

**ORDINANCE NO. 673
(AS AMENDED THROUGH 673.2)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING
ORDINANCE NO. 673 AUTHORIZING BOUNDARY CHANGES TO THE
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM WITHIN
THE COACHELLA VALLEY, RIVERSIDE COUNTY**

The Board of Supervisors of the County of Riverside Ordains as Follows:

SECTION 1. TITLE. This ordinance shall be known as the Transportation Uniform Mitigation Fee Ordinance.

SECTION 2. FINDINGS.

“(a) The County is a Member Agency of the Coachella Valley Association of Governments (“CVAG”), a joint powers agency consisting of public agencies situated in the Coachella Valley (collectively, Member Agencies”).

“(b) Acting in concert, the Member Agencies developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials within CVAG’s jurisdiction (the “Regional System”) could be made up in part by a Transportation Uniform Mitigation Fee (“TUMF”) imposed on future residential, commercial and industrial development within the jurisdiction.

“(c) CVAG, with the assistance of its Member Agencies, have commissioned the preparation of various studies (“Fee Studies”) which evaluated population and employment growth, future transportation needs and the availability of traditional transportation funding sources to establish updated TUMF levels and program revenue collection targets.

“(d) The Fee Studies, as periodically updated, make it possible to determine a reasonable relationship between the cumulative regional impacts of new land development projects in the Coachella Valley on the Regional System and the need to mitigate these transportation impacts using funds levied through the TUMF program.

“(e) The Fee Studies, as periodically updated establish the purposes of the TUMF, which may be summarized as a uniform development impact fee to help fund construction of the Regional System needed to accommodate growth in the Coachella Valley to the year 2030.

“(f) The Fee Studies, as periodically updated, establish that the TUMF proceeds will be used to help pay for the engineering, construction, and acquisition of the Regional System improvements identified therein. Such improvements are necessary for the safety, health and welfare of the

residential and non-residential users of the development projects on which the TUMF will be levied.

“(g) The Fee Studies, as periodically updated, establish a reasonable and rational relationship between the use of the TUMF proceeds and the type of development projects on which the TUMF is imposed.

“(h) The TUMF program revenues to be generated by new development will not exceed the total fair share of these costs.

“(i) The projects and methodology identified in the Fee Studies, as periodically updated, for the collection of fees is consistent with the goals, policies, objectives, and implementation measures of the County’s General Plan.”

SECTION 3. DEFINITIONS.

(a) “Coachella Valley” means the Transportation Uniform Mitigation Fee collection boundary area as described by “Coachella Valley Association of Governments-Transportation Uniform Mitigation Fee Boundary Description,” attached hereto and incorporated herein by this reference as Exhibit E.

(b) "Regional System" means those streets, arterials, and road improvements named in this ordinance as the Regional System as set forth in Section 10 or as may subsequently be amended.

(c) The "Coachella Valley Area Transportation Study" means that report published by the Southern California Association of Governments and dated December 1987, attached hereto as Exhibit A, or as subsequently amended by the entities/jurisdictions of the Coachella Valley Association of Governments.

(d) "Average Weekday Trips" means the average number of daily vehicle trips to or from a designated land use Monday through Friday.

(e) "Change of Use" means any change in the use of an existing building which results in the increase of vehicular trips.

(f) "Trip Generation Rate" means the number of average weekday trips generated by a particular land use. The Trip Generation Rate for each of the following land-use categories shall be the rate published by the Institute of Transportation Engineers (ITE), 4th edition, or as revised, as noted in Section VII: 'Trip Generation Land Use Code', attached hereto as Exhibit D, calculated upon the measurement herein specified. If a developer is required to prepare a traffic study, the trip-generation rate shall be as determined by that traffic study and approved by the County, but in no case may the rates be less than the ITE rates calculated upon the measurement as herein specified. Trip-generation rates shall be calculated based upon the following measurement:

- (1) Residential
Single-family, multi-family, condominiums, planned unit developments, and mobile homes shall be calculated per dwelling unit.
- (2) Lodging
Hotels, resort hotels, and motels shall be calculated per room.
- (3) Restaurants
Low turnover, sit-down, high turnover, and drive-through shall be calculated per 1000 gross square feet.
- (4) Retail
Stand-alone convenience store and shopping centers, shall be calculated per 1000 gross square feet.
- (5) Office Space
Office space shall be calculated per gross square feet.
- (6) Banks
Walk-in, with drive-through, savings & loan and savings & loan with drive-through shall be calculated per 1000 gross square feet.
- (7) Light Industry/Manufacturing
Industrial park and manufacturing shall be calculated per 1000 gross square feet.
- (8) Medical
Hospitals shall be calculated per 1000 gross square feet.
- (9) Recreation
Golf courses independent of hotels shall be calculated per parking space; racquet clubs shall be calculated per court.
- (10) Convention Centers
Shall be calculated per 1000 gross square feet.

(g) "Development" means any activity which requires discretionary or ministerial action by the County resulting in the issuance of grading, building, plumbing, mechanical, or electrical permits, or certificates of occupancy issued by the County to construct, or change the use of, a building or property.

Where development applies to an enlargement of an existing building, or a change of use of an existing building which results in increased vehicle trips, the average weekday trips shall be only the additional trips in excess of those associated

with the existing use.

(h) "The Coachella Valley Association of Governments," hereinafter CVAG, means the legal entity which will manage and administer the Transportation Uniform Mitigation Fee in accordance with the laws of the State of California.

(i) "Fee Study" means the studies prepared by CVAG and adopted by the County, which supports the fee established by this chapter, and includes all the underlying reports and documents referenced therein.

(j) "TUMF" means the Transportation Uniform Mitigation Fee established by this ordinance.

SECTION 4. APPLICABILITY. The provisions of this ordinance shall apply only to new development yet to receive final discretionary approval and or issuance of a building permit or other development right and to any reconstruction or new use of existing buildings that results in change of use and generates additional vehicular trips. The provisions of this ordinance shall take effect on July 1, 1989.

SECTION 5. ESTABLISHMENT OF TRANSPORTATION MITIGATION FEE.

"(a) There is hereby established a Transportation Uniform Mitigation Fee, the proceeds of which shall be placed in the trust fund established by CVAG and used to construct the transportation improvements and provide the additionally capacity needed by the year 2030 to accommodate the traffic generated by the development of land in the County and in the entire Coachella Valley."

"(b) The amount of the mitigation fee shall be based on the trip generation rate and as recommended by CVAG. It is anticipated that the Executive Committee of CVAG shall annually review and, if necessary, amend the amount of the recommended mitigation fee to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth. The Transportation Uniform Mitigation Fee shall be determined as follows:

\$74 per average daily trip for sales tax producing commercial;
\$148 per average daily trip for all other non-residential development; and
\$192 per average daily trip for all residential development."

(c) The Board shall annually review and, if necessary, amend the amount of the mitigation fee to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth. If the amount of the recommended mitigation fee is amended by CVAG pursuant to CVAG's annual review, the Board shall amend its fee amount in accord or in an amount greater.

(d) No tract map, parcel map, conditional use permit, Plot plan, public use permit or other entitlement shall be approved unless payment of the mitigation fee is a

condition of approval for any such entitlement. The mitigation fee shall be paid to the County.

(e) No building or similar permit, certificate of occupancy, or final inspection shall be issued or performed unless the applicant has paid the mitigation fee.

(f) Mitigation fees shall be imposed and collected by the County and shall be transmitted to CVAG to be placed in the Coachella Valley Transportation Mitigation Trust Fund. All interest or other earnings of the Fund shall be credited to the Fund.

SECTION 6. EXEMPTIONS. The following developments are exempted from payment of the fee required by this ordinance:

(a) Low and lower-income residential housing, including single-family homes, apartments, and mobile homes built for those whose income is no more than 80% of the median income in the San Bernardino-Riverside Standard Metropolitan Statistical Area and as determined and approved by the County. The sales or rental price shall not exceed the affordability criteria as established under HUD Section 8 guidelines.

(b) Public buildings, public schools, and public facilities unless they are primarily for lease to private, for-profit enterprises.

(c) Buildings used for religious purposes but excluding other commercial property or businesses owned by a religious institution.

(d) The reconstruction of any building so long as the reconstructed building both continues a use of the same category as the prior use and generates the same or fewer trips as the original building and reconstruction commences within one (1) year from destruction of the building.

(e) Development within the C-R Zone (Rural Commercial) of the unincorporated area of the Coachella Valley.

SECTION 7. CREDITS.

(a) Where a developer improves those regional streets identified in Section 10 of this ordinance beyond the requirements established in Section 7(b), the developer shall receive a credit against the Transportation Uniform Mitigation Fee. To receive a credit, the developer shall obtain in advance an agreement with CVAG pursuant to CVAG's rules and regulations. That credit shall be an amount equal to the actual engineering and construction costs incurred at the time of the development to the extent that CVAG has included those costs in its estimated cost of constructing the regional system.

(b) The fees required by this ordinance shall be in addition to any fees, conditions or exactions for on-site and off-site improvements imposed upon projects pursuant to state and local laws, ordinances, or administrative policy which may authorize the imposition of conditions, fees or exactions on development and the

developer shall not be entitled to any credits for such fees, conditions or exactions.

(c) If a developer constructs, or is required by the County to construct, any portion of the regional network as identified in Section 10 of this ordinance in excess of that required to meet standard street requirements as provided by local ordinances, municipal codes, and the County's General Plan, the developer shall be entitled to a credit for the cost of such excess construction. All such construction on the regional network must have the approval of CVAG as to plans and detailed cost estimates.

(d) Should the credit exceed the applicant's total fee, the difference may be credited against any of the applicant's future development within five (5) years which would be subject to the fee. The credit may not be refunded in cash.

(e) Should a developer provide improvements which benefit adjacent undeveloped land, the developer may be reimbursed for a proportionate share of the cost of such improvements contingent upon future fees contributed from other benefitted developments and pursuant to special agreements made in advance with CVAG and in accordance with CVAG's rules and regulations.

SECTION 8. APPEAL PROCESS. An applicant who disputes the fee may file a written notice of appeal with the Executive Committee of CVAG within 15 days of imposition of the fee. The Executive Committee of CVAG must decide the appeal by majority vote and within 60 days of the filing of the appeal.

SECTION 9. SEVERABILITY. If any one or more of the terms, provisions, or sections of this ordinance shall to any extent be adjudged invalid, unenforceable, voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, and sections of this ordinance shall not be affected thereby and shall be valid and enforceable.

SECTION 10. LIST OF PROJECTS ON THE REGIONAL SYSTEM.

“Transportation projects are those which when completed will together mitigate the traffic impacts of future growth in the year 2030 throughout the Coachella Valley. CVAG commissions fee studies that are updated periodically, the most recent of which is entitled “Transportation Uniform Fee 2006 Fee Schedule Update Nexus Study Report,” attached hereto and incorporated herein by this reference as Exhibit A and as subsequently updated, outlines the facilities to be funded along with increases to estimated construction costs for designated facilities. The listing of projects to be funded by TUMF shall be annually reviewed and may be amended from time to time by CVAG.

“CVAG shall annually establish priorities for the Regional System projects based on the criteria set forth in the ‘Transportation Project Prioritization Study (TPPS) 2005 Update Final Report,’ attached hereto and incorporated herein by this reference as Exhibit B, and as subsequently updated. The TPPS is used by the Coachella Valley Association of Governments as a basis to prioritize arterial road segments and to make decisions in improvement funding, and updated by

CVAG on a regular basis.

“The Transportation Uniform Mitigation Fee shall be solely used toward funding the engineering, construction, and purchasing of right-of-way for, these Regional System projects and any other purpose consistent with this ordinance. The fee may not be used for system maintenance.”

SECTION 11. CREDIT. Where a development project is subject to the provisions of a Development Agreement entered into with the County pursuant to the provisions of Government Code Section 65864, et seq., the Transportation Uniform Mitigation Fee required to be paid pursuant to the provisions of this ordinance shall be credited toward that portion of the transportation element of the public facilities fee required to be paid under any such Development Agreement.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect sixty (60) days after adoption with the following exception: The portion of this ordinance which imposes a fee upon commercial and industrial development projects shall be effective thirty (30) days after adoption. Concurrent with the effective date of the commercial and industrial portion of this ordinance, Resolution No. 89-24 shall no longer be of any force or effect as it will be superseded by Ordinance No. 673.

SECTION 13. URGENCY MEASURE. Notwithstanding Section 12 of this ordinance, the portion of this ordinance relating to single-family or multi-family development is declared to be an urgency measure and an interim authorization for the Transportation Uniform Mitigation Fee. The single-family and multi-family portion of this ordinance shall take effect immediately upon its adoption. The Clerk of the Board shall schedule a public hearing before the Board within thirty (30) days after the adoption of this ordinance to consider extending the interim authorization for an additional 30 days. The Clerk shall publish notice of said hearing ten (10) days before the hearing. Pursuant to Section 65926 of the Government Code, the Board of Supervisors finds: (a) Development occurring within the Coachella Valley has resulted in and continues to result in such extraordinary impact on the existing circulation element so as to present an immediate threat to the health, welfare and safety of all those individuals traveling within the region; (b) Participation in the Use and Transaction distribution under Riverside County Measure A, within the Coachella Valley, requires participation in the Transportation Uniform Mitigation Fee program; (c) While Riverside County Ordinance No. 659 currently imposes a transportation mitigation fee, it is something less than the required Transportation Uniform Mitigation Fee imposed by CVAG.

Adopted: 673 Item 3.12a of 06/27/1989 (Eff: 08/26/1989)

Amended: 673.1 Item 16.4 of 05/02/2006 (Eff: 07/01/2006)

673.2 Item 16.2 of 10/31/2006 (Eff: 12/30/2006)

EXHIBIT E

**Coachella Valley Association of Governments
Transportation Uniform Mitigation Fee Boundary Description
June 2005**

1. **BEGINNING** at the Northeast corner of Section 1, Township 2 South, Range 2 East, San Bernardino Meridian, also being a point on the north line of Riverside County;
2. Thence South along said Range line to the Northeast corner of Section 36, T2S, R2E;
3. Thence West along the North line of said Section 36 to the North one-quarter corner thereof;
4. Thence South along the North-South center section line of said Section 36 to the Center section corner thereof;
5. Thence East along the East-West center section line of said Section 36 to the East one-quarter corner thereof;
6. Thence South along the East line of said Section 36 to the Northeast corner of Section 1, T3S, R2E;
7. Thence West along the North line of said Section 1 to the Northwest corner thereof;
8. Thence South along the West line of said Section 1 to the Northwest corner of Section 12, T3S, R2E;
9. Thence East along the North line of said Section 12 to the Northeast corner thereof;
10. Thence South along the East line of said Section 12 to the Southeast corner thereof;
11. Thence West along the South line of said Section 12 to the Northwest corner of Section 13, T3S, R2E;
12. Thence South along the West line of said Section 13 to the Southwest corner thereof;
13. Thence East along the South line of said Section 13 to the Southeast corner thereof;
14. Thence South along said Range line to the Southwest corner of Section 18, T4S, R3E;
15. Thence East along Section lines to the Northeast corner of Section 20, T4S, R3E;
16. Thence South along the East line of said Section 20 to the Southeast corner thereof;
17. Thence West along the South line of said Section 20 to the Northwest corner of Section 29, T4S, R3E;
18. Thence South along the West line of said Section 29 to the Southwest corner thereof;
19. Thence East along the South line of said Section 29 to the Northeast corner of Section 32, T4S, R3E;
20. Thence South along the East line of said Section 32 to the Southeast corner thereof;
21. Thence West along the South line of said Section 32 to the Northeast corner of Section 5, T5S, R3E;
22. Thence South along Section lines to the Northwest corner of Section 16, T5S, R3E;
23. Thence East along the North line of said Section 16 to the Northeast corner thereof;
24. Thence South along the East line of said Section 16 to the Northwest corner of Section 22, T5S, R3E;
25. Thence East along the North line of said Section 22 to the Northeast corner thereof;
26. Thence South along the East line of said Section 22 to the Northwest corner of Section 26, T5S, R3E;
27. Thence East along the North line of said Section 26 to the Northeast corner thereof;
28. Thence South along Section lines to the Northwest corner of Section 1, T6S, R3E;
29. Thence East along the North line of said Section 1 to the Northeast corner thereof, being a point of intersection with the Palm Springs Unified School District boundary line defined by the West line of Section 31, T5S, R4E;
30. Thence Easterly and Southerly along the Palm Springs Unified School District boundary line to a point of intersection with the south Riverside County line;
31. Thence Easterly along the Riverside County line, also being the southernmost boundaries of the Palm Springs Unified School District, the Desert Sands Unified School District and the Coachella Valley Unified School District, to a point of intersection with the border between Range 10 East and Range 11 East;

32. Thence Northerly along the border between Range 10 East and Range 11 East to a point of intersection with the south boundary of Joshua Tree National Park;
33. Thence Northerly and Westerly along the Joshua Tree National Park boundary line to a point of intersection with the north Riverside County line;
34. Thence Westerly along the north Riverside County line to the **Point of Beginning**.