

ORDINANCE NO. 9919 (N.S.)  
AN ORDINANCE TO AMEND THE SAN DIEGO COUNTY CODE RELATED TO  
THE TRANSPORTATION IMPACT FEE

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that it is necessary to amend Sections 77.204, 77.207, and 77.208, 77.209, 77.210, 77.211, 77.213, 77.214, 77.215 and 77.217; to add Sections 77.208.1 and 77.208.2 and 77.210.1; and to repeal Section 77.212 of the San Diego County Code pertaining to the Transportation Impact Fee. The amendments made by this ordinance are intended to adjust language in the Transportation Impact Fee Ordinance.

**Section 2.** Section and 77.204 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.204. DEFINITIONS.**

Whenever the following words are used in this Division, they shall have the meaning ascribed to them in this section.

- (a) AGRICULTURE means farming, crop production, or raising of poultry or livestock. Agricultural uses in this ordinance do not include residential facilities.
- (b) APPLICANT means developer or person seeking a development permit.
- (c) BUILDING PERMIT means a permit required by and issued pursuant to the Uniform Building Code.
- (d) CONSTRUCTION means design, performance of estimates, environmental assessments and studies, determination of fees, acquisition of right-of-way, administration of construction contracts and actual construction.
- (e) COUNTY means the County of San Diego, State of California.
- (f) COUNTY HEARING BODY means the County of San Diego, Board of Supervisors, Planning Commission, or any other official, board, or commission designated by the County for decision-making on discretionary actions.
- (g) DEVELOPER means the owner or developer of a development seeking a development permit.
- (h) DEVELOPMENT PERMIT means any discretionary permit, entitlement, approval for a development project, or any ministerial permit, including building permit, associated with the generation of traffic issued under any ordinance of the County.
- (i) DEVELOPMENT PROJECT or DEVELOPMENT means any activity described in Cal. Gov't Code §66000 of the Mitigation Fee Act.

- (j) DPW DIRECTOR means the County Director of the Department of Public Works, or his or her designee.
- (k) FEE means the fee as set forth in Section 77.208 of this Division.
- (l) FREEWAY RAMP means the interchange freeway ramps identified in the “County of San Diego Transportation Impact Fee Report Update” date January 2008.
- (m) FURNITURE STORE means a commercial facility for the sale of moveable articles such as tables, chairs, sofas, desks, or cabinets required for use or ornament in a residence, office, or the like.
- (n) GENERAL COMMERCIAL includes but is not limited to shopping centers, strip development and commercial clusters, retail sales facilities including grocery stores and department stores, convenience stores, auto sales and repair facilities, hardware and lumber stores, gardening and nursery stores, eating and drinking establishments including fast food restaurants, and any other retail uses other than furniture stores that are not specifically included in other TIF category definitions.
- (o) GENERAL INDUSTRIAL means facilities for manufacturing, processing, assembling, distribution services, laboratories for research and development, construction equipment sales and repair, and any industrial use other than warehouse and storage that are not specifically included in other TIF category definitions.
- (p) WAREHOUSING AND STORAGE means all types of warehouses or facilities with the primary purpose being to provide storage space.
- (q) NON-RESIDENTIAL means development that does not include residential uses.
- (r) OFFICE means facilities for administrative or professional services and includes but is not limited to hospitals, medical clinics, insurance sales, banks, savings and loans, and real estate services.
- (s) RESIDENTIAL means development composed of single-family dwellings, multi-family attached homes, condominiums and apartments, lodging including hotel rooms and time-share units, mobile homes, facilities for housing agricultural workers, retirement communities, and congregate care facilities for persons unable to care for themselves.
- (t) SCHOOLS mean institutions for instruction in a particular skill or field.(u) TIF means Transportation Impact Fee.
- (v) TIF AREA means the area lying within the boundaries designated on the TIF Area Map.

(w) TIF AREA MAP means a map showing the boundaries of each TIF Area. The TIF Area Map may be changed or periodically updated by action of the Board of Supervisors. The TIF Area Map is included as Figure 1 of the TIF Reports.

(x) TIF FACILITIES means the transportation facilities, or portions thereof, including intersections and traffic signals, identified in the TIF Reports, or future County approved alternatives that substantially fulfill the transportation needs identified and represented by a listed facility.

(y) TIF REGION means the area lying within the boundaries designated on the TIF Region Map.

(z) TIF REGION MAP means a map showing the boundaries of each TIF Region. The TIF Region Map may be changed or periodically updated by action of the Board of Supervisors. The TIF Region Map is included as Figure 2 of the TIF Reports.

(aa) TIF REPORTS means the “Fallbrook and Ramona Transportation Impact Fee Report” and the “County of San Diego Transportation Impact Fee Report” both dated January 2005 and adopted by the Board of Supervisors on April 13, 2005. Additionally, TIF REPORTS include the “County of San Diego Transportation Impact Fee TIF Program Update” dated January 2008. These reports shall be changed or periodically updated by action of the Board of Supervisors pursuant to Section 77.213 of this Division. The current adopted reports are on file with the Clerk of the Board.

(ab) WINERY means an establishment for producing wine and may include wine tasting rooms.

**Section 3.** Section 77.207 and 77.208 of the San Diego County Code of Regulatory Ordinances are hereby amended to read as follows:

**SEC. 77.207. ESTIMATED COSTS.**

The Board of Supervisors also finds that the total estimated costs effective through September 2004 and updated annually each January starting in January 2006, for all TIF Facilities within each said TIF Area are as set forth in the TIF Reports.

**SEC. 77.208. FEE ESTABLISHED.**

Pursuant to Cal. Gov't Code §§ 66000 et seq. of the Mitigation Fee Act, the fee set forth in said TIF Reports and Alternative Fee Schedules adopted by action of the Board of Supervisors shall be paid by development within the TIF Areas established herein. Instructions for estimating a project's TIF can be found on a link at: <http://www.sdcounty.ca.gov/dpw/land/tif.html>.

**Section 4.** Section 77.208.1 and 77.208.2 of the San Diego County Code of Regulatory Ordinances is hereby added to read as follows:

**SEC. 77.208.1. RESIDENTIAL TIF FEES**

The following are the Residential TIF Fees:

TIF AREA	COST PER SINGLE FAMILY DETACHED (SFD) RESIDENTIAL UNIT			
	Freeway Ramp	Local	Regional	Total per Unit
Alpine	\$150	\$1,812	\$3,294	\$5,256
Bonsall	\$41	\$6,312	\$5,942	\$12,295
Central Mountain	\$3	\$0	\$2,195	\$2,198
County Islands	\$150	\$0	\$3,294	\$3,444
Crest-Dehesa	\$150	\$1,008	\$3,294	\$4,452
Desert	\$3	\$312	\$2,196	\$2,511
Fallbrook	\$41	\$6,084	\$5,942	\$12,067
Jamul-Dulzura	\$150	\$2,184	\$3,294	\$5,628
Julian	\$3	\$0	\$2,195	\$2,198
Lakeside (includes Pepper Dr- Bostonia)	\$150	\$4,032	\$3,294	\$7,476
Mountain Empire	\$3	\$0	\$2,195	\$2,198
North County Metro	\$41	\$1,716	\$5,942	\$7,699
North Mountain	\$3	\$0	\$2,195	\$2,198
Otay	\$150	\$660	\$3,294	\$4,104
Pala-Pauma	\$41	\$1,176	\$5,942	\$7,159
Pendleton-De Luz	\$41	\$8	\$5,942	\$5,991
Rainbow	\$41	\$4,464	\$5,942	\$10,447
Ramona	\$3	\$5,940	\$2,196	\$8,139
San Dieguito	\$41	\$3,240	\$5,942	\$9,223
Spring Valley	\$150	\$660	\$3,294	\$4,104
Sweetwater	\$150	\$1,308	\$3,294	\$4,752
Valle De Oro	\$150	\$4,608	\$3,294	\$8,052
Valley Center	\$41	\$2,568	\$5,942	\$8,551

To determine the TIF for other residential land uses other than single-family detached (SFD) residential units, the following formula shall be used:

- (1) Multi-family attached home, condominium, apartment, lodging including hotel rooms and time-share units, and accessory apartment (granny flat): 67% of SFD fee per unit
- (2) Mobile home, agricultural labor residential (non-primary residence), and retirement community: 33% of SFD fee per unit
- (3) Congregate Care Facility for persons unable to care for themselves: 20% of SFD fee per unit

Mixed-use development incorporating non-residential and residential uses shall have the non-residential TIF computed as shown in Section 77.208.2, and the total TIF amount shall be the non-residential TIF amount plus the applicable unit costs for any residential units. Adjustment of fees may be made pursuant to Section 77.213 of this Division.

Credits and reductions for residential development:

After calculation of a development's total residential TIF, applicants can subtract amounts including but not limited to the following credits and reductions:

Direct Impact Mitigation:

For residential developments, applicants may receive credit up to their total TIF obligation for direct impact mitigation improvements to a TIF facility. For direct impact improvement costs greater than the total TIF obligation, a reimbursement agreement for cash or credit will be allowed prior to construction of the improvements pursuant to Section 77.210, Section 77.210.5, and Section 77.211. Allowable costs for TIF facility improvements include Design, Civil Engineering, Soils Engineering, Landscape Architecture, Surveying, Bonds, Construction Management and Inspection, Permits, Off-Site Environmental Mitigation and associated costs for monitoring, Acquisition of Off-Site Right-of-Way, Utility Engineering/ Coordination, Environmental Consulting, and other project costs as allowed by the DPW Director in addition to construction costs. On-Site Right-of-Way and On-Site Environmental Mitigation are not eligible for TIF credit. Direct impact mitigation eligible for TIF credit shall include improvements which result in capacity improvements to a TIF facility including but not limited to new road construction, widening of an existing road, construction or improvement of intersections, through lanes and turn lanes, and construction or modification of signalization at intersections.

#### Alternative TIF Facilities:

For residential developments, applicants that can demonstrate in a traffic study approved by the County that their direct improvements constructed on a non-TIF facility will reduce trips and increase capacity of TIF facilities may receive credit toward their project's TIF obligation. An example of an alternative TIF facility could be a non-TIF road that runs parallel to a TIF facility. If improvements on the parallel non-TIF road can be shown to remove trips from or otherwise enhance operation of the parallel TIF facility, then the non-TIF improvements may be eligible for TIF credit. These improvements on alternative TIF facilities that increase capacity of TIF facilities may be considered for credit in the same way as Direct Impact Mitigation on TIF facilities.

#### Previously Mitigated Residential Project:

Residential development projects which have mitigated cumulative impacts prior to implementation of the TIF may receive credit toward the TIF. Project applicants requesting adjustment of the adopted fee must have completed a cumulative traffic study and already fully mitigated cumulative impacts. Applicants claiming exemption from the fee must demonstrate to the County that all cumulative impacts were clearly identified, through a cumulative traffic study, and fully mitigated through physical improvements or contribution to future road network improvements in an amount equal to the fee. Projects that analyzed cumulative impacts through a cumulative traffic study and mitigated for cumulative impacts may submit previous traffic studies to the County for consideration of a TIF credit. Amount of credit granted will be proportional to past mitigation compared to mitigation required by TIF. If the project has changed from the time of original approval so that the proposed use is now more impactful to traffic, applicants must pay a portion of the TIF equal to the cumulative impact increase. If the project mitigated to the full extent of the TIF required mitigation, then full credit up to the project's TIF obligation will be granted.

For approved projects with identified cumulative mitigation measures that have not yet been implemented, the County may, at its option and, upon further environmental review if necessary, require either completion of the originally identified mitigation or payment of the TIF.

#### Opt out:

In lieu of paying the TIF, a developer may choose to prepare cumulative traffic studies in accordance with the new CEQA guidelines then in effect, which no longer recognize de minimus findings, and construct appropriate mitigation. The cumulative traffic analysis must be approved by the DPW Director or his designee prior to construction of such mitigation.

**SEC. 77.208.2. NON-RESIDENTIAL TIF FEES**

The following are Non-Residential General Commercial TIF Fees:

General Commercial TIF fee = Cost per 1,000 Square Foot multiplied by the Facility Floor Square Footage divided by 1,000

TIF AREA	COST PER 1,000 SQUARE FOOT FOR GENERAL COMMERCIAL			
	Freeway Ramp	Local	Regional	Total
Alpine	\$467	\$5,426	\$3,342	\$9,235
Bonsall	\$108	\$18,901	\$2,946	\$21,955
Central Mountain	\$9	\$0	\$5,066	\$5,075
County Islands	\$467	\$0	\$5,534	\$6,001
Crest-Dehesa	\$467	\$3,018	\$4,312	\$7,797
Desert	\$9	\$934	\$5,067	\$6,010
Fallbrook	\$108	\$18,217	\$3,234	\$21,559
Jamul-Dulzura	\$467	\$6,539	\$2,874	\$9,880
Julian	\$9	\$0	\$5,066	\$5,075
Lakeside (includes Pepper Dr- Bostonia)	\$467	\$12,073	\$647	\$13,187
Mountain Empire	\$9	\$0	\$5,066	\$5,075
North County Metro	\$108	\$5,138	\$8,516	\$13,762
North Mountain	\$9	\$0	\$5,066	\$5,075
Otay	\$467	\$1,976	\$4,743	\$7,186
Pala-Pauma	\$108	\$3,521	\$9,163	\$12,792
Pendleton-De Luz	\$108	\$36	\$10,564	\$10,708
Rainbow	\$108	\$13,367	\$5,174	\$18,649
Ramona	\$9	\$16,026	\$0	\$16,035
San Dieguito	\$108	\$9,702	\$6,647	\$16,457
Spring Valley	\$467	\$1,976	\$4,743	\$7,186
Sweetwater	\$467	\$3,916	\$3,916	\$8,299

Valle De Oro	\$467	\$13,762	\$0	\$14,229
Valley Center	\$108	\$7,689	\$7,474	\$15,271

To determine the TIF for other non-residential commercial and industrial land uses other than general commercial, the following formula shall be used:

- (1) Furniture Stores: 14% of general commercial fee
- (2) General Industrial: 37% of general commercial fee
- (3) Storage, Warehousing, Wineries, Non-residential Agricultural: 14% of general commercial fee
- (4) Offices: 56% of general commercial fee
- (5) Schools and Government/Institutional: 32% of general commercial fee

The non-residential TIF fee shall be computed based on the applicable TIF rate for the primary use of a building or the primary use of each individual storefront for mixed use buildings. Ancillary or support spaces such as management offices in a retail store, storage space in an office building, or offices in an industrial facility will not be separated for computing the TIF. Mixed use buildings with distinct and separate storefronts for multiple businesses will have their TIF computed based on the applicable TIF rate of each distinct and separate storefront. For example, a strip mall with retail stores and office uses such as a bank and a medical office would be charged the general commercial rate for the retail stores and the offices TIF rate for the bank and medical office. Mixed-use development incorporating non-residential and residential uses shall have the residential TIF computed as shown in Section 77.208.1, and the total TIF amount shall be the non-residential TIF amount plus the applicable unit costs for any residential units. Adjustment of fees may be made pursuant to Section 77.213 of this Division.

Credits and reductions for non-residential development.

Direct Improvement Credits for non-residential developments have already been included in the County’s overall program for non-residential TIF rates, so direct improvement costs shall not be used as a TIF credit or reduction for non-residential development.

Previously Mitigated Non-Residential Project:

Non-residential development projects which have mitigated cumulative impacts prior to implementation of the TIF may receive credit toward the TIF. Project applicants requesting adjustment of the adopted fee must have completed a cumulative traffic study



and already fully mitigated cumulative impacts. Applicants claiming exemption from the fee must demonstrate to the County that all cumulative impacts were clearly identified, through a cumulative traffic study, and fully mitigated through physical improvements or contribution to future road network improvements in an amount equal to the fee. Projects that analyzed cumulative impacts through a cumulative traffic study and mitigated for cumulative impacts may submit previous traffic studies to the County for consideration of a TIF credit. Amount of credit granted will be proportional to past mitigation compared to mitigation required by TIF. If the project has changed from the time of original approval so that the proposed use is now more impactful to traffic, applicants must pay a portion of the TIF equal to the cumulative impact increase. If the project mitigated to the full extent of the TIF required mitigation, then full credit up to the project's TIF obligation will be granted.

For approved projects with identified cumulative mitigation measures that have not yet been implemented, the County may, at its option and, upon further environmental review if necessary, require either completion of the originally identified mitigation or payment of the TIF.

Opt out:

In lieu of paying the TIF, a developer may choose to prepare cumulative traffic studies in accordance with the new CEQA guidelines in effect, which no longer recognize de minimus findings, and construct appropriate mitigation. The cumulative traffic analysis must be approved by the DPW Director or his designee prior to construction of such mitigation.

**Section 5.** Section 77.209 and 77.210 of the San Diego County Code of Regulatory Ordinances are hereby amended to read as follows:

**SEC. 77.209. PAYMENT OF FEES.**

The fees required pursuant to this Division are intended to mitigate cumulative traffic impacts and shall be paid to the County as a condition of approval of a development permit, including a building permit. For development projects that require both discretionary and building permits, the fees shall be paid no later than time of building permit issuance. If the fee is paid prior to the time of building permit issuance and the amount of the fee increases, then the additional fee amount must be paid before the building permit is issued. If the fee is paid prior to time of building permit issuance and the amount of the fee is reduced, then at the time the building permit is issued, a TIF refund will be provided to the applicant. Once a building permit is issued, the amount of the fee is set and will not be adjusted by subsequent increases or decreases to the TIF rates. In the case of discretionary permits that will not involve a building permit but which will generate additional traffic, payment of the fee shall be recommended as a condition of permitting to the decision-making body that would approve such permit.

**SEC. 77.210. DEVELOPER CONSTRUCTION OF TRANSPORTATION FACILITIES.**

For direct impact mitigation improvement costs on a TIF facility for residential projects, a developer is entitled to compensation and may request a credit for its TIF obligation and a reimbursement for allowable costs greater than the project's TIF obligation. Whenever a developer of a residential or non-residential development project would be required by application of County ordinance or policy, as a condition of approval of a development permit to construct or finance the construction of a portion of a TIF Facility in addition to their direct impact mitigation, the County may impose an additional requirement that the developer install the improvements with supplemental size, length or capacity in order to ensure efficient and timely construction of the transportation facilities network. Similarly, when residential or non-residential development project impacts create an accelerated need for transportation improvements in addition to the project's direct improvements, the County may require accelerated construction of TIF Facilities to assure project conformance with California Environmental Quality Act (CEQA). If such a requirement for supplemental or accelerated facilities is imposed, the developer will be entitled to compensation for eligible construction costs that exceed the total TIF fee required for the developer's project. The developer may request cash reimbursement, or a credit against current or future TIF fees, for work to be done or paid for by the developer, and said request shall be submitted in writing to the DPW Director prior to construction of the improvements. The County will enter into either a cash reimbursement agreement as shown in Section 77.210.5 or a credit reimbursement agreement as shown in Section 77.211 with the developer prior to construction of the improvements.

(a) The reimbursement request shall contain a description of the project with a detailed cost estimate that itemizes those allowable costs of the construction attributable to construction of TIF Facilities and excludes any work attributable to non-TIF facilities. Estimated cost of the facility will be based on the County's current-year Department of Public Works Unit Price List. The estimate is preliminary and the amount of reimbursement or credit against fees is subject to final determination by County's designee. Additional information shall be provided to the County by the developer upon request of the County.

(b) The developer is also required to:

- i. Prepare plans and specifications for approval by the County;
- ii. Secure and dedicate any right-of-way required for the transportation facility project;
- iii. Secure all required permits and environmental clearances necessary for the transportation facility project;
- iv. Provide performance bonds for 100 percent of the value of the transportation facility project;

v. Pay all fees and costs for construction of the transportation facility project.

(c) The County will not be responsible for any of the up-front costs of constructing the transportation facility project. The developer shall advance all necessary funds to construct the transportation facility project. Allowable reimbursable costs include cost of Design, Civil Engineering, Soils Engineering, Landscape Architecture, Surveying, Bonds, Construction Management and Inspection, Permits, Off-Site Environmental Mitigation and associated costs for monitoring, Acquisition of Off-Site Right-of-Way, Utility Engineering/ Coordination, Environmental Consulting, and other project costs as allowed by the DPW Director in addition to construction costs. On-Site Right-of-Way and On-Site Environmental Mitigation will not be reimbursed.

(d) The developer shall make all reasonable efforts to secure at least three qualified and responsible bids for work to be done and shall award the construction contract to the lowest qualified bidder. In the event three or more qualified and responsible bids cannot be obtained, then the developer may still award the construction contract if the DPW Director determines the lowest qualified bid is reasonable. Should the construction contract be awarded to a qualified bidder who did not submit the lowest bid for the transportation facility project portion of the contract, the developer will only receive Transportation Impact Fee reimbursement or credit based on the lowest responsible bid for the transportation facility portion of the contract. The developer is allowed to combine the supplemental work with other work being completed for the project in order to obtain the most competitive bids, but costs of the TIF improvement must be segregated within such bids.

(e) All bids must be reviewed by the County prior to contract award. If the lowest bid received exceeds the total estimated cost of the facility, the County may require the developer to obtain a revised bid or, if necessary, submit a redesign of the facility to bring the cost into the estimated range. If the total actual cost of construction is less than the total estimated cost of the facility, then the developer shall be reimbursed for his actual allowable costs.

(f) When all TIF facility improvement work has been completed to the satisfaction of the County, the developer shall submit verification of payments made for the construction of the transportation facility project to the County. The County's designee shall make the final determination relative to expenditures that may be eligible for credit or cash reimbursement.

(g) If the amount of the applicable credit is less than the deferred fee obligation and the TIF Fee is otherwise due and payable, then the developer shall have 30 days to pay the deferred fee. If the deferred fees are not paid within the 30-day period, the County may make a demand against the security and apply the proceeds to the fee obligation.

(h) Prevailing Wage is Applicable. Current applicable prevailing wage is required to be paid for all construction work under either a Cash Reimbursement Agreement or a

Credit Reimbursement Agreement, and bid documents for construction of the Improvements shall include a requirement that such prevailing wages be paid.

**Section 6.** Section 77.210.1 of the San Diego County Code of Regulatory Ordinances is hereby added to read as follows:

**SEC.77.210.1 DEVELOPER REIMBURSEMENT AGREEMENT CASH PAYMENTS**

For Developer Reimbursement Agreements for cash reimbursement as described in Sec 77.210, the maximum term of any reimbursement agreement shall be twenty- five (25) years or until reimbursements or credits have been issued in full, whichever occurs first. After twenty-five years, the agreement will expire regardless of whether or not necessary TIF revenues have been collected to reimburse all costs. Cash reimbursements for Developer Reimbursement Agreements will be made from available TIF funds as follows:

(a) Payments shall be made quarterly within 21 days after the end of each calendar quarter from available freeway ramp, local or regional TIF revenue in the applicable TIF Account.

(b) Definitions for Cash Reimbursement Payments.

i. Available TIF Revenue means TIF Fees paid into the applicable local or regional TIF Account during a calendar quarter plus any accumulated TIF Revenue remaining from prior to the quarter.

ii. Developers TIF Reimbursement means payment from the applicable local or regional TIF Account due and payable to Developers pursuant to Reimbursement Agreements for which Reimbursement Amounts have been determined prior to or during the calendar quarter.

iii. County TIF Reimbursement means TIF-eligible project costs during a calendar quarter for TIF Facility projects being accomplished by the County.

iv. Quarterly TIF Payments means Developer TIF Reimbursements and County TIF Reimbursements that become due for a calendar quarter (January 1 to March 31, etc).

(c) Proportionality of Cash Reimbursements to Developers and to the County.

i. If eligible Developers or County TIF Reimbursements are both less than 50% of the Available TIF Revenue, then Developers and County shall each be fully reimbursed.

ii. If both Developers and County have eligible TIF reimbursements that exceed 50% of a quarter's Available TIF Revenue, then 50% of the revenue shall be allocated to Developers and 50% to County.

iii. If either Developers or County have eligible TIF Reimbursements that are less than 50% of the Available TIF Revenue and the other has eligible TIF Reimbursements that exceed 50% of the Quarter's Available TIF Revenue, then the one having less than 50% shall receive full reimbursement and the other shall receive up to the amount due from all remaining Available TIF Revenue regardless of whether it exceeds 50%.

(d) Proportionality of Quarterly Reimbursements of available TIF Revenue among multiple Developers

i. For determining payments, 50% of TIF Revenue available for reimbursements to Developers shall be allocated based on the Initial Amount Owed to each Developer and 50% shall be allocated based on Initial Ratio of Actual Cost of Improvements to TIF Obligation.

ii. Initial Amount Owed. Allocation to each Developer for whom payment are due each quarter shall be based on the ratio for the Developer's initial Reimbursement Amount to the total of all Developers' initial Reimbursement Amounts for whom payments are due for the quarter. As an example, if there are three developers eligible for TIF Reimbursements from a TIF Account for a particular quarter, and the initial Reimbursement Amounts for Developers A, B, and C are \$5,000,000, \$15,000,000, and \$30,000,000 respectively, then 50% of available TIF revenue to be allocated to Developers shall be proportioned as follows:

Developer A receives \$5 million/\$50 million = 10%

Developer B receives \$15 million/\$50 million = 30%

Developer C receives \$30 million/\$50 million = 60%

iii. Initial Ratio of Actual Cost to Improvements to TIF Obligation . Allocation to each Developer for whom payments are due each quarter shall be based on the ratio of the Developer's Actual Cost of Improvements to that Developer's TIF Obligation. For example, if there are three developers eligible for TIF Reimbursements from a TIF Account for a particular quarter, and the initial ratio of Actual Cost of Improvements to TIF Obligation are as follows:

Developer A Initial Actual Cost of Improvements = \$5 million

TIF Obligation = \$2.5 million

Ratio = \$5 million/\$2.5 million = 2

Developer B Initial Actual Cost of Improvements = \$55 million

TIF Obligation = \$1 million

$$\text{Ratio} = \$15 \text{ million} / \$1 \text{ million} = 15$$

Developer C Initial Actual Cost of Improvements = \$30 million

$$\text{TIF Obligation} = \$10 \text{ million}$$

$$\text{Ratio} = \$30 \text{ million} / \$10 \text{ million} = 3$$

Then the remaining 50% of available TIF revenue to be allocated to developers shall be proportioned as follows:

$$\text{Developer A} = 2 / (2 + 15 + 3) = 10\%$$

$$\text{Developer B} = 15 / (2 + 15 + 3) = 75\%$$

$$\text{Developer C} = 3 / (2 + 15 + 3) = 15\%$$

(e) Adjustments to Unpaid Reimbursement Balance. Upon each anniversary of the date that the first reimbursement payment became due under a Reimbursement Agreement, the unpaid balance shall be adjusted to reflect the lesser of an annual interest rate of 2% or increases, if any, in the Los Angeles Construction cost Index (CCI), referenced in Section 77.213, but annual interest shall be no less than 1%. The balance adjustment shall commence on the date the Reimbursement Amount became due and end on the date on which the final Incremental Reimbursement Payment is received by the Developer. All reimbursement payments will be provided to the Developer at the address provided in the Reimbursement Agreement, and the address may be changed in writing by the Developer.

(f) Prevailing Wage is Applicable. Current applicable prevailing wage is required to be paid for all construction work under the Agreement, and bid documents for construction of the Improvements shall include a requirement that such prevailing wages be paid.

**Section 7.** Section 77.211 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.211. DEVELOPER TIF CONSTRUCTION CREDITS.**

When a transportation facility, or portion thereof, as described in the TIF Reports, or when an alternative TIF Facility as described in Section 77.208.1 is constructed by the developer through a written agreement with the County as described in Section 77.210, the County shall grant either cash reimbursements as shown in Section 77.210.5 or construction credits. Construction credits will be limited to the total actual allowable costs. When a developer chooses to receive construction credits, the developer must request credit reimbursement from the County to initiate this process, and the terms of construction credit issuance will be described in a written credit reimbursement

agreement between the developer and the County. The County will incrementally apply credit which the developer has accrued against the developer's TIF obligations in lieu of collecting the required Transportation Impact Fees as each building permit is issued based upon the fee schedule in effect at the time of the building permit issuance. Construction credits are transferable, at the holder's sole and absolute discretion, but may only be applied within the same TIF Region in which the facilities were constructed. TIF Facility credit will not be given for non-TIF facilities, unless such facilities are approved by County as an alternative to a listed TIF facility.

**Section 8.** Section 77.212 of the San Diego County Code of Regulatory Ordinances is hereby repealed:

**Section 9.** Section 77.213, 77.714, and 77.215 of the San Diego County Code of Regulatory Ordinances are hereby amended to read as follows:

**SEC. 77.213. ADJUSTMENT OF FEES.**

The fees established by Section 77.208.1 and Section 77.208.2 hereof have been established based in part on estimated costs to construct TIF Facilities as of September 2004 and updated annually starting in January 2006. The amount of the fee shall be adjusted annually on January 1st of each year. Said adjustment shall be based on the following criteria:

(a) The one-year change (from September to September) in the Los Angeles Construction Cost Index as determined by *Engineering News Record* published by McGraw Hill Publishing Company, or any successor thereof, or an increase of 2.0%, whichever is more. The Board of Supervisors shall review the fee annually as required by Government Code Section 66006 and the adjustments shall not exceed the percentage increase set forth in the Los Angeles Construction Cost Index or an increase of 2.0%, whichever is more. Adjustments to the fees based upon the Construction Cost Index shall be automatic and shall not require further action of the Board of Supervisors.

(b) Changes in the type, size, location or cost of the transportation facilities (if any) to be financed by the fee, changes in land use designations in the County's general plan, and upon other sound engineering, financing and planning information. Adjustments to the fees resulting from the above reviews may be made by resolution amending the fee schedules contained in the TIF Reports and subject to the notice and public meeting requirements of Government Code Section 66016.

The Board of Supervisors may reduce the fee by up to 50% for a specific project if it determines there are public financial benefits that warrant such a reduction, and funding to replace the excused fee amounts is committed as part of such action. The Board of Supervisors may create a zone of "reduced impact fees" to encourage growth within that area by supplementing public funds to replace fees in the same amount that would have been collected as such growth occurred.

**SEC. 77.214. USE OF FEES.**

Fees collected hereunder in satisfaction of the local portion of the total TIF rate, as set forth in Section 77.208.1 and Section 77.208.2 of this Division, shall be segregated into a TIF Facilities fund with an interest-bearing account established for each TIF Area, and the funds therein and interest accruing thereto shall be expended solely for the construction or reimbursement for construction of TIF Facilities within the TIF Area from which the fees comprising the fund were collected. Fees collected hereunder in satisfaction of the regional portion of the total TIF rate, as set forth in Section 77.208.1 and Section 77.208.2 of this Division, shall be segregated into a TIF Facilities fund with an account established for each TIF Region, and the funds therein and interest accruing thereto shall be expended solely for the construction or reimbursement for construction of TIF Facilities within the TIF Region from which the fees comprising the fund were collected. These fees may also be used to reimburse the County for TIF Facilities constructed by the County with funds from other sources. Fees collected hereunder in satisfaction of the freeway/interchange ramps portion of the total TIF rate, as set forth in Section 77.208.1 and Section 77.208.2 of this Division, shall be segregated into a TIF Facilities fund with an account established for each TIF Freeway/Interchange Ramp Region, and the funds therein and interest accruing thereto shall be expended solely for the construction or reimbursement for construction of TIF Interchange Ramp Facilities within the TIF Region from which the fees comprising the fund were collected.

TIF Facilities and funds shall be identified in a Department of Public Works Detailed Work Program, which includes capital improvements and other transportation related expenditures. The TIF facilities within the Detailed Work Program (DWP-TIF) will be presented for Board approval as part of the annual budget approval process. TIF Facilities funds within the DWP-TIF will not be co-mingled with other project funds to ensure that revenues and expenditures are solely and exclusively used for TIF Facility construction. However, these funds may be augmented by other sources, if available, in order to complete TIF Facility projects.

Expenditure for interim improvements that provide incremental progress and measurable benefits, such as increased capacity or traffic flow, will be allowed. These interim improvements will be consistent with the long-term objectives of full TIF facility construction as determined by the DPW Director. When recommended by the DPW Director, interim improvements will be identified in the DWP- TIF and expenditures from the TIF Facilities funds will be authorized commensurate with DWP-TIF approval. In selecting which specific road improvements shall be recommended, priority shall be given to those roads that serve projects that have paid impact fees.

**SEC. 77.215. APPLICABILITY.**

This Division shall apply to all development permits, including building permits, associated with the generation of traffic through new construction or expansion of an existing facility that add square footage space to a facility, as determined by the County.



However, examples of building permits to which this Division shall not apply, include but are not limited to:

- (a) Alterations, improvements, or additions to an existing single family dwelling, or rebuilding of a destroyed single family dwelling that does not change its classification of occupancy.
- (b) Apartment to condominium conversions.
- (c) Interim or Temporary Use Permits of three years or less complying with requirements of Section 77.217.
- (d) Permitted Home businesses such as child day care in a residential unit and other business uses allowed within a residence.
- (e) Tenant Improvements to existing non-residential facilities including changes of occupancy or changes in use for an existing facility.
- (f) Minor expansions to existing non-residential facilities. Minor expansions for purposes of this ordinance refer to expansions that increase the total floor space of a facility by no more than 1,000 square feet. Expansions of greater than 1,000 square feet would require payment of TIF for all additional floor space beyond the initial 1,000 square foot expansion. For example, an existing facility that expands from 10,000 square feet to 20,000 square feet would have a TIF obligation based on 9,000 square feet. To prohibit incremental expansions to avoid payment of the TIF, any prior expansions over the preceding five years will be considered part of the current expansion.
- (g) Rebuilding of a destroyed non-residential facility that does not increase floor space greater than 1,000 square feet. Expansions of greater than 1,000 square feet would require payment of TIF for all additional floor space beyond the initial 1,000 square foot expansion.
- (h) Uncovered outdoor areas for tables or seating for a café or restaurant that do not require a building permit.
- (i) Accessory buildings such as non-commercial garages, barns, sea containers, workshops at residences, and non-residential agricultural buildings (agricultural labor dwellings are not exempt).
- (j) Signs, water tanks, propane tanks, other liquid tanks, fuel pumps including gasoline station pumps, wells, or similar structures.

The Director of Public Works is authorized to prepare and maintain a list of all permits types to which the fee will apply.

This Division shall not exempt any new development except as required by state or federal law. In cases where a development is specifically exempt by law from this Division, but said development has transportation impacts required to be mitigated by CEQA, the County can accept TIF payment for mitigation purposes.

The requirement of this chapter shall not apply to projects for which fees for an unexpired building plan check were paid on or before March 29, 2005 regardless of whether they obtain their building permit prior to the effective date of this ordinance.

**Section 10.** Section 77.217 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.217. WAIVER.**

A development which is designed and intended as a temporary use (3 years or less) and which is conducted in facilities which are, by their nature, short- term interim facilities such as a portable or modular building (including mobile homes, trailers, etc.) may apply to the DPW Director for a TIF fee waiver. The DPW Director shall have the authority to grant such waivers.

**Section 11.** Effective Date. This Ordinance shall take effect and be in force sixty (60) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in S.D. Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 27<sup>th</sup> day of February, 2008.