 11/07/2000	Revised Date:

Appeal Process:

Review by the Director of the Department of Transportation:

1. An applicant who disagrees with staff determination regarding credit may submit a written request for review of said determination by the Director of the Department of Transportation. The applicant is responsible for presenting any and all material in support of the applicant’s position for consideration of credit by the Director at the time of the written request. If the director finds that there was a creditable prior use, then DOT staff will recalculate the Traffic Fee reflecting the appropriate credit.
2. The Director shall make a finding whether or not the evidence presented adequately documents that a building existed and was occupied and used after October 1961. The Director will have thirty (30) calendar days to investigate the request and render a written decision regarding the request. The Director’s decision shall be final unless appealed to the Board of supervisors within ten (10) working days of the Director’s decision, in accordance with the procedures set forth herein, including the standardized form for appeal and accompanied by the appeal fee.

Formal Appeal to the Board of Supervisors:

1. If the applicant chooses to appeal the Department’s decision to the Board of Supervisors, then the applicant shall complete, sign and submit the form titled “Appeal of Traffic Impact Mitigation or Road Impact Fees” together with any relevant documentation and an appeal fee of \$100 to offset the administrative cost to process the appeal.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: TRAFFIC FEE CREDIT TO ACCOUNT FOR PRIOR OCCUPANCY USE	Policy Number J-5	Page Number: 4 of 4
	Date Adopted: 11/07/2000	Revised Date:

2. The applicant, on appeal, shall clearly identify on the appeal form the specific reasons for the appeal. The Board of Supervisors shall consider all issues raised by the appellant, and may in its sole discretion, consider other relevant evidence related to the existence of the prior use, at the time of the hearing.

3. The Department of Transportation shall set the hearing before the Board of Supervisors within forty-five (45) days of receipt of the appeal.

4. In any appeal action brought pursuant to this section, the appellant may withdraw his or her appeal, with prejudice, at any time prior to commencement of the public hearing.

5. A decision by the Board of Supervisors shall be final. If no action is taken by the Board of Supervisors, the appeal shall be deemed to be denied.

APPENDIX E: REIMBURSEMENT GUIDELINES

EL DORADO COUNTY
BOARD OF SUPERVISORS
AGENDA TRANSMITTAL

Exhibit A

AGENDA TITLE: Guidelines for RIF/TIM reimbursement projects

DEPARTMENT: Transportation *see / MTS*

DATE: 1/2/96

CAO USE ONLY

CONTACT: Barbara Ellis

PHONE: 5907

C 7041/8/96

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION: The El Dorado Hills Specific Plan (EDHSP) Public Improvements Financing Plan (PIFP), dated December 28, 1988, proposed means for financing construction of specific basic public improvements required to serve full development of the EDHSP area. Section III.B.4. of the EDHSP PIFP discusses reimbursement and/or credits for e.g. developer advance-funded road impact fee (RIF) improvements. It requires that specific details regarding the implementation of the reimbursement and credit provisions of the EDHSP PIFP be agreed upon by the County and the Developer. The El Dorado County Department of Transportation Guidelines for RIF/Traffic Impact Mitigation (TIM) Fee Reimbursement Projects (Guidelines) describe the process of administration, construction, acceptance, and reimbursement of RIF and TIM fee projects. A copy of the Guidelines is on file with the Board Clerk.

The Department of Transportation recommends that your Board approve and adopt the Guidelines.

CAO RECOMMENDATION:

CAO

BUDGET SUMMARY:

Total Est. Cost \$ -0-
 Funding
 Budgeted \$ _____
 New Funding \$ _____
 Savings* \$ _____
 Other \$ _____
 Total Funding Available \$ _____
 Change in Net County Cost \$ -0-

*Explain:

Funding Source: () Gen Fund () Other

CAO Office Use Only:

4/5's Vote Req'd () Yes No
 Change In Policy () Yes No
 New Personnel () Yes No

CONCURRENCES:

Risk Management _____
 County Counsel yes
 Other _____

BOARD ACTIONS: JAN 23 1996

APPROVED.

Vote: Unanimous _____ or

Ayes: SUPERVISORS: NIELSEN, SHULTZ, BRADLEY, NUTTING, NIELSEN

Noes: NONE

Abstentions: NONE

Absent: NONE

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors.

Date: _____

Attest: DIXIE L. FOOTE, Board of Supervisors Clerk

BY: _____

COUNTY OF EL DORADO
DEPARTMENT OF TRANSPORTATION
GUIDELINES FOR ROAD IMPACT FEE/TRAFFIC IMPACT MITIGATION FEE
REIMBURSEMENT PROJECTS

INTRODUCTION

The Board of Supervisors authorizes the Department of Transportation (DOT) to oversee the acquisition and reimbursement of Road Impact Fee (RIF) and Traffic Impact Mitigation (TIM) Fee Projects.

The purpose of these guidelines is to describe the process of administration, construction, acceptance, and reimbursement for RIF and TIM Fee Projects. It is recognized that special circumstances may require deviation and/or modification of these guidelines to satisfactorily complete the projects in compliance with applicable Federal, State, and Local law, previous Agreements, environmental concerns, or other criteria which are equally important and consistent with sound public policy and prudent engineering judgement. The affected County Agency/Department(s) may suggest and the Assessment District Screening Committee aka Bond Screening Committee may approve any deviation and/or modification to these guidelines. It is understood that any applicable agreement between the Developer and the County takes precedence over the guidelines included herein in any area of conflict.

The responsibility within the County for RIF/TIM Projects is assigned as follows:

- a. Project Reimbursement Eligibility - DOT
- b. Plan review and approval - DOT/Construction Unit
- c. Construction Inspection - DOT/Construction Unit
- d. Engineering Review of Reimbursement Request - DOT/Construction Unit
- e. Financial Review of Reimbursement Request - DOT/County Counsel
- f. Reimbursement - Auditor-Controller

1.0 Definitions

- a. Advertisement - Published public notice soliciting bids for the Project, in accordance with public contract law.
- b. Assessment District Screening Committee - also known as the Bond Screening Committee, membership is comprised of key staff from the Department of Transportation, Assessor, Treasurer, Auditor and County Counsel offices.

c. Bid Documents - Plans, specifications, and proposal documents prepared by/under the supervision of the Design Engineer conforming with policies, rules, regulations and laws applicable to the County, suitable for the solicitation and submittal of bids by contractors for construction of the Reimbursement Project.

d. Completed Facilities - Those certain facilities which are determined to be complete by the DOT and ready for acceptance by the County, and are eligible as a Reimbursement Project.

e. Contractor - A contractor who possess the appropriate California contractor license(s) for the work required to be performed in the Reimbursement Project.

f. County Engineer - County Engineer, El Dorado County.

g. Design Engineer (or Engineer of Work) - A licensed California Civil Engineer who has been retained by the Developer for the purpose of Designing and/or supervising construction of the facilities.

h. Developer - An individual, group, corporation, partnership, etc., which meets the requirements of the applicable requirements set forth by the County and which has applied to and has been approved by the County to construct a RIF/TIM Fee Reimbursement Project.

i. Eligible Reimbursement Project - A public road facility which has been determined to be eligible for cost reimbursement from Road Fee funds, as determined by DOT, and as approved within a reimbursement agreement by the Board of Supervisors.

j. Engineer's Estimate - A cost estimate prepared by the Design Engineer and approved by the County Engineer.

k. Facility - The term "Facility" or "Project", if used by itself, shall be taken to mean "RIF/TIM Reimbursement Facility". Facility shall be eligible for reimbursement at such time as it is complete, available for public benefit, and accepted by the County.

l. Guidelines for RIF/TIM Reimbursement Projects (Guidelines) - A framework developed by the County to facilitate the process of administering a RIF/TIM Fee Project.

m. Land Acquisition/Dedication Costs - Those costs associated with acquisitions or dedications of real property upon which public roadway facilities are situated, and which property is either owned by the Developer, or is located with the boundaries of the county approved project (see also off-site easements)

- n. **Off-Site Easement Costs** - Those costs associated with dedications of real property upon which public roadway facilities are situated and which property is located outside the boundaries of the county approved project, and is required by the County to complete the roadway facilities, and is acquired at the Developer's expense.
- o. **Plans** - Final construction drawings prepared by the Engineer of Work and its consultants and approved by the County for construction of the Project.
- p. **Proposal** - A non-publicly advertised private request for proposals to perform public facility work or services, which complies with public contract law regulating fraud and non-collusion.
- q. **Purchase Price** - The amount to be paid by the County for the Facilities in accordance with the provisions of the Reimbursement Agreement.
- r. **Reimbursement Agreement** - An agreement between a Developer and the County of El Dorado, allowing the District to acquire certain public facilities from the Developer and to reimburse the Developer for the costs thereof.
- s. **RIF/TIM Reimbursement Report** - A report prepared by the Engineer of Work as required by these guidelines containing information regarding the public capital facilities proposed for reimbursement.
- t. **Road Impact Fee (RIF) Reimbursement Project, Traffic Impact Mitigation Fee (TIM) Project** - As defined by these guidelines, is a public road facility constructed by a Developer for reimbursement under the provisions of these guidelines and pursuant to the applicable Reimbursement Agreement.
- u. **Road Facility** - Those certain public road facilities which are described in a Reimbursement Agreement.
- v. **Specifications** - Documents prepared by the Engineer of Work or its consultants which describe in detail for construction contract purposes the material and workmanship required to complete the project, including but not limited to, the Standard Specifications for Public Works Construction (APWA), the Uniform Building Code (UBC), applicable DOT Standard Plans and Caltrans specifications, and the contract Special Provisions prepared by the Engineer of Work, which describe in detail for contract purposes, the materials and workmanship required to be performed on the Project.
- w. **Surety Bonds** - Subdivision or construction bonds which provide a financial guarantee that the obligations required by a contract or

agreement will be fulfilled in conformance with state law and County policy, rules and regulations and ordinances.

2.0 Pre-Construction Procedures

- 2.1 Developer shall submit the proposed Project Description and Engineers Cost Estimate to the County DOT for an eligibility determination. If eligible as a RIF/TIM Fee Reimbursement Project, the Developer shall submit a proposed Reimbursement Agreement to the County for review and Board of Supervisors approval.
- 2.2 Design Engineer prepares bidding or competitive proposal documents for the Project. As applicable, the Developer or County obtains necessary R/W and negotiates all utility relocations/installations. If Public Contract Law advertisement is not used, a minimum of three competitive proposals for construction are required.
- 2.3 Design Engineer prepares and submits plans to appropriate DOT Divisions for approval. The plans shall indicate a reference to the County facilities which are included and a note indicating the general category of facility eligible for reimbursement. The reference to County facilities on the plans is to assist County staff and other responsible parties with an understanding that some or all of the facilities shown on the plans may be eligible for County reimbursement of costs. However, the reference to County facilities indicated on the plans is for general information only and does not constitute approval or disapproval of project eligibility for cost reimbursement. The actual reimbursement eligibility is determined independent of plan notes and plan approval.
- 2.4 Developer pays DOT plan check and inspection fees (normal and special) in accordance with normal subdivision/permit process.
- 2.5 The County Engineer will determine the necessity of construction security, and if required, the amount.
- 2.6 Design Engineer prepares bidding/proposal documents and submits to County Engineer for review and comment as appropriate. The documents must be in conformance with ordinances, law, policies, rules and regulations applicable to the County construction, but may exclude the following provisions:
 - a. Compliance with all applicable Labor Codes for Public Works Contracts including Prevailing Wage Statement except non-collusion affidavit and fraud compliance.
 - b. Public Advertisement.
 - c. DBE program goals.

2.7 County Engineer reviews the Bidding/Proposal Documents for the following requirements:

- a. Scope of Work is specifically described and unambiguous and is included within a Reimbursement Agreement and the Project has been designated and approved by the County as a RIF/TIM Fee Reimbursement Project.
- b. Engineers estimate is reasonable and bidding procedures consistent with these guidelines and bid forms clearly describe each bid item and are formatted substantially similar to the Engineer's Report Cost Breakdown.
- c. Proposal includes a non-collusion affidavit.
- d. The number of allotted working days specified in the contract documents are reasonable for the proposed work.
- e. Liquidated damage clauses, if any, are consistent with County policy.

3.0 Bid/Proposal Procedures

- 3.1 After plans have been approved by appropriate DOT Division(s) and Bid/Proposal Documents have been approved by the County Engineer, Developer may advertise project, or obtain proposals.
- 3.2 If advertisement is used, the Developer shall advertise project at least three times in a newspaper of general circulation published in the County. If the proposal method is used, the Developer shall obtain at least three competitive proposals.

4.0 Project Award

- 4.1 Developer shall provide County Engineer a summary of all bids/proposals and a copy of the low bid proposal submitted for project and the Design Engineer's recommendation for award. Included in the recommendation the developer shall provide the following information:
 - a. That there are no pending disputes over the bidding/proposal procedures.
 - b. That all bidders received the same set of bid/proposal documents and all of the addenda issued.
 - c. That all applicable County approvals for the work have been obtained.
 - d. Any conditions to the bid/proposal.

Developer shall retain the original of all bids/proposals received for a minimum of four years.

- 4.2 Within five working days of receipt of the bid/proposals material in Section 4.1, the County Engineer shall review the bid summary and a copy of the low bid and concur in the Developer recommendation, or advise the Developer that additional review time will be required.
- 4.3 In the event the low bid/proposal is not recommended, or the County Engineer cannot concur with the Developer recommendation, or the County Engineer is aware of any irregularities or possible disputes over the bidding procedure, the Developer or County Engineer shall notify the Director of the Department of Transportation. This notification shall be in writing and shall be submitted to the Director within five days after receipt of the bid material as required by Subsection 4.1. The Director will promptly review the bid documents and procedures in conformity with laws, ordinances, policies, rules and regulations applicable to the County and advise the Developer within ten days of the County's decision relative to award of the contract.
- 4.4 No individual bids/proposals will be rejected by the Developer without concurrence of the County Engineer except for failure to comply with the request for bids/proposals. However, the Developer may at his or her discretion, reject all bids/proposals received for a project.
- 4.5 Prior to award of contract, Developer shall obtain written concurrence for award from the County Engineer.
- 4.6 Design Engineer shall provide the following items within 30 days after the Developer has authorized contractor to proceed:
- a. Itemized summary of all bids/proposals received on the project.
 - b. Signed contracts for the project specifying the award date.
 - c. Notice to Proceed.
 - d. A written statement that the contract award amount is within the estimates included in the Design Engineers Estimate and does not exceed estimated reimbursement funds available from the County. Should the Project bid/proposal exceed the aforementioned estimate or available funds, the Director of DOT shall determine if additional funds are justified or if no additional funds shall be reimbursed for the project.
- 5.0 Construction
- 5.1 Contractor shall coordinate all inspections on the Project in accordance with normal DOT/Construction Unit procedures.

- 5.2 Developer shall provide County Engineer with copies of all progress payments to the Contractor.
 - 5.3 If the Developer desires to be reimbursed for any change order, the Developer shall obtain DOT approval of work and cost prior to consideration of the additional cost for reimbursement.
 - 5.4 Revisions to the plans shall be reviewed and approved by the County Engineer in accordance with the normal permit procedure.
 - 5.5 For the purposes of these guidelines, the construction shall be considered complete at such time as the Facility is substantially complete and available for public benefit and when the Developer has obtained the following as applicable:
 - a. Approval of DOT/Construction Unit if grading permit is required.
 - b. Approval of all facilities shown on the Plans or included in the Projects by the affected utility companies and/or other affected County Departments.
 - c. Approval of DOT/Construction Unit of all erosion control facilities required by the Plans and/or grading permit.
 - d. Approval by the County Surveyor of all monumentation.
 - e. Approval of DOT/Construction Unit of all street facilities, storm drains, street lighting, traffic signals, etc., shown on the plans.
- 6.0 Reimbursement
- 6.1 Developer submits a request for reimbursement to the County Engineer after the completion of the Project or any portion thereof (as indicated in Section 5.5). The request shall follow the format provided in Schedule C, "Developer Reimbursement Request Format", and shall contain, but not be limited to, the following:
 - a. Final quantities and final costs on each contract item, certified by the registered design engineer, and the total of all construction costs for the Project accompanied by copies of the general contractors construction contract and any other supporting documentation necessary to justify reimbursement.
 - b. Approved contract change orders with final quantities and/or final costs.
 - c. Itemized breakdown of other reimbursable costs as delineated in the applicable Reimbursement Agreement.

- d. Copies of invoices, vouchers, canceled checks, etc. to support all expenditures by the Developer to be reimbursed.
- e. Copies of Notice of Completion (recorded).
- f. Copies of Final Mechanics Lien Release for the facility.
- g. Documentation that right-of-way has been transferred to the County or, at the discretion of the County, offered to the County by an Irrevocable Offer of Dedication (IOD).
- h. Copies of the recorded transfer of title to the property or copies of the recorded Irrevocable Offer of Dedication (IOD), as appropriate.
- i. Submittal of written certification from other agencies or utilities involved in the reimbursement request, that the facilities were inspected and completed according to approved plans and specifications, and that any utilities or agency cost reimbursements are disclosed in the reimbursement requests.

In addition, the Developer submits to County Engineer a finalized copy of Official Record Plans which incorporates all approved changes, and a copy of the recorded tract map(s).

- 6.2 County Engineer reviews the request for reimbursement and all supporting data in accordance with review procedures. The County Engineer shall be entitled to rely on the authenticity of all supporting data, documents, representations and certifications provided by the Developer and the respective Engineer of Work without independent verification by the County Engineer. All funds reimbursable from other entities shall be itemized and estimated as part of the submittal.

If additional information is required during the review process to comply with Subsection 6.1, County Engineer requests in writing that the Developer supply the supplemental data. If Developer has not submitted all information requested, the County Engineer requests the additional backup.

- 6.3 County Engineer provides the following upon completion of Subsection 6.2:
- a. Upon receipt of all backup information, County Engineer prepares the "draft" Reimbursement Recommendation including cost summary and County Engineer's checklists attached as exhibit, within thirty (30) working days.

- 6.4 The County Engineer will determine that:

- a. Work has been completed as defined in paragraph 5.5.

- b. Competitive bid/proposal requirements have been met.
- c. Approved Facility Plans or Record Drawings have been received and are acceptable.
- d. Final quantities and costs have been reviewed and are acceptable.
- e. Equipment manuals (if applicable) have been received and are acceptable.
- f. Appropriate documentation has been provided (i.e., release of lien, warranty ...).
- g. Developer/Design Engineer's request for reimbursement is acceptable.

If there are questions or problems with the Reimbursement Request, the County Engineer contacts the Developer and Design Engineer directly.

- 6.5 County Counsel reviews the County Engineer's Reimbursement Recommendation to verify compliance with all agreements, and to ensure that copies of all applicable agreements are on file at the County Counsel's offices.

If there are questions or problems with the Reimbursement Recommendation, or if additional backup data is required (i.e., copies of invoices or checks), County Counsel contacts the County Engineer directly. If there are questions regarding scope or quality of completed work, County Engineer contacts the Developer.

Upon completion of financial review, County Engineer submits the original Reimbursement Recommendation along with originals of supporting documentation, to the Auditor-Controller.

- 6.6 The Auditor-Controller reviews the submitted reimbursement payment request and upon completion of review, Auditor-Controller issues warrant.

7.0 Cost Reimbursement Policies

- 7.1 Authority - The authority for general cost reimbursement policies will be set by the Board of Supervisors by approval of these Guidelines. Administration of cost reimbursement policies is assigned to the Director of Transportation. Appeal of decisions of the Director of Transportation shall be directed to the Board of Supervisors.
- 7.2 Eligibility - Cost reimbursement shall be made only for projects, or portions of projects, which are determined to be eligible by the Director of Transportation. Eligible projects are those of County or regional benefit, and are included within the annually adopted 5 year County Capital Improvement project list.

7.3 Reimbursement Limitations - Projects eligible for County reimbursement shall be reimbursed only from available funds of the RIF or TIM fee fund. The ability of the County to fully reimburse eligible costs is dependent upon the amount of uncommitted funds available in the RIF/TIM fee funds. The Director of Transportation will determine the allocation of uncommitted available funds which may be reserved for future, or higher priority projects.

7.4 Reimbursements

- Projects on the 5-year CIP

a. Timing - Cash reimbursement shall be made on a four-year basis. Payments each year shall be 25% of the eligible cost. Initial payment shall be made within 90 days of Board of Supervisors acceptance of the facility. Subsequent payments shall be made within 90 days of the acceptance anniversary. No interest shall be paid within the four-year plan. If sufficient funds are not available to comply with the four-year plan, interest on the remaining balance shall be paid at the County's net pooled funds rate from the fourth year to a maximum of the tenth year. The remaining principal due shall be reimbursed as the designated RIF/TIM funds become available.

b. Credits - Rather than cash reimbursements, the Developer and County may mutually agree to credit RIF/TIM payments toward the reimbursement. Generally, credits may be applied up to a maximum of 50% of required RIF/TIM payments by the Developer. Reimbursement of the remaining balance, after credits have been applied, shall be made over the subsequent four year period. The exact reimbursement term shall, as stated before, be contingent on the availability of sufficient funds. Reimbursements from EDH RIF collections are to be made after the 30% set-aside to the Silva Valley interchange RIF fund. No such set-aside is made from TIM fee revenues.

- Projects not on the 5-year CIP will be reimbursed only by specific agreement with the Board of Supervisors.

7.5 Reimbursement Categories

a. Construction Costs - Eligible and ineligible reimbursement categories shall be as follows:

Eligible are Costs
Related to:

Grading
Base Course/Paving
Curb & Gutter
Sidewalks

Ineligible are Costs
Related to:

Landscaping
Lighting
Water, sewer
P G & E

Storm Drain
 Intersection Facilities
 Safety and Signage

Telephone & other utilities
 Overhead for the above

If cost eligibility is disputed, the County Engineer shall make a written recommendation to the Director of Transportation, who shall decide final eligibility.

b. Non-Construction Costs - Eligible and ineligible reimbursement categories for non-physical facilities shall be as follows:

Eligible are Costs
Related to:

Planning
 Engineering
 Permits
 Fees
 Legal
 Management
 Administration
 Interest on financing
 Off-site Easements

Ineligible are Costs
Related to:

Landscaping
 Lighting
 Water, sewer
 P G & E
 Telephone & other utilities
 Land dedication
 Overhead for the above

No reimbursement shall be made for ineligible non-construction costs. Reimbursement for eligible non-construction costs shall be limited to a maximum of 20% of eligible construction cost. Included within the 20% may be an undocumented allowance of 3% of construction cost for Developer internal project management. Expenditure of the remaining 17% cost shall be documented and approved by the County prior to reimbursement. The County will initially accept non-construction cost documentation consisting of an itemized cost summary showing purpose, receiver, and amounts of expenditures, along with a certification by an authorized Developer official. Additional back-up may be requested by the County.

SCHEDULE C

EXAMPLE REIMBURSEMENT REQUEST LETTER

"DEVELOPER LETTERHEAD"

County Engineer
El Dorado County
Placerville, California 95667

ATTENTION:

SUBJECT: RIF/TIM REIMBURSEMENT PROJECT _____
ROAD IMPROVEMENTS REIMBURSEMENT REQUEST

Dear _____:

As required by the County of El Dorado Guidelines for Road Impact Fee Reimbursement Projects and as authorized by the Reimbursement Agreement between the _____, Company and the County of El Dorado, dated _____ 1995, we are submitting this request for reimbursement of eligible project costs from County RIF/TIM funds.

The work included under this reimbursement request includes the rough grading, storm drains and sewer, pavement, curbs and sidewalks, and traffic signals. All of the work involved was shown on the drawings, listed in Attachment 1, approved by the County of El Dorado.

The total amount requested for reimbursement for the subject work is _____. This reimbursement should be taken from County RIF/TIM funds.

Eligible for Reimbursement

Total Contract Costs=
TIM/RIF Eligible Costs=
Developer Funded Costs=
Reimbursements from other Sources (itemize)=

A further breakdown of original contract amounts, change orders, and eligible and not-eligible for reimbursement costs are provided on Attachment 2. Detailed cost breakdowns, actual installed quantities and engineering back-up, as well as other required items, are provided as

described in the Attachments.

_____ Company certifies to County Engineer and the County of El Dorado, that with reference to the subject work of this reimbursement request, that all County construction requirements for public works have been complied with as set forth in the TIM/RIF Reimbursement guidelines.

To the best of the _____ Company's knowledge, no mechanics liens exist against the property that the work was performed on and whose title will be (or has) transferred to the County of El Dorado. A Title Insurance Policy is attached in the amount of _____ for the property involved, herein.

_____ Company warrants to the County of El Dorado that it will repair, at its own expense, any faulty or damaged work originally performed as part of this project. This warranty expires _____.

Please see attachments for pertinent correspondence.

We hope that we have satisfied all of the requirements for receiving reimbursement for our costs associated with this work. We anticipate hearing from you no later than 90 days after you receive this package.

Please contact _____ at _____ if you have any questions.

Sincerely yours,

Best Developer in Town

Schedule C ATTACHMENTS
TIM/RIF Project

Developer's Reimbursement Request

<u>Attachments</u>	<u>Description</u>
1.	Project Drawing List
2.	Contract Breakdown
3.	Other Reimbursable costs Summary
4. (____ Sheets)	Project contract(s) (fully executed)
5. (____ Sheets)	Executed Change Orders and narrative descriptions of the work and why the change was required.
6.	Completed Project Approval letters from various agencies.
7. (____ Sheets)	Contract Bid Line Items with original and actual installed quantities with original and final costs.
8.	Final Cost Breakdown by Road Segments.
9. (____ Sheets)	Engineering Back-Up to Final Quantities and Costs.
10.	Copy of recorded tract map.
11.	Invoice and Payment Summary for construction and non-construction costs.
12.(____ Sheets)	Copies of Paid Invoices
13.	Canceled Checks (If requested by County)
14.	Recorded Notice of Completion
15.	Approved Improvement Plans or Record Drawings (under separate cover)
16.	Mechanics Lien Releases

Attachments

Description

17. (____ Sheets)

Title Transfer Documents or Irrevocable offer of Dedication (IOD)
as appropriate.

18. (____ Sheets)

Title Insurance Policy

County Engineer's Procedures
For RIF/TIM Reimbursement Projects
County of El Dorado

County Engineer's Checklist for Developer's
Reimbursement Request

Project Identification: _____

Purpose: The developer's engineer will provide this information to document construction and non-construction costs which are requested for reimbursement by the County. Refer to separate Developer's Reimbursement Request for additional documentation.

Section I - Reference documents to be provided separately from developer's reimbursement request.

Section I:	Construction Documents Reference	Yes/No	By	Date
	A. Construction Documentation Completed	_____	_____	_____
	B. Construction Close-out Completed	_____	_____	_____
	C. Public Facilities Accepted	_____	_____	_____
	D. Property Transfer Completed or Irrevocable offer of dedication with title insurance policy	_____	_____	_____
Section II:	Reimbursement Request			
	A. Cover Letter Per Schedule "C" Guidelines	_____	_____	_____
	1. Includes project description	_____	_____	_____
	2. Summary of all costs	_____	_____	_____
	3. Certifications per Schedule "C"	_____	_____	_____
	4. Authorized Signatures	_____	_____	_____

B. Expenditure Documentation (For Non-Construction Costs)

- | | | | |
|--|-------|-------|-------|
| 1. Invoice and payment summary | _____ | _____ | _____ |
| 2. Canceled checks received or District Engineer spot check of files completed | _____ | _____ | _____ |
| 3. Back-up material received | _____ | _____ | _____ |

C. Expenditure Documentation (For Construction Costs)

- | | | | |
|---|-------|-------|-------|
| 1. Summary and certification by Engineer-of-Work for final quantities, cost, including change orders. | _____ | _____ | _____ |
| 2. Canceled checks received or District Engineer spot check of files completed. | _____ | _____ | _____ |

D. District Engineers Determination of whether improvements are eligible for reimbursement.

- | | | | |
|---|-------|-------|-------|
| 1. Item reviewed and determined reimbursable | | | |
| ● Quantities | _____ | _____ | _____ |
| ● Prices | _____ | _____ | _____ |
| ● Invoices and Checks | _____ | _____ | _____ |
| 2. Determination of no significant deficiencies in the facility | _____ | _____ | _____ |
| 3. Analysis of reasonable cost. | _____ | _____ | _____ |
| 4. Recommendation of reimbursement cost. | _____ | _____ | _____ |

Review Completed By: _____

Date: _____

County Engineer's Procedures
 For RIF/TIM Reimbursement Projects
 County of El Dorado

County Engineer's Checklist for Construction Documents

Project Identification: _____

Purpose: The developer's engineer will provide this information which will be retained in county files to document compliance with county requirements for reimbursement projects. Additional documents may be required.

Section I - Reference documents to be provided separately from developer's reimbursement request.

	Location/Person	Yes/No	By	Date
A. As - Bid Plans	_____	_____	_____	_____
As - Bid Specifications	_____	_____	_____	_____
As - Bid Engineers Cost Estimate	_____	_____	_____	_____
B. Approved Record Drawing	_____	_____	_____	_____
C. Recorded Property Maps, Deeds, Etc...	_____	_____	_____	_____

C. Construction Phase

- | | | | | |
|-----|--|-------|-------|-------|
| 1. | Copy of Executed Change Orders Received
_____ Through # _____ | _____ | _____ | _____ |
| 2. | Final Change Order (Payment) and Progress Payments | _____ | _____ | _____ |
| 3. | Post Construction Security Copy | _____ | _____ | _____ |
| 4. | Warranties and Guarantees Received (With listing) | _____ | _____ | _____ |
| 5. | O/M Manuals Received (Listing) | _____ | _____ | _____ |
| 6. | Real Property Acceptance Letter and Listing of Property | _____ | _____ | _____ |
| 7. | Other Agency Acceptance Letters (Utilities, etc.) | _____ | _____ | _____ |
| 8. | Notice of Completion Record Copy | _____ | _____ | _____ |
| 9. | Final Mechanics Lien Release | _____ | _____ | _____ |
| 10. | Design Engineers Verification Letter that all construction completed per approved plans of specifications, in compliance with county local requirements, no outstanding claims or liens, cost data is accurate and complete. | _____ | _____ | _____ |

Review Completed By: _____ Date: _____

Section II - Documents to be contained in Developer's Reimbursement Request

A. Data Book:

	Yes/No	By	Date
1. Loose-Leaf Binder	_____	_____	_____
2. Table of Contents	_____	_____	_____
3. Narrative Description of Contracts	_____	_____	_____
4. Engineers, Inspectors, Contractors, Agencies Info.	_____	_____	_____
5. Key Project Dates	_____	_____	_____
6. Cost Summary	_____	_____	_____
7. County Engineers Checklist Complete for Each Contract	_____	_____	_____
8. List of Reference Documents and Location	_____	_____	_____

B. Advertisement and Award Phase:

1. Copy Certified Ad (3 week min.), or Proposal Solicitation Letters	_____	_____	_____
2. Copy Bid Addenda (If any)	_____	_____	_____
# _____			
3. Summary of Bids/Proposals	_____	_____	_____
4. Design Engineers Review and Recommendation to Award	_____	_____	_____
5. Copy of Low Bid	_____	_____	_____
6. Explanation of Any Controversy or Alteration to Bid Documents	_____	_____	_____
7. List and Explanation of Any Non-Bid Items	_____	_____	_____
8. Copy of Contact, Insurance Certificates, Security, Etc. (As applicable)	_____	_____	_____

**EL DORADO COUNTY
BOARD OF SUPERVISORS
AGENDA TRANSMITTAL
Meeting of May 20, 2003**

AGENDA TITLE Guidelines for RIF / TIM Reimbursement Projects

DEPARTMENT: Transportation	DATE: May 8, 2003	CAO USE ONLY
CONTACT: Matt Boyer, Director	PHONE: 621-5900	

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

1. Amend the adopted "Guidelines for RIF/TIM Reimbursement Projects" to suspend Section 7.0 "Cost Reimbursement Policies," as pertains to the El Dorado Hills / Salmon Falls Road Impact Fee.
2. Direct the Bond Screening Committee to recommend appropriate adjustments to the Guidelines for future consideration of the Board of Supervisors. In the interim, authorize staff to negotiate reimbursement agreements in the context of the concerns expressed herein.

CAO RECOMMENDATION:

Financial impact? () Yes (X) No	Funding Source: () Gen Fund () Other
----------------------------------	--

<p>BUDGET SUMMARY:</p> <p>Total Est. Cost \$ <u>0</u></p> <p>Funding</p> <p>Budgeted \$ _____</p> <p>New Funding \$ _____</p> <p>Savings \$ _____</p> <p>Other * \$ _____</p> <p>Total Funding Available \$ _____</p> <p>Change in Net County Cost \$ <u>0</u></p> <p>* Explain</p>	<p>CAO Office Use Only:</p> <p>415's Vote Req'd. () Yes () No</p> <p>Change in Policy () Yes () No</p> <p>New Personnel () Yes () No</p> <p>CONCURRENCES:</p> <p>Risk Management _____</p> <p>County Counsel _____</p> <p>Other _____</p>
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BOARD ACTIONS:

<p>Vote: Unanimous _____ Or</p> <p>Ayes:</p> <p>Noes:</p> <p>Abstentions:</p> <p>Absent:</p> <p>Rev. 2/96 j:\agenda\win95</p>	<p>I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors.</p> <p>Date: _____</p> <p>Attest: DIXIE L. FOOTE, Board of Supervisors Clerk</p> <p>By: _____</p>
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COUNTY OF EL DORADO**DEPARTMENT OF TRANSPORTATION**

CONSTRUCTION DIVISION:
 2441 Headington Road
 Placerville CA 95667
 Phone: (530) 642-4988
 Fax: (530) 642-4936

MATTHEW C. BOYER
 Director of Transportation

 Internet Web Site:
<http://co.el-dorado.ca.us/dot>

MAIN OFFICE:
 2850 Fairlane Court
 Placerville CA 95667
 Phone: (530) 621-5900
 Fax: (530) 626-0387



May 8, 2003

Board of Supervisors
 330 Fair Lane
 Placerville, CA 95667

Dear Board Members:

Title: Guidelines for RIF / TIM Reimbursement Projects

Meeting Date: May 20 , 2003

Requested Actions:

1. Amend the adopted "Guidelines for RIF/TIM Reimbursement Projects" to suspend Section 7.0 "Cost Reimbursement Policies," as pertains to the El Dorado Hills / Salmon Falls Road Impact Fee.
2. Direct the Bond Screening Committee to recommend appropriate adjustments to the Guidelines for future consideration of the Board of Supervisors. In the interim, authorize staff to negotiate reimbursement agreements in the context of the concerns expressed herein.

Reason for Recommendation:

Background

On January 23, 1996 the Board adopted "Guidelines for RIF/TIM reimbursement projects". A copy of these guidelines is attached. Each time DOT begins to discuss reimbursement terms with a specific developer, these Guidelines, and past reimbursement agreement terms, are looked to as starting points. However, as is explained herein, current circumstances require consideration of a new approach to reimbursements that is different from the existing guidelines and past agreements, at least as relates to the El Dorado Hills / Salmon Falls Road Impact Fee.

These guidelines accomplish many things including specifying the terms under which developers are reimbursed from future traffic impact fees for transportation projects that are advance constructed. The guidelines (page 1) recognize "that special circumstances may require deviation and/or modification of these guidelines to satisfactorily complete the projects..." in compliance with applicable laws, agreements, or "other criteria which are equally important and consistent with sound public policy..."

Page 1 of the Guidelines states that the "Bond Screening Committee may approve any deviation and/or modification to these guidelines."

The Bond Screening Committee includes the Assessor, Auditor-Controller, Chief Administrative Officer, County Counsel, Director of Transportation, and Treasurer-Tax Collector. While some of these Committee members may not have a direct interest in the subject of impact fee reimbursements, the time-sensitivity of the matter suggests that the Board may wish to take advantage of an existing procedure rather than create a new one. Also, the subject of advanced road projects has related to the formation of Community Facilities District bond issuances that are at the core of the Bond Screening Committees' purpose.

While a comprehensive review of these guidelines might be appropriate at some future date, the Department of Transportation believes that changing one particular component of the guidelines is needed more imminently – specifically that related to cost reimbursements.

Section 7.0 of the Guidelines define "Cost Reimbursement Policies".

- Section 7.1 establishes that "authority for general cost reimbursement policies will be set by the Board of Supervisors by approval of these guidelines."
- Section 7.2 states that eligible projects are those of County or regional benefit that are also in the 5 year Capital Improvement Program.
- Section 7.3 states the County's ability to reimburse is dependent upon the amount of uncommitted funds available in the impact fee programs, and indicates that the Director of Transportation will determine the allocation of uncommitted available funds that may be reserved for future or higher priority projects.
- Section 7.4 establishes the typical timing under which projects identified in the 5 year Capital Improvement Program will be reimbursed, generally with zero interest and over a four-year period with 25% repaid each year. (Note: the introduction on Page 1 acknowledges that the specific terms of any Board – approved reimbursement agreement takes precedence over these guidelines).

Areas of Concern

Sections 7.2 through 7.4 are not fully reflective of existing circumstances. Moreover, these policies are incomplete and do not address several current circumstances, particularly as relates to the El Dorado Hills / Salmon Falls Road Impact Fee area.

- ✓ How should the County handle reimbursements for projects not in the 5-year CIP?
- ✓ There is, and will continue to be, an increasing amount of advanced projects compared with the projected stream of new impact fees. If the County fully commits

the stream of new fees to reimburse project advances how will the County deliver projects that are needed but not conditions of any specific development?

- ✓ The guidelines imply an overly optimistic situation with respect to near-term RIF cash flow as compared to the cost of road improvements needed to maintain acceptable traffic flows.

As DOT staff has described on a number of occasions, the County has entered a period of time when a number of RIF road improvements are necessary in a short period of time to alleviate specific points of congestion. From a cash-flow perspective, the El Dorado Hills / Salmon Falls Road Impact Fee (RIF) is unable to keep pace with the need for new projects and this circumstance is projected to exist for a number of years. **From a practical standpoint, the County may not have any funds to provide reimbursements for a number of years and still ensure delivery of critical congestion-relieving projects.**

A related issue is crediting the cost of eligible fee program projects against the payment of impact fees. Example: a development owes traffic impact fees of \$200,000, and is required to advance construct a \$500,000 road improvement. Often the County will grant fee credits for the improvements such that no impact fees would be paid, and the reimbursement owed would be \$300,000.

To the extent that the County commits to repay existing advances with impact fee receipts more quickly than is perhaps necessary, or grants fee credits to minimize the outstanding balance on an advance, the County is further disadvantaged in building other critical road improvements in a timely manner.

The cash situation in the RIF, and eventually other fee programs, is such that the County may need to reconsider providing fee credits for road improvements. As an alternative, the County may need to consider requiring both full payment of traffic impact fees and advanced construction of appropriate road projects (subject to reimbursement), to the extent allowable within the County's legal authorities.

It should be noted that this cash flow issue is not related to whether the current impact fee schedules are sufficient. Inherent in any comprehensive fee-based financing system are these problems.

- ✓ There will be a "lag" between the time fees are paid and the time road improvements are delivered with cash until the theoretical end of the program when the fees associated with the last building permit allow for construction of the last road improvement; or,
- ✓ There will be a time when the sum of advanced-funded road improvements causes significant cash shortages until the theoretical end of the program when the fees associated with the last building permit allow for the final re-payment of the last remaining advance.

- ✓ Inherent in this agenda item is a suggestion that the County needs to move from the former of these two scenarios to the latter.

As each new improvement is completed, the County will have additional road capacity for a future period of time. A revision to the policies that front-loads road building while deferring reimbursements will help to mitigate the problems inherent in the current system.

Long-term the County may need to consider alternative structures for financing road improvements that complement the comprehensive impact fee programs without modifying the obligations of new development under the provisions of Measure Y.

Pending Reimbursement Agreements

Several new reimbursement agreements are currently being discussed with developers and are at various stages.

- ✓ White Rock Road Improvements, between 5th Avenue to Latrobe Road, (AKT Development and Creekside Greens/Lennar).
- ✓ Silva Valley Parkway connection to White Rock Road, including upgrades to White Rock Road (Serrano Associates).
- ✓ White Rock Road – west, adjacent to Euer Ranch (AKT/Northridge Development).
- ✓ El Dorado Hills Boulevard at Wilson Boulevard, traffic signal (Sterling Ranch Associates).
- ✓ El Dorado Hills Boulevard at Olson, traffic signal (AKT Development).

Some of the financing terms of the pending agreements listed above are defined in prior approvals.

Other road projects are likely in the next year or two that will receive reimbursements pursuant to the terms of existing reimbursement agreements.

Other discretionary land use decisions are pending that could lead to new conditions of approval, and eventually result in the need for additional reimbursement agreements.

Recommendations

The Department of Transportation recommends that the Board suspend Section 7.0 of the reimbursement guidelines and refer the matter to the Bond Screening Committee. It is further recommended that your Board direct that the Bond Screening Committee recommend appropriate revisions Section 7.0 of the guidelines in light of current circumstances.

As your Board must ultimately approve all reimbursement agreements, and consistent with the existing Guidelines, the terms of any specific agreement take precedent over the Guidelines, the most important aspect of this recommendation is to provide notice to potentially affected parties that the County will be extremely limited in its ability to enter into a series of new reimbursement agreements modeled after past practice.

Summary of the Purposes of the Recommendations

In summary, the primary purposes of these recommendations are as follows.

- ✓ Ensure that DOT, the Board of Supervisors, other County Departments, and other interested parties, have a common understanding of financing issues related to the RIF program and to receive Board direction that an amendment to the current guidelines is necessary and appropriate.
- ✓ Continue to strengthen the County's financial position in the El Dorado Hills / Salmon Falls Road Impact Fee program area to meet upcoming obligations in the delivery of all key RIF projects.
- ✓ Ensure an appropriate sharing of long-term financial responsibility, consistent with existing approvals and entitlements, with the development community.
- ✓ Set the stage for the establishment of a more realistic, predictable, but equally "level" playing field, for all future reimbursement agreements.
- ✓ Ensure that private parties desiring to enter into future reimbursement agreements have a more-clear upfront understanding of the issues described herein that will impact the possible range of financial terms of any advance and reimbursement.

Options

- ✓ Alternatively, the Board could adopt changes to the Guidelines at this time. This is not recommended as the specific language should be carefully considered and staff is not prepared with a specific recommendation at this time.
- ✓ The Board could also direct (specified) staff to return at a future date with revisions for your consideration without referral to the Bond Screening Committee.
- ✓ The Board could determine that no changes are necessary to the existing guidelines, particularly as the current guidelines are non-binding and require that all reimbursement agreements be presented to your Board for approval.
- ✓ The Board could take no action, or could continue the item to a future meeting.

One other consideration is the involvement of non-County stakeholders in the development of proposed new reimbursement policies. Typically, DOT makes exhaustive efforts to involve stakeholders in the development of new plans and policies. In this case, it is not

clear that individual stakeholder involvement would be constructive as there are already fiscally inter-woven considerations. However, it would appear to be in the collective interests of the stakeholders to support the expeditious preparation and adoption of new reimbursement guidelines that provide for greater certainty while preserving evenhandedness.

Fiscal Impact:

There is no fiscal impact associated with this item, although the intent is to lead to an improvement to the County's financial position in the El Dorado Hills / Salmon Falls Road Impact Fee program.

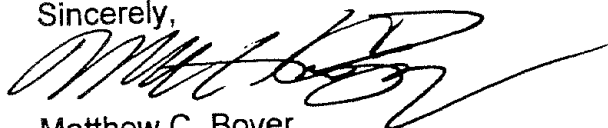
Net County Cost:

There is no net County cost associated with this item.

Action to be Taken Following Approval:

Staff will implement the Board's direction, if any.

Sincerely,



Matthew C. Boyer
Director of Transportation

Attachment

cc: Bond Screening Committee
El Dorado Hills / Salmon Falls Road Impact Fee "stakeholders"
Planning Commission members
Conrad Montgomery, Planning Department



County of El Dorado

Legislative File Number 08-0738 (version 2)

Transportation Department recommending Chairman be authorized to sign Reimbursement Agreement for the Improvements and Grading of Bass Lake Road between the County and Serrano Associates, LLC and the Assignment and Assumption of Plans and Specifications (AGMT 08-1736); and recommending the Board approve the reimbursement approach used for this agreement as a standard for future reimbursements to be presented for Board approval where the County is not constrained by prior agreements.

FUNDING: 2004 General Plan TIM Fee Program, Local Road Component, Zone 8 (EDH TIM) fund.

BUDGET SUMMARY:		
Total Estimated Cost		\$ 1,811,500
Funding		
Budgeted	\$ 1,811,500	
New Funding	\$	
Savings	\$	
Other	\$	
Total Funding Available	\$ 1,811,500	
Change To Net County Cost		\$ 0

Fiscal Impact/Change to Net County Cost:

Payments to be made according to this reimbursement agreement total approximately \$1,811,500 and are to be paid on a ten year schedule where the first payment includes a catch-up amount for three years of payments for a total of \$543,450. The November 2008 scheduled payment and each of the six subsequent annual payments will be \$181,150 each. No interest is being paid on this debt except in the case where the County is unable to make a scheduled annual payment and where the payment can not be converted to fee credits. Funding for this reimbursement has been included in the 2008 DOT Five-Year CIP.

Background:

Standard Approach for Reimbursement Agreements

On May 20, 2003, the Board suspended Section 7.0 of the Transportation Guidelines for Road Impact Fee/Traffic Impact Mitigation Fee Reimbursement Projects" (Guidelines) for only those projects within the EDH TIM area due to funding issues. The Department is proposing to use the subject reimbursement agreement with Serrano as the standard

template for subsequent reimbursement agreements within the EDH TIM area. It is important to note that reimbursement agreements funded from the West Slope TIM area have not been impacted by the Board's decision to suspend Section 7.0. The key differences of this agreement as compared to the previous standards are as follows:

- ü Ten year reimbursement with no interest

The original standard provided for reimbursement over four years with no interest. Current cash flow projections support a ten year period for reimbursement where these amounts are reflected in the current Five-Year CIP, 2008.

- ü Initial payment to be made within 90 days of acceptance of improvement (or open for public use)

This is consistent with the original standard.

- ü Where County can not make the annual payment due to cash flow issues the amount of insufficiency will accrue interest at the Treasurer's pooled rate of funds

This is consistent with the original standard.

- ü The insufficiency described above may be converted to credits to be applied to future TIM fees if requested by developer.

This is a new approach and is considered by the Department to be in the best interests of the County as interest costs to the TIM fee program would be avoided. The subject agreement (Serrano) also makes provisions to allow this same option to be incorporated into subsequent agreements with other developers in the EDH TIM, thereby waiving prior rights to TIM fee revenues by that credit portion. The Department is also recommending that this provision be included as a standard for all reimbursement agreements including those funded from West Slope TIM revenues.

The Department will be presenting other reimbursement agreements to the Board for developer funded improvements in the El Dorado Hills area that will include these same provisions if the Ten-Year Approach is approved by the Board:

Promontory for Olson Signal, approx. \$490,000

West Valley for Latrobe Road Connector to White Rock Study, approx. \$330,000

Hovnanian for White Rock Road Widening at Four Seasons, approx. \$ 5.1M

If the Board approves the Ten-Year Approach presented here in concept the three agreements noted above will be developed with these provisions. As noted earlier, the Guidelines have not been suspended related to TIM fee zones 1 - 7 and those agreements will typically include a four year reimbursement. The recently adopted 2008 DOT Five-Year CIP also assumes a four-year payment schedule in the TIM area (zones

1 - 7) consistent with the policy.

Specifics Related to Proposed Serrano Reimbursement Agreement

The Reimbursement Agreement for the Improvements and Grading of Bass Lake Road Between the County and Serrano Associates, LLC (Reimbursement Agreement) incorporates the Ten-Year Approach described above.

As a condition of TM01-1375 and TM01-1376, Serrano Associates, LLC was required to construct Serrano Parkway easterly to a connection point with old Bass Lake Road. Subsequently, Bass Lake Road was realigned such that the connection point was to be moved to the west. To make the connection complete it was necessary for Serrano to construct a segment of the new Bass Lake Road alignment where that segment was included in the County's Five-Year CIP (# 71353) and therefore eligible for reimbursement from the EDH TIM. See attached Exhibit A for a drawing of the Bass Lake Road segment that is the subject of this agreement. Pulte Homes also constructed a segment of new Bass Lake Road from the Serrano segment to Hollow Oak Road to complete the connection.

Serrano constructed the Serrano Parkway extension and the new Bass Lake Road segment where the improvements were completed and open to the public on August 31, 2005. It is recommended that the first payment begin with the day that is 90-days after the date of first public use (November 29, 2005). The initial payment is therefore recommended to cover three annual catch-up payments (November 2005, November 2006, and November 2007) with no interest and would be made within 30 days of execution of this Agreement. Subsequent payments (each being 10% of the total reimbursement amount) are scheduled for payment on November 29th of each year until the reimbursement amount is paid in full. The creation of this agreement, along with several others, was delayed while the Department reevaluated TIM fee cash receipt projections taking into account the down turn in the housing market. Workload with competing needs further delayed the completion of this agreement with the result that a three year catch up payment is now being recommended.

The reimbursement agreement also includes indemnity provisions that will protect the County related to the design and construction of the new Bass Lake Road segment as well as the Serrano Parkway extension.

Specifics Related to Assignment and Assumption Agreement

A separate Assignment and Assumption Agreement is required as a means of securing design immunity for the entire project to include both the new Bass Lake Road segment and the Serrano Parkway extension. The execution of the assignment agreement is a prerequisite to the payment of any reimbursement amounts.

Action to be taken following Board approval:

- 1) Chairman to sign "Reimbursement Agreement for Improvements and Grading of

- Bass Lake Road between the County and Developer”
- 2) Chairman to sign “Assignment and Assumption Agreement”
 - 3) Subsequent reimbursement agreements in Zone 8 will include the deal points described here as the Ten-Year Approach where not in conflict with prior agreements.

Contact:
Diana Buckley, x5972

Concurrences:

45. [08-0738](#) Transportation Department recommending Chairman be authorized to sign Reimbursement Agreement for the Improvements and Grading of Bass Lake Road between the County and Serrano Associates, LLC and the Assignment and Assumption of Plans and Specifications (AGMT 08-1736); and recommending the Board approve the reimbursement approach used for this agreement as a standard for future reimbursements to be presented for Board approval where the County is not constrained by prior agreements.

FUNDING: 2004 General Plan TIM Fee Program, Local Road Component, Zone 8 (EDH TIM) fund.

Attachments: [AGMT 07-1610 Serrano Reimbursement Blue.pdf](#)
[AGMT 08-1736 Serrano Assignment and Assumption Blue.pdf](#)
[AGMT 07-1610 Serrano - Exhibit A.pdf](#)
[Serrano - Bass Lake Reimb Agmt - Signed](#)
[Serrano - Bass Lake Assign & Assump - Signed](#)

This matter was added to the Consent Calendar and approved.

Yes: 5 - Dupray, Baumann, Sweeney, Briggs and Santiago

46. [08-0999](#) Transportation Department recommending award of bid for hauling services to the lowest responsive, responsible bidder; and authorize the Chairman to sign the Agreement for Services with such bidder in the amount of \$150,000 contingent upon review and approval by County Counsel and Risk Management.

FUNDING: Road Fund.

Attachments: [Award Letter for Hauling Services.pdf](#)
[Letter from DOT Johal Enterprises, Inc. att'd 7-1-08.pdf](#)

A motion was made by Supervisor Briggs, seconded by Supervisor Santiago to award the bid to the lowest responsive, responsible bidder, Johal Enterprises, Inc. in the amount of \$150,000 for hauling services.

Yes: 5 - Dupray, Baumann, Sweeney, Briggs and Santiago