



## **RESOLUTION NO. 048-2023**

**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO**

### **Revising the County of El Dorado Traffic Impact Fee (TIF) Program 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**, on August 22, 2006, pursuant to Government Code Section 66001 et seq., the County adopted the 2004 General Plan Traffic Impact Mitigation (TIM) Fee Program via Resolution 266-2006, and conducted a full review of the Program pursuant to the California Environmental Quality Act (CEQA) through the certification of a Supplement to the 2004 General Plan Environmental Impact Report in Resolution 265-2006; and

**WHEREAS**, the Board of Supervisors codified the TIM Fee Program with the adoption of Ordinance No. 5045 on December 13, 2016, and subsequently adopted Ordinance No. 5144 on August 31, 2022, to make revisions including but not limited to updating the program's name to the Traffic Impact Fee (TIF) Program; and

**WHEREAS**, the Board of Supervisors adopted Resolution 001-2017 on January 24, 2017, to create the Traffic Impact Mitigation Fee Administrative Manual ("Administrative Manual") to provide uniform guidance to County staff as they implement the TIM Fee Program, and subsequently adopted Resolution 100-2022 on June 28, 2022, to update the Administrative Manual to reflect changes to the TIF Program; and

**WHEREAS**, the Board of Supervisors adopted Ordinance 5173 on February 14, 2023, which revised Section 12.28.050 of the County Code to indicate that the Engineering News-Record Construction Cost Index should be used to calculate annual updates to the TIF Program Fee Schedule; and

**WHEREAS**, the Board desires to update the Administrative Manual to adjust to changes in County rules and policies regarding the TIF Program; and

**WHEREAS**, the revision of the TIF Administrative Manual is not a "project" within the meaning of Public Resources Code Section 21065 and CEQA Guidelines section 15378 because the revision of the Manual does not have the potential of resulting in a direct physical change to the environment or reasonably foreseeable indirect physical change in the environment. The revision of the Manual does not approve any specific development and therefore would not lead to a direct or a reasonably foreseeable indirect change in the physical environment. Instead, the revision of the Manual is an administrative activity that provides guidance to the County and the public on the administration of the County TIF Program, the potential impacts of which were previously reviewed in the Supplement to the 2004 General Plan Environmental Impact Report. Even if the revision of the Manual were a project, this activity would be exempt from CEQA under the "common sense" exemption because there is no possibility that this activity would have a significant effect on the environment;

**THEREFORE, BE IT HEREBY RESOLVED**, the Board of Supervisors hereby revises the TIF 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 21st day of March, 2023, by the following vote of said Board:

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

Ayes: Thomas, Hidahl, Turnboo, Parlin, Laine  
Noes: None  
Absent: None

By: \_\_\_\_\_

  
Deputy Clerk  
Kyle Kuperus

  
Chair, Board of Supervisors  
Wendy Thomas

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# **COUNTY OF EL DORADO TRAFFIC IMPACT FEE (TIF) ADMINISTRATIVE MANUAL**

**Adopted by Board Resolution #XXX-2023  
on March 21, 2023.**

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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 Fee (TIF) Program. The TIF 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 TIF zone boundaries in the TIF Program Schedule). Improvements funded by the TIF 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 TIF 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 TIF Program and become part of the County's Capital Improvement Program (CIP).

## **II. APPLICABILITY OF TIF**

### **A. Development Projects**

*EDC Ordinance Code 12.28.030*

The TIF 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 TIF in full before the issuance of the related building permit or other discretionary permit (see Section IV). The Applicant may be eligible for TIF credit or reimbursement through the provisions for Developer-Constructed Facilities (see Section V).

A Development Project includes either:

- ♦ Any activity for new construction, whether a new building or an addition to an existing building,
- ♦ Change of 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 TIF:

### ***1. Residential Additions***

Additions to existing residential buildings with building permits issued before February 8, 2021, inclusive of detached accessory structures, additions that do not result in Additional Dwelling Units, and additions of an Accessory Dwelling Unit within the meaning of Government Code Section 65852.2, are exempt from TIF as the Development Project would not generate additional vehicle trips.

Residential buildings with building permits issued on or after February 8, 2021 are not exempt from TIF for additions if the addition would change the square footage category as detailed in the TIF Schedule, unless that addition is an accessory dwelling unit within the meaning of Government Code Section 65852.2. See Section III.A.2 to calculate any additional TIF due.

### ***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 TIF Zones may be exempt from the TIF if it can be demonstrated that the need for these facilities is caused by other Development Projects.

### ***3. Affordable Housing***

The Board may offset TIF 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 TIF 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. Accessory Dwelling Units***

Accessory Dwelling Units are exempt from TIF. The Board has authorized an equal contribution of funds for construction of capital improvements in the TIF 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 Accessory Dwelling Units, as defined in the EDC Zoning Code Section 130.40.300.

### ***5. Accessory Structures***

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

### III. CALCULATION OF TIF

#### A. Fee calculation

*EDC Ordinance Code 12.28.050*

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

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

##### **1. Residential Projects (New Construction)**

New residential projects are charged by square footage for Single Family Dwellings that are not age restricted.

$$\text{TIF} = \begin{array}{c} \text{TIF per Dwelling Unit} \\ \text{(based on TIF Zone and size)} \end{array}$$

New residential projects are charged by unit for Single Family Dwellings that *are* age restricted and for all Multi Family Dwellings.

$$\text{TIF} = \begin{array}{c} \text{TIF per Dwelling Unit} \\ \text{(based on TIF Zone and} \\ \text{Land Use Category)} \end{array} \times \begin{array}{c} \text{Number of} \\ \text{Dwelling} \\ \text{Units} \end{array}$$

##### **2. Residential Projects (Existing Buildings)**

Additions or remodels that add square footage to an existing single family, not age restricted residential building may result in TIF due, unless exempt under Section II.B.

$$\text{TIF} = \begin{array}{c} \text{TIF due based on} \\ \text{TIF Zone, Land Use} \\ \text{Category, and} \\ \text{proposed size or} \\ \text{number of units} \end{array} - \begin{array}{c} \text{TIF previously collected} \\ \text{based on TIF Zone,} \\ \text{Land Use} \\ \text{Category, and existing} \\ \text{size or number of units} \end{array}$$



### 3. Nonresidential Projects (New Construction)

$$\text{TIF} = \left( \begin{array}{c} \text{TIF per square foot or room} \\ \text{(based on TIF Zone and TIF} \\ \text{Use Category)} \end{array} \right) \times \begin{array}{c} \text{Square Feet} \\ \text{or Room(s)} \end{array}$$

### 4. Nonresidential Projects (Existing Buildings)

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

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

There is no impact from a Development Project and therefore no TIF if the fee per square foot for the proposed TIF Use Category is less than the highest TIF for the current permitted use. Refunds are not provided if the Project would result in lower TIF based on the TIF Use Category. See Section III.B.3 for more explanation.

## B. TIF Use Category

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

**Table 1: TIF 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/Other

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

Age Restricted applies to a Senior Citizen Housing Development as defined by El Dorado County Board Resolution 021-2012 and California Civil Code Sections 51.2 and 51.3. The Senior Citizen Housing Development shall require residents to be at least 55 years of age and consist of at least 35 units.



### **1. TIF Use Categories for Residential Activities**

**Single family:** Includes Dwelling Units on separate lots that are Single Family Detached Homes, Patio Homes, and Mobiles Homes not located in a Mobile Home Park.

**Multi-family:** Includes Dwelling Units that are: Apartments, Condominiums, Multiplexes, Manufactured Housing, Mobiles Homes located in a Mobile Home Park, Modular Units, Quadraplexes, 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 TIF Use Category, then determine the most likely activity and related TIF Use Category based on further analysis of the Project.

### **3. Development Projects in Existing Buildings**

**Residential Projects:** There is no TIF for a Development Project in an existing building with a building permit issued before February 8, 2021. This includes addition and remodel projects, unless the Project would result in Additional Dwelling units (i.e. additional apartments). A Development Project in an existing building with a building permit issued on or after February 8, 2021, which add square footage may be subject to additional TIF if the addition would change the square footage category as detailed in the TIF Schedule.

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

### **4. TIF Use Category for Mixed-Use Development Projects**

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

## **C. TIF Zones**

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

### **1. Development Projects in Multiple TIF Zones**

If a Development Project is split between multiple zones, then the TIF 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 analysis in the TIF Program Nexus Study, the TIF 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 TIF due to the jurisdictional status of the land.

### **D. Alternate TIF Calculation Method**

If a Development Project would result in a use not consistent with any of the Use Fee Categories in the TIF Program Schedule, then a TIF specific to the Development Project may be calculated as follows for each of the Project's use categories:

1. Calculate net new vehicle miles travelled rate using data from the Institute of Transportation Engineers, *Trip Generation* manual and other sources as appropriate (See **Table 2** for comparison of factors used by use category):
  - 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. Estimate average trip length based on most similar TIF use category (See **Table 2**).
  - d. Multiply (1.a) by (1.b) by (1.c) to calculate the rate for net new vehicle miles travelled (VMT factor).
2. Calculate the equivalent dwelling unit (EDU) factor:
  - a. Divide (1.d) by 4.95 to calculate the EDU factor for the Project based on one single family unit (2,500 to 2,999 sq. ft.) equal to 1.00 EDU (see **Table 2**).
3. Calculate the Hwy. 50 TIF 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 the current TIF Program Schedule.
  - b. Multiply (2.a) 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 TIF 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 the current TIF Program Schedule.
  - b. Multiply (2.a) by (4.a) to calculate the local roads cost per unit of development for the Project.
  - 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**

TIF Use Category	Units	Evening Peak Hour Vehicle Trip Generation Rate	Percent New Vehicle Trips (excludes diverted and passby trips)	Average Trip Length	New VMT per Unit
Residential					
Single-family Not Age Restricted	per Dwelling Unit	0.99	100%	5.0	4.95
Single-family Age Restricted		0.30	100%	5.0	1.50
Multi-family Not Age Restricted		0.56	100%	5.0	2.80
Multi-family Age Restricted		0.26	100%	5.0	1.30
Nonresidential					
Hotel/Motel/B&B	per room	0.38	58%	6.4	1.41
General Commercial	per 1,000 sq. ft.	6.51	47%	2.5	7.65
Church		0.49	64%	3.9	1.22
Office		1.15	77%	5.1	4.52
Medical		3.46	60%	5.1	10.59
Industrial/Other		0.63	79%	5.1	2.54
Source: TIF Program Nexus and Funding Model, Table 3: Land Use Categories, Trip Generation Rates & EDU Factors. Nexus Model. Adopted December 8, 2020. Resolution 196-2020					

## IV. PAYMENT OF TIF

### *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 TIF has been paid to the County. TIF shall be the rate in effect at the time of issuance of any permit (e.g., building permit, encroachment permit, etc.) or to comply with a condition of approval of a Development Project.

Under certain special circumstances, the Director or their designee may approve the payment of TIF due at any time after a completed building permit application is filed with the County, but no later than the issuance of a Building Permit, unless deferred under Section IV.A or IV.B below.



## **A. Development Projects Not Subject to Fee Deferral Policy**

Payment of TIF shall be due upon the issuance of a Building Permit or before finalization of appropriate permits (i.e., occupancy, encroachment, etc.) of an approved Development Project, whichever is earlier. Payment shall be in the amount of one hundred percent (100%) of the applicable TIF.

## **B. Development Projects Subject to Fee Deferral Policy**

An alternative method for payment of the TIF is by application to the 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 TIF Program Schedule and constructed by an Applicant. An Applicant may provide Developer-Constructed Facilities to offset some or all of the Development Project's TIF 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 TIF credit or reimbursement, and whether to enter into a Credit and Reimbursement Agreement. The Director may require transportation improvements as a condition of approval for a Development Project that are not eligible for a credit or reimbursement.

The County recognizes that special circumstances may require deviation from and/or modification of this manual to satisfactorily complete the projects in compliance with applicable Federal, State, and Local law, previous Agreements, environmental concerns, or other criteria that are equally important and consistent with sound public policy and prudent engineering judgement.

It is understood that any applicable agreement between the Developer and the County takes precedence over the manual included herein in any area of conflict.

### **TIF Reimbursement Responsibilities**

The responsibility within the County for TIF Program Reimbursable Projects is assigned as follows:

- ♦ Project Reimbursement Eligibility: Transportation
- ♦ Plan review and approval: Transportation
- ♦ Construction Inspection: Transportation

- ♦ Engineering Review of Reimbursement Request: Transportation
- ♦ Financial Review of Reimbursement Request: Transportation; County Counsel; Chief Administrative Office, Community Development Finance & Administration
- ♦ Reimbursement: Auditor-Controller

The authority for general cost reimbursement policies will be set by the Board of Supervisors by approval of this manual. Administration of cost reimbursement policies is assigned to the Director. An applicant may appeal the decision of the Director to the Assessment District Screening Committee.

## A. Credits Versus Reimbursements

**Credits:** Credits occur if the Applicant has entered into a Credit and Reimbursement Agreement and seeks to offset some or all of the Applicant's TIF obligation.

**Reimbursements:** Reimbursements occur if the Applicant has entered into a Credit and Reimbursement Agreement and either (1) the cost of Developer-Constructed Facilities eligible for reimbursement exceeds the applicable TIF obligation, and/or (2) the Applicant seeks reimbursement for prior TIF payments. The TIF Program 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.E) 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 TIF Program Schedule, adjusted for inflation. Costs may include construction and non-construction costs as listed below.

1. Construction Costs: Eligible and ineligible reimbursement categories are as follows:

<u>Eligible</u>	<u>Ineligible</u>
Grading	Landscaping
Base Course/Paving	Lighting
Curb & Gutter, Sidewalks*	Water, sewer, gas, electric
Storm Drains	Telephone & communication utilities
Intersection Facilities	Overhead for the above
Safety and Signage	

*\*only if not required by the Frontage Ordinance, EDC Ordinance Code 12.09 but included in the TIF Program*

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

2. Non-Construction Costs: Eligible and ineligible reimbursement categories for non-physical facilities are as follows:

<u>Eligible</u>	<u>Ineligible</u>
Planning	Landscaping
Engineering	Lighting
Permit	Water, Sewer, gas, electric
Fees	Telephone & communication utilities
Legal*	Overhead for the above
Management	
Administration	
Interest on Financing	
Off-Site Easements	

*\*Eligible legal fees include reasonable attorney fees incurred in the review of documents or legal advice related to the Developer-Constructed Facilities and related reimbursement; but does not include any fees incurred in any litigation, arbitration, mediation, or other action or proceeding involving the Developer in which El Dorado County is a direct or indirect party.*

The County shall not reimburse for any costs related to ineligible non-construction costs.

Reimbursement for all eligible non-construction costs shall be limited to a maximum of 20% of eligible construction cost. The Developer shall comply with the following requirements in providing documentation for non-construction costs:

- The Developer is not required to provide documentation for costs related to internal project management. The total reimbursement for undocumented internal project management costs is limited to 3% of the total construction cost for Developer.
- The Developer must provide documentation for the remaining 17% non-construction costs. The County will initially accept non-construction cost documentation consisting of an itemized cost summary showing purpose, recipient, and amounts of expenditures, along with a certification by an authorized Developer official, for preliminary review. The Developer shall submit full reimbursement cost documentation following the requirements in Section V.F.5 before County will make any reimbursement payments non-construction costs that fall within this paragraph.



3. Disputes on eligibility: If the Developer disagrees with a determination that a particular item is not eligible as construction costs or non-construction costs, the Developer must submit a written statement to the County Engineer that states the category of costs and provides documentation on why that category should be eligible. The County Engineer will review that written statement, and provide a written recommendation to the Director. The Director will review that recommendation, and provide a written statement of final eligibility. The Director's decision is final and nonappealable.

### **C. Reimbursement Application and Eligibility**

A Developer that is proposing to construct a TIF Program Improvement may submit a request to the Director to enter into a Credit and Reimbursement Agreement. The Developer must include in that request the Project Description and Engineers Cost Estimate. The Applicant must submit a request to enter into an agreement before the start of construction of the improvements in order to ensure the County can review any bid documents for compliance with the requirements of the Public Contract Code and Labor Code, unless expressly authorized otherwise by the Director or if the County has recognized the eligibility of the improvements in a condition of approval or in a prior agreement with the Applicant.

The Director will respond to that request in writing by either approving, denying, or asking for clarification on the request. The Director will include in that response an explanation for the decision. The Director has sole discretion to determine whether the improvements are eligible for reimbursement using TIF Program revenues.

If Director determines that the Applicant is eligible, the Director or designee will prepare the Credit and Reimbursement Agreement in accordance with Section V.E, subject to the final review and approval of the Board of Supervisors.

The TIF Program shall be the sole source of reimbursement for Developer-Constructed Facilities. Projects eligible for County reimbursement shall be reimbursed only from available funds of the TIF Program. The ability of the County to fully reimburse eligible costs is dependent upon the amount of uncommitted funds available in the TIF Program funds. The Director of Transportation will determine the allocation of uncommitted available funds which may be reserved for future, or higher priority projects.

### **D. Credit and Reimbursement Agreement**

To enable Developer-Constructed Facilities to offset a TIF obligation, the Applicant must execute a Credit and Reimbursement Agreement (Agreement) with the County. The Applicant must submit a request to enter into an agreement before the start of construction in order to ensure the County can review any bid documents for compliance with the requirements of the Public Contract Code and Labor Code and as described in Section V.F.3. 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:

1. **Preparation and Approval:** The Director or designee shall prepare the Agreement. The Applicant and Board of Supervisors must each approve the Agreement for the Agreement to take effect.



2. **Facility Description:** The description of the Developer-Constructed Facilities shall include location, size, and any other characteristics needed to identify the Facilities.
3. **Facility Cost:** The total eligible cost for the Developer-Constructed Facilities as defined in Section V.C. Before any reimbursement can occur, the Applicant shall support any actual cost with documentation provided by the Applicant as described in Section V.F.5. 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.

The Agreement shall also include a provision that the total eligible cost for the Developer-Constructed Facility cannot exceed the total eligible cost as defined in Section V.C, and that before any reimbursement can occur, the Applicant shall support any actual cost with documentation.

The Agreement shall include the estimated eligible cost of the construction of the Developer-Constructed Facilities 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.

4. **Acceptance of Facility:** Include a provision stating the time when the Developer-Constructed Facilities were accepted by the County, or an estimated schedule for acceptance and any conditions associated with acceptance.
5. **Credits:** The total credit amount shall equal the eligible cost of Developer-Constructed Facilities or the actual applicable TIF obligation, whichever is less. The County may estimate the eligible cost of the Developer-Constructed Facilities or the applicable TIF obligation if the actual cost of Development Constructed Facilities, and/or the actual TIF obligation, is not known at the time the Agreement is executed.
6. **Reimbursements:** The total reimbursement amount shall equal the eligible cost of the Developer-Constructed Facilities minus the applicable TIF credit. Indicate how payments are calculated, funded, and scheduled. Options include:
  - a. **Calculation of Payments:**
    - **Fixed Percentage Payment:** Reimbursement payments are based on a fixed percentage of annual TIF revenues for the TIF Program 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 which index is 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.

**b. Funding:** The County shall make reimbursement payments only from the TIF Program 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's taxing power nor 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.

**7. Timing of Credits and Reimbursements:**

**a. Credits:** Outstanding credit balances shall be reduced based on the TIF obligation calculated at time of submittal of a Building Permit application.

**b. Reimbursements:** Payments on outstanding reimbursement balances must be made no less often than once annually. The number of annual payments shall be outlined in the Agreement.

If the County does not have sufficient funds within the TIF Program Accounts to make the payment in a given year, the County may at its discretion delay the payment in its entirety, or it may make a partial payment and carry the shortfall over to be included in the next scheduled payment. If, at the time final payment is due, the then-available balance in the TIF Program Accounts are not adequate to fully fund such final payment, then the County's obligation shall continue quarterly thereafter as funds are available in the TIF Program until such final payment is received in full.

**c. 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 TIF, as applicable, and an increase in the reimbursement amount due pursuant to the Agreement.

**8. Agreement Preparation and Administrative Costs:** The agreement may include provisions for the County to recoup preparation and administrative costs from the Applicant.

**9. Termination:** The Agreement shall be terminated when all credit and reimbursement obligations have been satisfied.



## **E. Reimbursement Procedures**

### **1. Pre-Construction**

1. Design Engineer prepares bidding or competitive proposal documents for the Project. As applicable, the Developer or County obtains necessary right-of-way (ROW) and negotiates all utility relocations/installations. If the total estimated cost is less than the threshold established by Public Contract Code Section 22032(b), then the Developer must comply with the informal procedures set out in the County Procurement Policy (Board Policy C-17.)
2. Design Engineer prepares and submits plans to Transportation for approval. The plans shall indicate a reference to the County facilities that are included and a note indicating the general category of facility eligible for reimbursement. The purpose of 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.
3. Developer pays Transportation plan check and inspection fees (normal and special) in accordance with normal subdivision/permit process.
4. The County Engineer will determine the necessity of construction security, and if required, the amount.
5. Design Engineer prepares bidding/proposal documents and submits to The 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.
6. The County Engineer reviews the Bidding/Proposal Documents for the following requirements:
  - a. Scope of Work is specifically described and unambiguous, is included within a Credit and Reimbursement Agreement, and the Project has been designated and approved by the County as a TIF Program Reimbursable Project.
  - b. Engineer's estimate is reasonable, bidding procedures are consistent with this manual, and bid forms clearly describe each bid item and are formatted substantially similar to the Engineer's Report Cost Breakdown.
  - c. Proposal includes the following provisions<sup>1</sup>:
    - i. A non-collusion affidavit (Public Contract Code § 7106).
    - ii. Workers' compensation certificate (Labor Code § 1860, 1861, and 3700).

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<sup>1</sup> The Developer is encouraged to substantially comply with Caltrans Local Assistance Procedures Manual Exhibit 12-H in preparing the bid documents.

- iii. Prevailing wage statement (Labor Code § 1773.2).
- iv. Payroll records to be accurate and available for inspection (Labor Code § 1776).
- v. Examination and audit for 3 years following final payment (Gov't Code § 8546.7).
- d. The number of allotted working days specified in the contract documents is reasonable for the proposed work.
- e. Liquidated damage clauses, if any, are consistent with County policy and state law (Gov't Code § 53069.85; Public Contract Code § 7203).

## **2. Bid Proposal**

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, if the project is under the cost threshold in Public Contract Code Section 22032, the Developer will comply with the County's informal procedures set out in the County Procurement Policy (Board Policy C-17).
2. All advertisements will be done in compliance with existing law for public works projects, including the Uniform Public Construction Cost Accounting Act (Public Contract Code § 22000 et seq.).

## **3. Project Award**

1. Developer shall provide the County Engineer a summary of all bids/proposals, 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 is no pending dispute over the bidding proposal procedures.
  - b. That all bidders received the same set of bid/proposal documents and all addenda issued.
  - c. That all applicable County approvals for the work have been obtained.
  - d. Any conditions to the bid/proposal.
2. Developer shall retain the original of all bids/proposals received for a minimum of four years.
3. Within five working days of receipt of the bid/proposals material in Section V.F.3.1, the County Engineer shall review the bid summary and a copy of the low bid and concur in the Design Engineer's recommendation, or advise the Developer that additional review time will be required.
4. In the event the low bid/proposal is not recommended, or the County Engineer cannot concur with the Design Engineer's recommendation, or the County Engineer is aware of any irregularities or possible disputes over the bidding procedure, the Developer or the County Engineer shall notify the Director. 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 Section V.F.3.1. 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.

5. 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 their discretion reject all bids/proposals received for a project.
6. Before award of contract, Developer shall obtain written concurrence for award from the County Engineer.
7. Design Engineer shall provide the following items to Transportation 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 Engineer's 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 shall determine if additional funds are justified or if no additional funds shall be reimbursed for the project.

#### **4. Construction**

1. Contractor shall coordinate all inspections on the Project with Transportation staff.
2. Developer shall provide the County Engineer with copies of all progress payments to the Contractor.
3. If the Developer desires to be reimbursed for any change order, the Developer shall obtain Transportation approval of work and cost before consideration of the additional cost for reimbursement.
4. The County Engineer shall review any revisions to the plans in accordance with the normal permit procedure.
5. For the purposes this manual, the construction shall be considered complete at such time as the Facility is substantially complete and available for public use and benefit (eg when road connections are complete and operable), and when the Developer has obtained the following as applicable:
  - a. Approval of Transportation 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 Transportation of all erosion control facilities required by the Plans and/or grading permit.



- d. Approval by the County Surveyor of all documentation.
- e. Approval of Transportation of all street facilities, storm drains, street lighting, traffic signals, etc., shown on the plans.
- f. Acceptance by the Board of Supervisors as complete.

## **5. Reimbursement**

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 V.F.4.5). The request shall include a cover letter the format provided in **Appendix E**, "Sample Reimbursement Request Letter", and shall be submitted in a format acceptable to the County. Acceptable formats include binders or bound reports, including indexes and tab dividers as appropriate, and submission materials should be complete at the time of submission. Incomplete reimbursement requests will not be reviewed until all missing documentation is provided. The final reimbursement request shall contain, but not be limited to, the following items, referred to collectively as the TIF Program Reimbursement Request:
  - a. Final quantities and final costs on each contract item, certified by the Design Engineer, and the total of all construction costs for the Project accompanied by copies of the general contractor's construction contract and any other supporting documentation necessary to justify reimbursement.
  - b. Approved contract change orders with final quantities or final costs.
  - c. Itemized breakdown of other reimbursable costs as delineated in the applicable Credit and Reimbursement Agreement.
  - d. Copies of invoices, vouchers, canceled checks, etc. to support all expenditures by the Developer to be reimbursed.
  - e. Copies of recorded Notice of Completion, if applicable.
  - 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 (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 agency or utility cost reimbursements are disclosed in the reimbursement requests.
  - j. A finalized copy of Official Record Plans that incorporates all approved changes, and a copy of the recorded tract map(s).
  - k. Any additional supporting documentation requested by the County as needed to establish reimbursable amounts.

2. The 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 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 Section V.F.5.1, the 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.

3. After completing Section V.F.5.2, including the receipt of all supporting documentation, the County Engineer will prepare the "draft" Reimbursement Recommendation and attach it as an exhibit to the request. This draft Reimbursement Recommendation will include cost summary and the County Engineer's checklists.
4. The County Engineer will determine that:
  - a. Work has been completed as defined in Section V.F.4.5.
  - 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, etc).
  - g. Developer/Design Engineer's request for reimbursement is acceptable.
5. If the County Engineer has any questions or otherwise encounters any problems with the Reimbursement Request, the County Engineer will contact the Developer and Design Engineer.
6. 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.
  - a. If there are questions or problems with the Reimbursement Recommendation, or if additional supporting documentation 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, the County Engineer contacts the Developer.
  - b. Upon completion of financial review, the County Engineer submits the original Reimbursement Recommendation, along with originals of supporting documentation, to the Auditor-Controller.



7. The Auditor-Controller reviews the submitted reimbursement payment request and upon completion of review, Auditor-Controller issues warrant(s) according to the schedule outlined in the Credit and Reimbursement Agreement.

## **VI. APPEALS**

### **A. Types of Reductions**

*EDC Ordinance Code 12.28.070(A)*

#### **1. Incorrect Fee Application**

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

#### **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 TIF is justified. The justification for such a reduction includes circumstances where application of the TIF 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 TIF must meet the following requirements:

- ♦ The Appellant must appeal the TIF no later than the date of application for the Building Permit for the Development Project on a form provided by the County.
- ♦ The Appellant shall pay the TIF pursuant to this manual pending the resolution of the application for an appeal, except as follows:
  - Alternatively, the Appellant may request to establish an alternative arrangement to pay the fees due by providing the Director a bond, letter of credit, or other security that demonstrates the applicant will pay the full amount when due. The Appellant shall also provide documentation as to why it would be an economic hardship to pay that amount during the pendency of the appeal. The Director may, in their sole discretion, determine that it would be an economic hardship for the Appellant to pay the fees in full and that the proposed bond, letter of credit, or other security is sufficient. The Appellant shall demonstrate economic hardship by submitting to the Director documented evidence, including expenses, profit and loss statements, current bank statements, pay stubs showing the most recent pay period, an affidavit of hardship letter, or other

evidence to the satisfaction of the Director demonstrating the Appellant's household is of low or moderate income.

- ♦ The burden of establishing satisfactory factual proof of the applicability and elements of this section shall be on the Appellant.
- ♦ The Appellant 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 Appellant from raising such issues in court.
- ♦ Failure to submit such an application shall preclude such person from challenging the TIF in court. The Director may require, at the expense of the Appellant, review of the submitted materials by a third party.

### C. Determination of Appeal

*EDC Ordinance Code 12.28.070(C)*

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

## VII. TIF COLLECTION AND ACCOUNTING

### A. TIF Program Accounts

All TIF payments shall be deposited in the TIF Program Accounts listed below. The Director shall administer each account and have the authority to regulate the use of each account.

- ♦ TIF – Zone A
- ♦ TIF – Zone B
- ♦ TIF – Zone C
- ♦ TIF (TIM) – Silva Valley Interchange
- ♦ TIF (TIM) – HWY 50

**No Comingling of Funds:** Use of these accounts shall avoid any comingling of revenue from TIF 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 TIF was originally collected.

## B. Transfers

### *EDC Ordinance Code 12.28.120*

Transfers and/or noninterest earning loans shall be allowed between the different TIF Program Accounts upon the recommendation of the Director and shall comply with the following:

- ♦ A transfer or loan is to provide funding for a capital improvement included in the TIF Program Schedule.
- ♦ The Board is notified of and approves a transfer either through the annual budget process or a budget transfer request, pursuant to the Mitigation Fee Act requirements (see Section VII.D).
- ♦ The Director determines in writing that special circumstances exist to justify a loan. "Special circumstances" shall include, but 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 a loan pursuant to the Mitigation Fee Act requirements.
  - Loaned funds will be repaid as funds become available.

## C. Annual TIF Adjustment

### *EDC Ordinance Code 12.28.050*

The fee amounts in the TIF Program Schedule shall be adjusted annually. Projects currently under development shall be updated based upon current cost estimates. For projects that aren't far enough along in the project development cycle to have project cost estimates, costs 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 net change for inflation shall be calculated as the most recent month's 20-City Average cost index value available at the time of calculation, less the 20-City Average cost index value at the time of the previous TIF Program Schedule adjustment, divided by the 20-City Average cost index value at the time of the previous TIF Program Schedule adjustment, to yield a percentage change.

$$\text{Percentage Change} = \left[ \begin{array}{c} \text{Construction} \\ \text{Cost Index} \\ \text{value in the} \\ \text{most recent} \\ \text{available} \\ \text{publication} \end{array} - \begin{array}{c} \text{Construction} \\ \text{Cost Index value} \\ \text{used in the} \\ \text{previous TIF} \\ \text{Program} \\ \text{Schedule update} \end{array} \right] \div \begin{array}{c} \text{Construction} \\ \text{Cost Index value} \\ \text{used in the} \\ \text{previous TIF} \\ \text{Program} \\ \text{Schedule update} \end{array} \times 100$$

The Director shall notify the Board at a public meeting of the proposed annual fee adjustment, including indication of the specific cost index value(s) used in the calculation. 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 1<sup>st</sup> of the year in which the action is taken, or at such other time as is provided by law.

## **D. Annual TIF Program Report**

**Schedule:** Before December 27<sup>th</sup> of each year (within 180 days following the end of the fiscal year), the Chief Administrative Office, Community Development Finance & Administration Unit, in coordination with Transportation, shall make available to the public information regarding activity within each account for the prior fiscal year.

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

- ♦ A brief description of each TIF Program Account.
- ♦ The amount of the TIFs as shown in the TIF Program Schedule.
- ♦ The beginning and ending balance of each TIF Program Account.
- ♦ The amount of TIF revenue collected and the interest earned on each TIF Program Account balance.
- ♦ An identification of the capital improvements for which TIF 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 TIF.
- ♦ A description of each interfund transfer or loan made from TIF Program Accounts, 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 TIF, and if sufficient TIF 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 TIF may have to be refunded pursuant to Government Code Sections 66001(e) and (f).
- ♦ The amount of TIF offset granted to Affordable Housing and Secondary Dwelling Units (see Section II.B.3 and II.B.4 respectively) and the transfers made into the TIF Program Accounts for the offset.
- ♦ The amount of refunds made pursuant to Government Code Section 66001(e) and any allocations made pursuant to Government Code Section 66001(f).
- ♦ Any other information required by Government Code Section 66006, as it currently reads or may thereafter be amended.

**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 and emailed, at least 30 days before 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 TIF projects in the CIP require a General Plan Consistency Finding by the Planning Commission or the Board, either of which can make the consistency finding at their discretion.

## **E. Five-year TIF Program Review**

**Schedule:** At least every five years the Director will prepare a five-year TIF Program review, also referred to as a Major Update. The five-year program review shall be released to the public and reviewed by the Board on the same schedule as the Annual TIF Program Report (see Section VII.D), and shall be prepared according to the requirements of General Plan Policy TC-Xb and Implementation Measure TC-B.

**Content:** The primary purpose of the five-year program review is to justify continued collection of the TIF pursuant to the Mitigation Fee Act in Sections 66000-66025 of the 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 or Developer 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 TIF, 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 TIF.
- ♦ 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 TIF FUNDS**

*EDC Ordinance Code 12.28.040, 12.28.080, and 12.28.100*

### **A. Use of TIF Funds for TIF Capital Improvements**

Once TIF capital improvements are identified and included in the TIF 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 TIF Program and other non-tax sources as determined by the Board.

The Director shall review the County CIP during Transportation'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 TIF Program Schedule.

TIF funds may be used:

- ♦ To pay for capital improvements listed in the TIF 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 TIF 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 TIF Program Schedule; and/or
- ♦ To reimburse Applicants for Developer-Constructed Facilities pursuant to an adopted Credit and Reimbursement Agreement (see Section V.E).

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

### **B. Use of TIF Funds for Administrative Costs**

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

- ♦ Reasonable administrative or related expenses of the County including costs associated with the annual TIF adjustment, annual TIF Program report, and five-year TIF 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 TIF 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 TIF Program.



## APPENDIX A: GLOSSARY

EDC Ordinance Code 12.28.020

Term	Definition
Accessory Dwelling Unit	This term has the same meaning as defined in Government Code Section 64852.2 as it now reads or may thereafter be amended.
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 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, <b>during the year preceding</b> 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, <b>during the year preceding</b> 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.
Advertisement	A published public notice soliciting bids for the Project, in accordance with the Public Contract Code, and in particular the Local Agency Public Construction Act and the Uniform Public Construction Cost Accounting Act (Public Contract Code § 22000 et seq.)

<b>Term</b>	<b>Definition</b>
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"> <li>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;</li> <li>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.</li> </ol>
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.
Assessment District Screening Committee	That certain committee, also known as the Bond Screening Committee, whose membership is comprised of key staff from the Department of Transportation, Assessor, Treasurer, Auditor and County Counsel offices. Convenes for the purpose of hearing appeals for TIF Program reimbursements.
Bid Documents	Plans, specifications, and proposal documents prepared by or 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 a TIF Program Reimbursable Project.
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.



<b>Term</b>	<b>Definition</b>
Change of 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 TIF Use Category for the current permitted use to a higher TIF 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.
Completed Facilities	Those certain facilities which are determined to be complete by Transportation and ready for acceptance by the County.
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.
Contractor	A contractor who possesses the appropriate California contractor license(s) for the work required to be performed in a TIF Program Reimbursable Project.
County	County of El Dorado.
County Engineer	The licensed civil engineer, as delegated by the Director of Transportation, generally responsible for performing such engineering services and activities as may be required to prepare and maintain the necessary maps, plans, and records, and to ensure compliance with environmental, safety, or other governmental regulations on behalf of the County of El Dorado.
Credit and Reimbursement Agreement	An agreement between the County of El Dorado and a Developer, allowing the County to acquire certain public facilities from the Developer and to reimburse the Developer for the costs thereof. Must be requested and entered into before construction to be eligible for reimbursement payments. See Section V.
Date of Acceptance	That certain date that the Board of Supervisors accepts the Developer-Constructed Facility.
Design Engineer	A licensed California Civil Engineer who has been retained by the Applicant or Developer for the purpose of designing and/or supervising construction of the facilities.
Developer	An individual, group, corporation, partnership, etc., that has met all applicable requirements in this manual and has been approved by the County to construct a TIF Program Reimbursable Project and has entered into a Credit and Reimbursement Agreement.



<b>Term</b>	<b>Definition</b>
Developer-Constructed Facilities	Capital improvements included in the TIF Program Schedule that are constructed by an Applicant or Developer.
Development Project	Includes either (1) new construction, whether a new building or an addition to an existing building, (2) Change of 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 Department of Transportation Director or designee or successor.
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. Also referred to as a "housing unit" in EDC Ordinance Code 12.28.
Engineer's Estimate	A cost estimate prepared by the Design Engineer and approved by the County Engineer.
Engineer of Work	See "Design Engineer"
Facility	If used by itself, means the TIF Program Reimbursable Project. A facility will be eligible for reimbursement at the time it is complete, available for public benefit, and accepted by the County.
Hearing Officer	The person appointed by the Board of Supervisors who is deemed to have sufficient knowledge of the Mitigation Fee Act (Government Code § 66000-66008) and the administrative process.
Housing Unit	See "Dwelling Unit"
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 within the boundaries of the county approved project (see also "Off-Site Easement Costs").

Term	Definition
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	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: 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: 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 park
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 TIF Use Categories: Hotel/Motel/B&B, Industrial/Other, General Commercial, Office/Medical, or Church.

<b>Term</b>	<b>Definition</b>
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.
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.
Plans	The final construction drawings prepared by the Engineer of Work and its consultants and approved by the County for construction of the Project.
Project	See "Facility"
Proposal	A non-publicly advertised private request for proposals to perform public facility work or services that complies with public contract law regulating fraud and non-collusion.
Purchase Price	The amount to be paid by the County for Facilities in accordance with the provisions of a Credit and Reimbursement Agreement.
Quadrplex	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 TIF Use Categories: Single Family Housing, Multi-Family Housing, Single Family Age Restricted Housing, or Multi-Family Age Restricted Housing.
Road Facility	Those certain public road facilities which are described in a Credit and Reimbursement Agreement.
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).
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.



<b>Term</b>	<b>Definition</b>
Specifications	The documents prepared by the Engineer of Work or its consultants that describe in detail for construction contract purposes the material and workmanship required to complete the project. This includes, but is not limited to, the most recent Caltrans Standard Plans and Specifications, the California Building Standards Code, applicable DOT Standard Plans, the Standard Specifications for Public Works Construction (APWA) and any contract Special Provisions prepared by the Engineer of Work that describe in detail for contract purposes, the materials and workmanship required to be performed on the Project.
Surety Bonds	Subdivision or construction bonds that 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.
TIF	The Traffic Impact Fee (TIF) imposed under Chapter 12.28 of the El Dorado County Ordinance Code. Fees may be adjusted for inflation pursuant to Section 12.28.050.
TIF Program	The TIF 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.
TIF Program Reimbursement Report	A report prepared by the Engineer of Work containing information regarding the public capital facilities proposed for reimbursement.
TIF Program Schedule	The Zone boundaries, list of capital improvements, and TIF schedule on file with the Director and as adopted by Resolution.
TIF Program Reimbursable Project	A Developer-Constructed TIF Program Improvement that has determined to be eligible for reimbursement under this manual and in the applicable Credit and Reimbursement Agreement as approved by the Board.
TIF Zone	Any of the several geographic areas where the TIF is applicable to a Development Project as shown in the El Dorado County TIF Program Schedule.
TIF Use Category	The land use categories used to calculate the TIF on a Development Project (see <b>Appendix C</b> ).

Term	Definition
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: TIF USE CATEGORIES

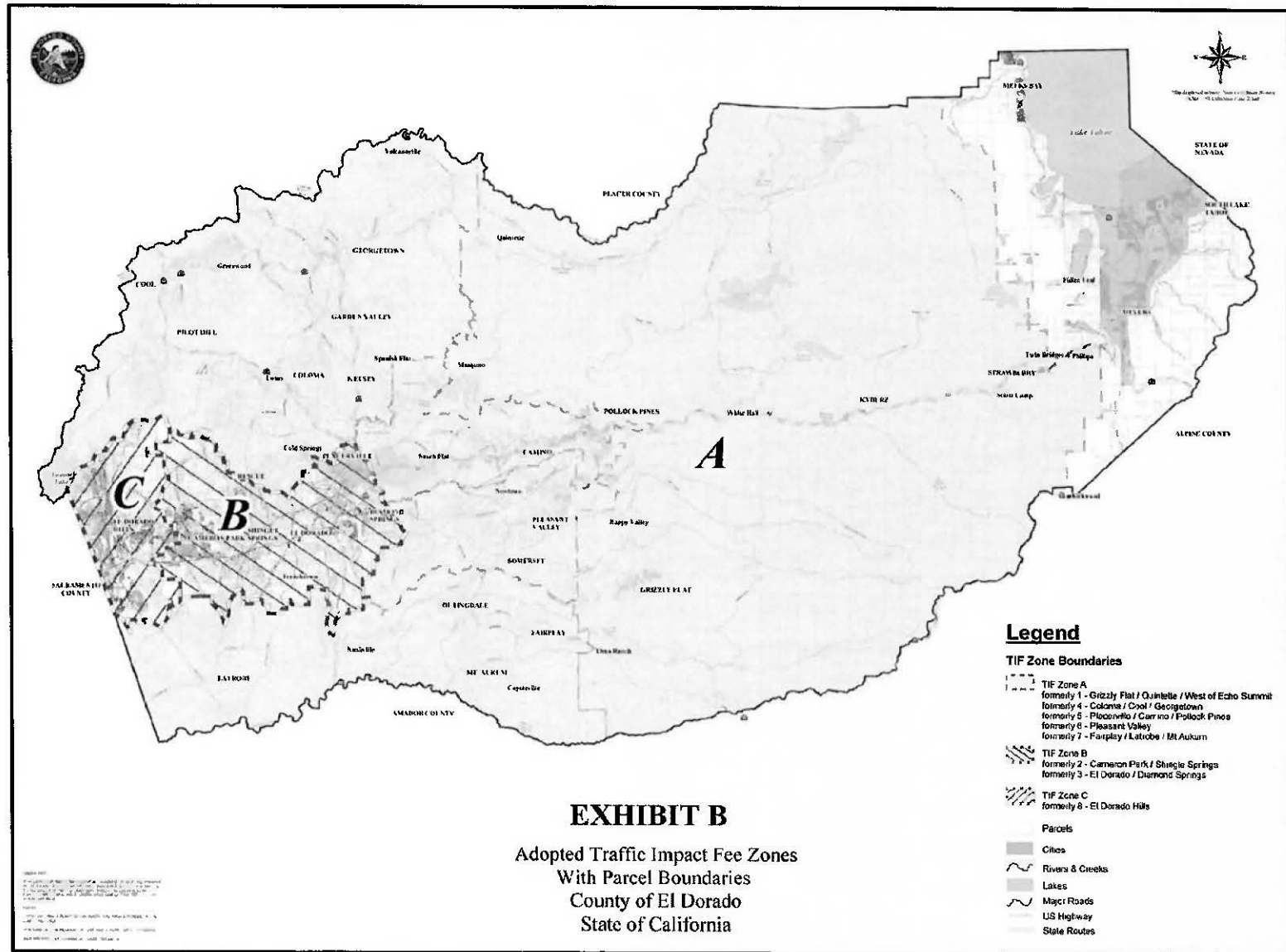
The following table includes examples of zoning designations and the appropriate TIF Use Category. Transportation makes the final determination of the appropriate TIF Use Category.

<b>EXAMPLES OF TIF USE CATEGORY PER ZONING CODE</b> <b>THIS IS NOT A COMPREHENSIVE LIST</b> <b>DETERMINATION TO BE MADE BY THE</b> <b>DEPARTMENT OF TRANSPORTATION</b>	
<b>TIF Use Category</b>	<b>Planning Activity Examples</b>
<b>Single Family Not Age Restricted</b>	Single-Family Dwelling unit, Mobile Home <u>not</u> in a Mobile Home Park, Patio Homes. TIF for a Single-Family Dwelling Unit is dependent on the size of the dwelling unit (six different categories; less than 1,000 sq. ft.; 1,000 to 1,499 sq. ft.; 1,500 to 1,999 sq. ft.; 2,000 sq. ft. to 2,999 sq. ft.; 3,000 sq. ft. to 3,999 sq. ft; and 4,000 sq. ft. or more).
<b>Single Family Age Restricted</b>	Single-Family Dwelling Unit in Zones B or C that meets the requirements for Age Restricted Development.
<b>Multi-Family Not Age Restricted</b>	Apartment, condominium, mobile home in a mobile/manufactured home park, modular unit, townhouse, triplex, two-family dwelling, quadraplex.
<b>Multi-Family Age Restricted</b>	Multi-Family Dwelling Unit in Zones B or C that meets the requirements for Age Restricted Development.
<b>General Commercial</b>	Grocery store, retail store, gas stations with convenience stores, auto sales and rentals, banks, breweries, day care, restaurants, winery.
<b>Hotel/Motel/B&amp;B</b>	
<b>Church</b>	
<b>Office/Medical</b>	General office, doctor's office, hospital.
<b>Industrial/Other</b>	Light industrial and light manufacturing, printing and publishing, wholesale storage and distribution.



## **APPENDIX C: TIF ZONES**

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



## **APPENDIX D: BOARD POLICIES**

This appendix includes:

- ♦ **Policy B-3:** Traffic Impact Fee Deferral policy adopted by the Board for Nonresidential Projects; Adopted 02/28/1995
- ♦ **Policy B-14:** TIM Fee Offset Program for Developments with Affordable Housing Units; Adopted 12/11/2007; Revised 12/17/2013
- ♦ **Policy J-5:** Traffic Fee Credit to Account for Prior Occupancy Use; Adopted 11/07/2000

Note: Should a revision be adopted to any policy contained herein, the revised policy shall prevail in case of any discrepancy.



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

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

**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**

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

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 11<sup>th</sup> 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**

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

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

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

### 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

<b>Subject:</b> <b>TRAFFIC IMPACT MITIGATION (TIM)</b> <b>FEE OFFSET PROGRAM FOR</b> <b>DEVELOPMENTS WITH AFFORDABLE</b> <b>HOUSING UNITS</b>	<b>Policy Number</b>	<b>Page Number:</b>
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	<b>Date Adopted:</b>	<b>Revised Date:</b>

**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

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

**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**

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**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 2 <sup>nd</sup> 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

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

### 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**

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

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**

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

**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



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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.



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**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.





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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: EXAMPLE REIMBURSEMENT REQUEST LETTER****"DEVELOPER LETTERHEAD"**

County Engineer  
El Dorado County Dept of Transportation  
2850 Fairlane Court  
Placerville, California 95667

ATTENTION:

SUBJECT: TRAFFIC IMPACT FEE PROGRAM REIMBURSABLE PROJECT \_\_\_\_\_  
ROAD IMPROVEMENTS REIMBURSEMENT REQUEST

Dear \_\_\_\_\_

As required by the County of El Dorado Traffic Impact Fee Administrative Manual and as authorized by the Credit and Reimbursement Agreement between ABC Company, LLC and the County of El Dorado, dated \_\_\_\_\_, 20xx, we are submitting this request for reimbursement of eligible project costs from County Traffic Impact Fee Program funds.

The work included under this reimbursement request includes the rough grading, storm drains and sewer, pavement, 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 TIF Program funds.

**Eligible for Reimbursement**

Total Contract Costs =  
TIF Program 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.

ABC Company, LLC 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 TIF Program Administrative Manual.

To the best of ABC Company, LLC'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.

ABC Company, LLC 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,

ABC Company, LLC