



# WASHOE COUNTY

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HR N/A  
Clerk ✓

## STAFF REPORT

BOARD MEETING DATE: January 27, 2015

**DATE:** January 2, 2015  
**TO:** Board of County Commissioners  
**FROM:** Clara Lawson, P.E., PTOE, Licensed Engineer  
Community Services Department, 328-3603, [clawson@washoecounty.us](mailto:clawson@washoecounty.us)  
**THROUGH:** Dwayne Smith, P.E., Division Director, Engineering and Capital Projects,  
Community Services Department, 328-2043, [desmith@washoecounty.us](mailto:desmith@washoecounty.us)  
**SUBJECT:** Adopt a Resolution Amending the Regional Road Impact Fee System General Administrative Manual 5<sup>th</sup> Edition dated September 19, 2014 and First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees; and delegate the Director of the Community Services Department the authority to execute amendments to any Capital Contribution Front End Agreement that extends time periods. (All Commission Districts.)

### SUMMARY

The purpose of the agenda item is adoption of a resolution amending the Regional Road Impact Fee System General Administrative Manual (GAM) 5<sup>th</sup> Edition, reviewed and approved by the Regional Transportation Commission (RTC) on September 19, 2014 and First Amendment to Regional Road Impact Fee System General Administrative Manual (First Amendment), later reviewed and approved by the RTC on October 17, 2014.

Substantive changes to the GAM consist of a modification to the definition of the Regional Road Impact Fee (RRIF) network, simplification of land use classifications, timing of payment for impact fees (option for deferral to building permit), elimination of the time limitations in determining fees owed with a change of use, and revision of the RRIF Credit program. These modifications to the GAM were reviewed by the RRIF Technical Advisory Committee (RRIF TAC) and unanimously recommended to the RTC Board who subsequently approved the changes on September 19, 2014.

Modifications contained within the First Amendment allow for a ten-year time extension of RRIF credits. Currently, credits are issued to developers through a Capital Contribution Front End Agreement (CCFEA) in which the developer has agreed to construct roadway facilities and/or dedicate right of way in exchange for credits which can be used for future projects. Under the existing CCFEAs, these credits are currently available for 20 years before they expire. During the economic downturn development slowed and no projects were implemented and therefore the credits were not used as anticipated. In response, the development community requested that the credits be extended an additional 10 years (for a total of 30 years) under the existing CCFEAs. The RRIF TAC contemplated the request and ultimately by a majority vote

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made the recommendation to the RTC Board to amend any existing CCFEAs with the additional 10 year extension when requested. Each existing CCFEA requires any amendment to be acknowledged and authorized by the original parties. Anticipating Board approval of the time extension for existing credits to 30 years and in an effort to reduce staff time and provide for an efficient process to extend existing CCFEAs, in lieu of bringing existing CCFEAs individually to the Board for approval (estimate is 30 to 40), staff recommends that the Board delegate authority to the Director of the Community Services Department to sign any current CCFEA which extends the credit time frame.

Washoe County Strategic Objective supported by this item: Sustainability of our financial, social and natural resources.

### **PREVIOUS ACTION**

On October 28, 2014, the Board of County Commissioners (Board) 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.

On November 12, 2014, the Board adopted a resolution authorizing the initiation of amendments to the Development Code, Chapter 110 of County Code, 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 affirming comments to be presented to the Board of County Commissioners.

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.

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.

## **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.

The proposed changes to the GAM largely consist of a modification to the definition of the RRIF network, simplification of land use classifications, timing of payment for impact fees, elimination of the time limitations in determining fees owed with a change of use, and revision of the RRIF Credit program. Below is a summary of the proposed changes:

- RRIF Network – increases the volume limitation to qualify as a RRIF regional road to 14,000 average annual daily traffic. In addition, new roadways proposed by private development and not listed on the CIP may be added to the RRIF Network coincident with or after the first two lanes are constructed and if it provides a significant connection between other regional roads or serves regional traffic in excess of the proposed development.
- Land Use Categories – The number of land use categories have expanded significantly over time. Based on the revised methodology, the land use categories are reduced to coincide with the Consensus Forecast and Travel Demand Model.
- Payment Due – Payment of impact fees shall be paid at the time of the issuance of a building permit or may be deferred to the Certificate of Occupancy, as approved by the Participating Local Government.
- Change of Use – When determining the fee for a change of use, redevelopment, or modification of a previous land use, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the previous use. The previous use is no longer limited to 10 years (20 years in a redevelopment district) from the time of the new building permit.
- RRIF Waivers – Waivers will replace RRIF Credits issued to a developer for the dedication of right of way and/or construction of CIP improvements. RRIF Waivers will be limited to use within the development of record and may not exceed the anticipated impact fees owed

for the development. Fees paid using RRIF Waivers will be assessed on the fee schedule in effect at the time of the Offset agreement and will have no expiration.

The proposed changes of the First Amendment of GAM allows for a ten year time extension of the credits. Several factors regarding the impact fee credits program are the economic downturn, new development built significant improvements on the regional road network and low revenue collections. 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 for construction of homes or building to pay for the Regional Road Impact Fee. The economic downturn slowed development and many roadway improvements were constructed, yet developers haven't built homes or buildings to use their 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 they won't be able to use their credits to pay for their 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 did not keep pace with rising costs of construction further reducing the buying power of the RRIF program to construct new facilities.

To extend CCFEA credits requires an amendment to the GAM and to each CCFEA requesting an extension. The process for credit extension proposed is first notifying all the current credit holders of the option to extend their credits. The notification process would be over a period of three to six months. RTC would then process the 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 associated with this item.

### **RECOMMENDATION**

It is recommended the Board of County Commissioners adopt a Resolution Amending the Regional Road Impact Fee System General Administrative Manual 5<sup>th</sup> Edition dated September 19, 2014 and First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees and delegate the Director of the Community Services Department the authority to execute amendments to any Capital Contribution Front End Agreement that extends time periods

### **POSSIBLE MOTION**

Should the Board agree with the recommendation, a possible motion would be: "Move to adopt a Resolution Amending the Regional Road Impact Fee System General Administrative Manual 5<sup>th</sup> Edition dated September 19, 2014 and First Amendment to Regional Road Impact Fee System General Administrative Manual as authorized within Washoe County Development Code, Article 706 Impact Fees and delegate the Director of the Community Services Department the authority to execute amendments to any Capital Contribution Front End Agreement that extends time periods."

**RESOLUTION**

RESOLUTION AMENDING THE REGIONAL ROAD IMPACT FEE SYSTEM GENERAL ADMINISTRATIVE MANUAL, 5<sup>TH</sup> EDITION, DATED SEPTEMBER 19, 2014; AND 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, dated September 19, 2014, and First Amendment to Regional Road Impact Fee System General Administrative Manual; and

NOW, THEREFORE, be it resolved by the Washoe County Board of County Commissioners that Washoe County adopt the Regional Road Impact Fee System General Administrative Manual, 5<sup>th</sup> Edition, Dated September 19, 2014, and First Amendment to Regional Road Impact Fee System General Administrative Manual as the latest revised edition.

Adopted this 27th day of January, 2015

WASHOE COUNTY  
BOARD OF COMMISSIONERS

ATTEST:

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County Clerk

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Chairman

## 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.**
  - 1. The transferability and usage of CCFEA Credits issued pursuant to a valid, unexpired CCFEA are as follows:
  - 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 land included in the Development of Record.
  - 3. 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.

4. 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.
5. 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), between 9:00 a.m. on the first business day of the calendar month that is six months after adoption of this First Amendment, but not later than October 1, 2015, and 5:00 p.m. on the last business day of the calendar month that is eleven months after adoption of this First Amendment, but not later than March 31,

2016 (the "Conversion Period"). No holder may elect to exchange CCFEA Credits may 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.

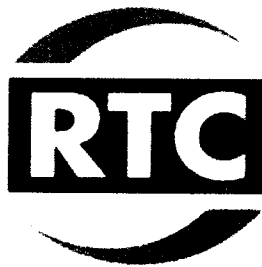


6. RRIF Automation Account. All Extension Credit holders shall participate in the RRIF Automation program and will be issued a new account for their Extension Credits. To the extent that the Original or Transfer CCFEA Credits for which the Extension Credits are exchanged were evidenced by credit books 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.

# **REGIONAL ROAD IMPACT FEE SYSTEM**

## **GENERAL ADMINISTRATIVE MANUAL**

**5<sup>TH</sup> EDITION**



**9/19/14**

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## **DEFINITIONS**

**Accessory Use:** Accessory land uses are uses which are supplemental to and on a floor area basis that are less than 25% of the primary land use. The fee for the accessory use is based on the primary land use.

**Auxiliary Use:** Auxiliary land uses are uses which are secondary to the primary land use and are typically not measured in the same units as are used for fee assessment. For example, the unit of assessment for a golf course is per hole. A separate fee is not calculated for the golf course storage and maintenance buildings since they are an auxiliary use.

**Building Gross Floor Area (GFA):** The gross floor area of a building is the sum (in square feet) of the area of each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, store and offices that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (6 feet, 6 inches minimum) regardless of their use. Unroofed areas and unenclosed roof-over spaces, except those contained within the principal outside faces of exterior walls, should be excluded. Parking garages within the building should not be included within the GFA of the entire building.

**Capital Contribution Front-Ending Agreement (CCFEA):** An agreement, entered into prior to the 2014 RRIF Program Update, related to the third-party construction or dedication of qualified capital improvements.

**Capital Improvement Plan (CIP):** In accordance with NRS 278B.170, a description of the RRIF capital improvements necessitated by and attributable to new development, which are planned by the RTC to begin in the ten (10) year period following the 2014 RRIF Program Update .

**Capital Improvements Advisory Committee:** As defined by Nevada State Law, a committee of at least five members created to oversee the creation of and advise the local government regarding Land Use Assumptions and the Capital Improvements Plan (CIP).

**CCFEA Credit Benefit District:** The benefit districts, within which CCFEA Credits were issued pursuant to a valid unexpired CCFEA, may be used and transferred, as provided by the provisions in this Manual and the Terms of applicable CCFEAs. The Northwest (NW), Northeast (NE), and South (S) CCFEA Credit Districts are shown in Exhibit C of this Manual.

**CCFEA Credits:** A substitute method of payment for assessed road impact fees used prior to the 2014 RRIF Program Update, which were denominated in terms of VMT. Credits were issued prior to the update pursuant to Capital Contribution Front-Ending Agreements (CCFEAs). The term "Credit," as used in this Manual, refers only to credits issued prior to the 2014 update and pursuant to a valid, unexpired CCFEA.