



# WASHOE COUNTY

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CM/ACM	<u>KS</u>
Finance	<u>DN</u>
DA	<u>✓</u>
Risk Mgt.	<u>N/A</u>
HR	<u>N/A</u>
Comptroller	<u>CA</u>

## STAFF REPORT BOARD MEETING DATE: April 26, 2016

**DATE:** April 6, 2016

**TO:** Board of County Commissioners

**FROM:** Clara Lawson, P.E., PTOE, Licensed Engineer  
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**THROUGH:** Dwayne Smith, P.E., Division Director, Engineering and Capital Projects,  
Community Services Department, 328-2043, [desmith@washoecounty.us](mailto:desmith@washoecounty.us)

**SUBJECT:** Approve a Resolution Amending the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition, with the First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees Section 110.706.05 (d) Adoption and Amendment of the Regional Road Impact Fee System General Administrative Manual. (All Commission Districts.)

### SUMMARY

It is recommended the Board of County Commissioners (Board) approve a resolution adopting Amendment # 1 to the Regional Road Impact Fee System General Administrative Manual (GAM), 5<sup>th</sup> Edition. Amendment #1 identifies that extension credits are identical in all respects to the original Capital Contribution Front-Ending Agreement (CCFEA) credits except that upon extension by the credit holder, the expiration date of the credit will be extended by ten (10) years beyond the original credit expiration date of the exchanged credits identified in the CCFEA.

Previously on January 27, 2015, the County adopted a slightly different version of Amendment #1, but since all of the other program participants did not approve the amendment, the amendment did not take effect. During the intermediary time additional work was performed by the program participants and revised language was developed and incorporated into a new amendment. Using the new language, on March 28, 2016, the City of Reno adopted a revised Amendment # 1 to the GAM, and on April 15, 2016, the Regional Transportation Commission (RTC) Board also adopted the revised Amendment #1.

Washoe County Strategic Objective supported by this item: Stewardship of Our Community.

### PREVIOUS ACTION

On October 28, 2014, the Board of County Commissioners approved an Interlocal Agreement Regarding Regional Road Impact Fees Pursuant to NRS Chapter 277 and Chapter 278B between Washoe County, the Cities of Reno and Sparks and the Regional Transportation Commission (RTC) for the continuation of the Regional Road Impact Fee Program.

**AGENDA ITEM # 5.I.1.**

On November 12, 2014, the Board adopted a resolution authorizing the initiation of amendments to the Development Code, Chapter 110 of County Code, at Article 706, Impact Fees.

On November 12, 2014, the Board adopted a resolution establishing the Washoe County Planning Commission as the Washoe County Capital Improvements Advisory Committee for the Regional Road Impact Fee Program as authorized within NRS 278B.150.

On November 13, 2014, the Planning Commission acknowledged receipt of the “Regional Road Impact Fee Program, 5<sup>th</sup> Edition Update”.

On January 6, 2015, the Capital Improvements Advisory Committee affirmed that the Regional Road Impact Fee Land Use Assumptions are in conformance with the Washoe County Master Plan and reviewed the Regional Road Capital Improvements Plan and provided comments to be presented to the Board.

On January 6, 2015, the Planning Commission adopted a resolution and recommended approval of proposed amendments to Washoe County Code, Chapter 110, at Article 706, Impact Fees (DCA 14-013).

On January 13, 2015, the Board approved the land use assumptions and adopted the Regional Road Impact Fee Capital Improvements Plan as required by NRS 278B.190 and NRS 278B.210

On January 13, 2015, the Board held an introduction and first reading of an ordinance to adopt regional road impact fees for unincorporated Washoe County, as described in the Regional Road Capital Improvement Plan and Impact Fee Methodology dated September 19, 2014 and as provided for in NRS 278B.160 and Washoe County Code Section 110.706.05; and set a public hearing for second reading and possible adoption of the ordinance for January 27, 2015 at 6:00 p.m.

On January 13, 2015, the Board held an introduction and first reading of an ordinance to amend Washoe County Code, Chapter 110, Development Code, article 706 (Impact Fees) at Section 110.706.05 Regional Road Impact Fee and set a public hearing for second reading and possible adoption of the ordinance for January 27, 2015 at 6:00 p.m.

On January 27, 2015, the Board adopted a resolution amending the Regional Road Impact Fee System General Administrative Manual (GAM) 5<sup>th</sup> Edition dated September 19, 2014 and Amendment #1.

## **BACKGROUND**

The Regional Road Impact Fee (RRIF) was created as a funding mechanism for roadway capacity improvement projects which are directly related to new development. Nevada Revised Statutes (NRS) 278B allows the imposition of such a fee. An impact fee is defined as a charge imposed by a local government on new development to finance the costs of a capital improvement or facility expansion necessitated by and attributable to the new development. The RRIF has been in effect since February 1996.

In accordance with the provisions of the Interlocal Cooperative Agreement entered into by the RTC, Washoe County, the City of Reno, and the City of Sparks, the RTC is responsible for initiating periodic reviews of the RRIF program and proposing modifications to the participating governments. The review process is undertaken by the RTC in conjunction with the RRIF Technical Advisory Committee (RRIF TAC), which includes local government technical experts, development representatives from the private sector, and members of the local planning commissions.

The RTC retained TischlerBise to perform an overview of the RRIF program and make recommendations for improvements in order to meet state law impact fee requirements, national case law standards, and current best professional practices.

The GAM outlines how the fees are administered; the proposed amendments incorporate the recommendations from the RRIF Program Overview Report prepared by TischlerBise, along with input from the RRIF TAC.

### **GAM Amendment # 1**

The proposed changes of Amendment #1 to GAM allows for a ten year time extension of existing impact fee credits. Credits were issued to developers through a Capital Contribution Front End Agreement in which the developer agreed to construct roadway facilities and/or dedicate right of way in exchange for credits which would then be used as homes or buildings are constructed to pay for the Regional Road Impact Fee. The economic downturn slowed development resulting in many roadway improvements being constructed, yet developers have not built homes or buildings to use the credits at the rate initially forecast. In 2016, the first credits may expire, 20 years from their issuance. New development has built significant improvements which the public now use, yet if credits expire developers will not be able to use their credits to pay for the RRIF. The fiscal impact to the RTC associated with extending the credit expiration dates would most likely be a reduction in RRIF revenues based on the assumption that extending credits would result in credits being redeemed that would otherwise expire under the status quo scenario. More redeemed credits likely translate to less inflow of cash. In addition, past fees didn't keep pace with rising costs of construction further reducing the buying power of the RRIF program to construct new facilities.

Extending CCFEA credits requires an amendment to the GAM and to each CCFEA holder requesting an extension. The process for credit extension proposed is to first notify all current credit holders of the option to extend their credits. Notification would be over a period of three to six months. RTC would then process applications and prepare the CCFEA amendments. The CCFEA amendments would need to be signed by the RTC Board, the developer and the local jurisdiction where the development occurred.

### **FISCAL IMPACT**

There is no fiscal impact to the County budget associated with this recommendation. The amendment may result in a reduction in fee revenue to the RTC.

**RECOMMENDATION**

It is recommended the Board of County Commissioners approve a Resolution Amending the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition, with the First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees Section 110.706.05 (d) Adoption and Amendment of the Regional Road Impact Fee System General Administrative Manual.

**POSSIBLE MOTION**

Should the Board agree with the recommendation, a possible motion would be: “Move to approve a Resolution Amending the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition, with the First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees Section 110.706.05 (d) Adoption and Amendment of the Regional Road Impact Fee System General Administrative Manual.”

## RESOLUTION

RESOLUTION AMENDING THE REGIONAL ROAD IMPACT FEE SYSTEM GENERAL ADMINISTRATIVE MANUAL, 5<sup>TH</sup> EDITION, WITH THE FIRST AMENDMENT TO REGIONAL ROAD IMPACT FEE SYSTEM GENERAL ADMINISTRATIVE MANUAL.

WHEREAS, the Washoe County Board of Commissioners approved an Interlocal Cooperative Agreement with the Cities of Reno and Sparks and the Regional Transportation Commission for the operation of a regional road impact fee program; and

WHEREAS, The Regional Road Impact Fee System General Administrative Manual may be amended per the Development Code Article 706, Impact Fees section 110.706.05 (d) by resolution approved by the Regional Transportation Commission Board and the Governing Bodies of each participating Local Government; and

WHEREAS, per the Interlocal Cooperative Agreement the Regional Transportation Commission shall conduct fee studies and reviews as necessary and shall consult with the local jurisdictions; and

WHEREAS, the Regional Transportation Commission has formed the Regional Road Impact Fee Technical Advisory Committee comprised of local government technical experts, development representatives from the private sector and members of the local planning commissions to review and comment on the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition, dated September 19, 2014; and

WHEREAS, the Regional Transportation Commission Board have approved the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition (GAM); and

NOW, THEREFORE, be it resolved by the Washoe County Board of Commissioners that Washoe County adopt the First Amendment to the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition as the latest revised edition.

Adopted this 26th day of April, 2016

WASHOE COUNTY  
BOARD OF COMMISSIONERS

ATTEST:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chair

## **FIRST AMENDMENT TO REGIONAL ROAD IMPACT FEE SYSTEM GENERAL ADMINISTRATIVE MANUAL**

The following additional definitions are hereby added to the Regional Road Impact Fee System General Administrative Manual (5<sup>th</sup> Edition) adopted \_\_\_\_\_, 201\_\_\_\_ (the "GAM"):

**Extension Credits:** Extension Credits are identical in all respects to CCFEA Credits, except that the expiration date of each Extension Credit shall be ten (10) years beyond the original expiration date of the exchanged CCFEA Credits. Extension Credits result upon exchange and extinguishment of a CCFEA Credit by a CCFEA Credit holder pursuant to Article XI.

Article XI of the GAM, is amended and restated in its entirety as follows:

### **XI. UNEXPIRED CREDITS APPROVED PRIOR TO THE 5TH EDITION RRIF GAM**

- A. **Applicability.** This section applies to Capital Contribution Front-Ending Agreements (CCFEAs) entered into prior to the Effective Date of the 5<sup>th</sup> Edition of the GAM and to CCFEA Credits issued pursuant to such CCFEAs.
- B. **Intent.** It is the intent of the RTC Board and affected Participating Local Governments to carry forward the policies and understanding in place when CCFEAs were entered into, prior to the changes to the RRIF program adopted as of the 5th Edition RRIF GAM. Therefore, to the extent possible and practical, outstanding Credits may be used or transferred as provided prior to the 5th Edition RRIF GAM, as provided in this section of the Manual and in accordance with the terms of valid, unexpired CCFEAs.
- C. **CCFEA Credit Usage.** The transferability and usage of CCFEA Credits issued pursuant to a valid, unexpired CCFEA are as follows:
  - 1. Credits may be used by the Developer of Record to pay for up to 100% of the Regional Road Impact Fees on any traffic generating development of land included in the Development of Record.
  - 2. Credits may be used by the Developer of Record to pay for up to 100% of the Regional Road Impact Fees on any traffic generating

development of the Developer of Record within the same CCFEA Credit Benefit District as the Development of Record.

3. CCFEA Credits are transferable to a third party. To transfer credits, the current credit holder of CCFEA Credits will notify RTC through the RRIF Automation program the amount of VMT's to be transferred and the name and contact information of the third party. CCFEA Credits will be subtracted from the current CCFEA Credit holder's account and transferred to an automation account in the name of the third party.
  - a. CCFEA Credits may be used by a third party to pay for up to 100% of the Regional Road Impact Fees on any traffic generating development of land included in the Development of Record.
  - b. CCFEA Credits may be used by a third party to pay for up to one half of the amount of the Regional Road Impact Fees due on any traffic generating development of land within the same CCFEA Credit Benefit District as the Development of Record. The remaining portion of Regional Road Impact Fees due must be paid in cash.
4. CCFEA Credits may not be used outside of the CCFEA Credit Benefit District in which the Development of Record lies.

**D. Expiration of Credit**

Unused CCFEA Credits shall expire twenty years from the date of the CCFEA.

**E. Appeals**

If the applicant disagrees with the findings of the Local RRIF Administrator or RTC RRIF Administrator with respect to CCFEA Credits due, the applicant may appeal the decision (see Section XII).

**F. Extension Credits**

Holders of CCFEA Credits may exchange their CCFEA Credits for Extension Credits upon the terms and conditions of this Section XI(F).

1. Conversion Period. CCFEA Credit holders must elect to exchange their CCFEA Credits for Extension Credits, pursuant to the terms of this Subsection (F), during a ninety (90) calendar day conversion period beginning at 8:00 a.m. on a business day determined by the RTC RRIF Administrator and ending at 5:00 p.m. ninety (90) days thereafter (the "Conversion Period"). If the ninetieth day falls on a weekend, holiday or other day on which the office of the RTC RRIF Administrator is not open for business, the last day of the

Conversion Period shall be the next business day. No holder may elect to exchange CCFEA Credits after expiration of the Conversion Period.

2. Notice of Conversion Period. The RTC RRIF Administrator shall mail written notice of the Conversion Period and the ability to exchange CCFEA Credits for Extension Credits to the last known address for each CCFEA Credit holder which is on file with RTC. To the extent within RTC's possession, RTC shall also give notice CCFEA Credit holders by e-mail. In addition, RTC shall publish notice of the Conversion Period and the ability to exchange CCFEA Credits for Extension Credits in a qualified newspaper within Washoe County at least three (3) times, no less than seven days apart, with the last publication being not less than twenty one days prior to the expiration of the Conversion Period. The RTC RRIF Administrator may, but shall not be obligated to, use other reasonable means of notice such as public workshops, website notices, press releases, and other reasonable means.
3. Election to Extend. In order to exchange CCFEA Credits for Extension Credits, CCFEA Credit holders must give written notice to the RTC RRIF Administrator, on a form made available by the RTC RRIF Administrator for that purpose, during the Conversion Period. The extension election form shall require the CCFEA Credit holder to disclose the name of the CCFEA Credit holder, the notice address and contact information for the CCFEA Credit holder, the total number of CCFEA Credits held by the CCFEA Credit holder, the number of CCFEA Credits to be exchanged for Extension Credits by the CCFEA Credit holder, and such other information as the RTC RRIF Administrator may reasonably require.
4. Exchange Fee. The RTC RRIF Administrator shall require each exchanging credit holder to pay an exchange fee of \$500.00 upon application for exchange.
5. CCFEA Amendment. In order to complete the exchange of CCFEA Credits for Extension Credits, the CCFEA Credit holder, the RTC, and each Participating Local Government which was a party to the original CCFEA pursuant to which the exchanged CCFEA Credits were originally issued, will enter into a CCFEA amendment extending the CCFEA Credits for an additional ten (10) years beyond the original expiration date of the exchanged CCFEA Credits. To the extent that the exchanging CCFEA Credit holder was not a party to the original CCFEA, such exchanging CCFEA Credit holder shall submit evidence satisfactory to the RTC RRIF Administrator that such exchanging CCFEA Credit holder is a transferee of the CCFEA Credits issued under the original CCFEA.



6. RRIF Automation Account. All Extension Credit holders shall participate in the RRIF Automation program and will be issued a new account for their Extension Credits. To the extent that the Original or Transfer CCFEA Credits for which the Extension Credits are exchanged were evidenced by credit books or other physical documentation, such credit books and other physical documentation shall be relinquished to the RTC RRIF Administrator prior to issuance of Extension Credits, and no request to exchange CCFEA Credits for Extension Credits will be processed or considered without relinquishment of such credit books or other physical documentation.
7. Issuance of Extension Credits. Upon receipt of a valid election to extend, payment of the applicable exchange fee, amendment of the applicable CCFEA, and creation of the applicable RRIF Automation Account, the exchanged CCFEA Credits shall be extinguished and an equal number of Extension Credits shall be issued.
8. Resolution of Disputes. All disputes arising with regard to the exchange of CCFEA Credits for Extension Credits shall be resolved pursuant to Article XII (Appeals) of the GAM.
9. Rights Otherwise Identical. Upon issuance, Extension Credits will carry identical rights to the CCFEA Credits for which such Extension Credits were exchanged, provided however that the expiration date of the Extension Credits will be ten (10) years later than the expiration date of the exchanged CCFEA Credits.