

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION APPROVING AMENDMENT TO
REGIONAL TRAFFIC MITIGATION FEE PROGRAM

RESOLUTION NO. 16-007

A. WHEREAS, on October 19, 2006, the Amador County Board of Supervisors, the city council representing each of Amador County's five cities, and the Amador County Transportation Commission ("ACTC") all entered into a Memorandum of Understanding concerning the Countywide Regional Traffic Mitigation Fee Program (the "MOU"); the Regional Traffic Mitigation Fee Program (the "RTMF Program") was established for the purpose of collecting fees from new development to offset the impacts of said new development upon the regional traffic circulation system; and

B. WHEREAS, the parties to the MOU propose to enter into an Amended and Restated Memorandum of Understanding ("Amended MOU"), which Amended MOU was approved by the Amador County Board of Supervisors under Resolution No. 16-007; the Amended MOU is attached to this Resolution and made a part hereof; and

C. WHEREAS, the Amended MOU sets forth updates to the RTMF Program based on new information contained within ACTC's 2015 Regional Transportation Plan (RTP); and

D. WHEREAS, the Amador County Board of Supervisors again desires to update the RTMF Program based on the 2015 RTP; and

E. WHEREAS, the Amended MOU and its Exhibits, listed below, set forth the capital improvements needed to accommodate new development, the estimated costs thereof and the analysis apportioning such costs to new development; the Exhibits to the Amended MOU are as follows:
Exhibit A: Countywide Regional Traffic Mitigation Fees 2015 (the "Fee");
Exhibit B: Regional Traffic Mitigation Fee Capital Improvement Program (the "CIP");
Exhibit C: Amador County Regional Traffic Mitigation Fee Nexus Update (the "Update"); and
Exhibit D: Regional Traffic Mitigation Fee Program Policies and Procedures; and

F. WHEREAS, the Amended MOU and its Exhibits were available for public inspection and review more than ten (10) days prior to this public hearing; and

G. WHEREAS, the Amador County Board of Supervisors finds as follows:

(i) The purpose of the Fee is to finance the public facilities (the "**Facilities**") described and identified in the CIP to reduce the impacts of increased traffic caused by New Development within Amador County;

(ii) The Fee shall be used to finance the Facilities (including, without limitation, planning, design, administration, environmental compliance, and construction costs of the Facilities);

(iii) There is a need in the described impact area for the Facilities described in the CIP;

(v) The facts and evidence presented establish that there is a reasonable relationship between the need for the described Facilities and the types of development for which the Fee is imposed, and also that there is a reasonable relationship between the Fee's use and the types of development for which the Fee is charged, as these reasonable relationships are in more detail described in the Update; and

(vi) The cost estimates set forth in the CIP and Update are reasonable cost estimates for constructing the Facilities, and the Fees expected to be generated by New Development will not exceed the total of these costs.

NOW, THEREFORE, it is hereby resolved by the Amador County Board of Supervisors that:

1. Definitions.

“ACTC” means the Amador County Transportation Commission.

“Amended MOU” is defined in Recital B.

“Building Permit” means the permit required by Amador County to do, or to cause to be done, any work regulated by the County’s building code.

"Exempted Development" means the expansion, alteration, enlargement, conversion or replacement of an existing building, or the construction of new accessory buildings from which no additional dwelling units are created or no additional vehicular trips will be produced over and above those produced by the existing use, as determined by the Amador County Director of Public Works in consultation with ACTC Staff in accordance with Section 9 of the Policies and Procedures.

"Facilities" is defined in Recital G.

"Fee" is defined in Recital E.

"New Development" means the original construction of residential buildings, original construction of commercial, industrial or other non-residential buildings, or the expansion, alteration, enlargement, conversion or replacement of existing buildings, or the construction of new accessory buildings.

“Oversight Committee” means the Oversight Committee established by Section 6 of the Policies and Procedures.

“Policies and Procedures” means Exhibit D of the Amended MOU.

“Update” is defined in Recital E.

2. Imposition of Updated Fee. The updated Fee shall be paid upon issuance of any Building Permit by all New Development in the said area of benefit, except for Exempted Development. The amount of the Fee will be assessed at Building Permit application or at Building Permit issuance. The Amador County Director of Public Works will determine (i) if the development lies within the County’s area of benefit, (ii) the type of development, and (iii) the corresponding Fee to be charged in accordance with this Resolution.

When an application for a Building Permit is filed to convert an existing development to another type of development that falls within a different land use category, the Amador County Director of Public Works shall determine the amount of the Fee in consultation with ACTC Staff in accordance with Section 9 of the Policies and Procedures.

3. Amount of Updated Fee. Fees for all New Development within the area of benefit are indicated in Exhibit A of the Amended MOU. Fees may be adjusted pursuant to Paragraph 7 of this Resolution.

4. Use of Fee. The Fee shall be used solely to pay for the Facilities, including, without limitation, planning, design, administration, environmental compliance, and construction costs.

5. Capital Improvement Plan. The Regional Traffic Mitigation Fee Capital Improvement Program (CIP) contained in Exhibit B of the Amended MOU is hereby adopted.

6. Policies and Procedures. The Policies and Procedures contained in Exhibit D of the Amended MOU are hereby adopted.

7. Fee Waivers and Adjustments. A developer of any project subject to the Fee may apply to the County Director of Public Works for a waiver or adjustment of the Fee, based upon the absence of any reasonable relationship between the traffic impacts of that development and either the amount of the Fee charged or the type of Facility to be financed. The application shall be made in writing and filed with the Director of Public Works at the time of the filing of the request for a Building Permit. The application shall state in detail the factual basis for the claim of waiver or adjustment. The Director of Public Works shall consult with ACTC Staff in accordance with Section 9 of the Policies and Procedures and will render a decision based on such consultation. If the developer objects to the decision, the developer may appeal to the Oversight Committee in accordance with Section 9 of the Policies and Procedures. The decision of the Oversight Committee shall be final. If a waiver or adjustment is granted, any change in the approved project shall invalidate the waiver or adjustment of the Fee.

8. Annual Adjustment. On an annual basis, the Board of Supervisors will review the estimated cost of the Facilities, the continued need for the Facilities and the reasonable relationship between such need and the impacts of the various types of development pending or anticipated and for which the Fee is charged, and may change the Fee based upon that review and any recommendations made by the Oversight Committee. If the relationship between the need and the impacts of the various types of development pending or anticipated still exists, the Fee shall automatically be adjusted annually based upon the Construction Costs Index for July 1 as published in the Engineering News Record publication, unless otherwise determined by the board of Supervisors.

9. Supplemental Fees. Developers may, from time to time, propose projects, the impact of which upon the Facilities is significantly greater than that used to calculate the Fee established herein. The Amador County Board of Supervisors may make such a determination on a case-by-case basis and impose a Supplemental Fee for a project upon the making of necessary findings pursuant to Government Code Section 66001. The determination shall be based upon the application for a Building Permit and any additional information requested by the Board of Supervisors. The Board of Supervisors may require the developer to submit engineering data, calculations, or other project information which, in its judgment, is necessary to make a determination.

10. Dispute Resolution. Any dispute regarding any matter relating to the imposition or non-imposition of the Fee shall be resolved by the Oversight Committee.

11. Judicial Review. Any judicial action or proceeding to attack, review, set aside, void, or annul this Resolution shall be brought within one hundred twenty (120) days after the effective date set forth below.


12. Effective Date. This Resolution and the Fee hereby approved shall be effective March 12, 2016.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 12th day of January, 2016 by the following vote:

AYES: Brian Oneto, John Plasse, Louis D. Boitano, Richard M. Forster, and Lynn A. Morgan

NOES: None

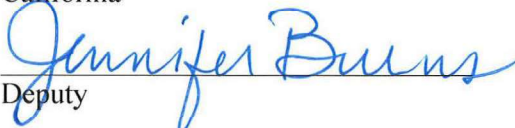
ABSENT: None



John Plasse, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California



Deputy