

COACHELLA VALLEY ASSOCIATION of GOVERNMENTS

RESOLUTION NO. 07-007

A RESOLUTION OF THE COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS CONFIRMING COLLECTION POLICIES FOR TUMF ASSESSMENTS.

WHEREAS, the Transportation Uniform Mitigation Fee (TUMF) program was implemented July 1, 1989 to help fund construction of the regional system of highways and arterials in the Coachella Valley (the "Eastern Riverside County TUMF program");

WHEREAS, TUMF monies are used to fund the road projects identified in the Transportation Project Prioritization Study ("TPPS") adopted by the Coachella Valley Association of Governments ("CVAG") and as amended from time to time;

WHEREAS, effective January 1, 2007, the Eastern Riverside County TUMF Fee Per Average Daily Trip was increased for the first time;

WHEREAS, as a result of the increase in the Eastern Riverside County TUMF assessment, it was discovered that the procedures varied among the CVAG jurisdictions with respect to the collection of TUMF assessed as a condition of approval of land use entitlements;

WHEREAS, the significance of the accrual date of TUMF only became obvious when jurisdictions were required to apply the fee increase;

WHEREAS, prior to the adoption of the fee increase, the accrual date did not effect the amount of the TUMF assessment;

WHEREAS, after the adoption of the fee increase, the accrual date was critical for determining whether to apply the old or new rate to development commencing after the fee increase, but for which application was made prior to the effective date of the increase;

WHEREAS, the accrual date should be consistent in all jurisdictions within the Coachella Valley so that TUMF is assessed uniformly in all areas within the Eastern Riverside County TUMF boundary;

WHEREAS, the ordinances adopted in the various jurisdictions within the Coachella Valley for the implementation of the TUMF program are silent with respect to the TUMF accrual date;

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WHEREAS, in anticipation of the fee increase, notices went out in November 2006 to all jurisdictions stating that CVAG's general counsel was of the opinion that the Eastern Riverside County TUMF accrual date was the date that a building permit is issued and that TUMF could not be prepaid in order to avoid the rate increase;

WHEREAS, staff for the County of Riverside must apply two TUMF programs, the Western Riverside County TUMF program and the Eastern Riverside County TUMF program;

WHEREAS, the implementing ordinance for the Western Riverside County TUMF program has specific provisions for the accrual of TUMF, which provisions are inconsistent with CVAG counsel's opinion that TUMF in the eastern county accrues at building permit issuance;

WHEREAS, the past practice in Riverside County has been to apply the more specific provisions of the Western Riverside County TUMF program to all TUMF collections, including those in the eastern county; and

WHEREAS, as definitive authority for amending its current policy for collection of Eastern Riverside County TUMF, Riverside County requests CVAG adopt a formal resolution confirming the accrual date for TUMF assessments in the Coachella Valley;

WHEREAS, it is appropriate to memorialize other policies regarding collection of TUMF;

NOW, THEREFORE, THE EXECUTIVE COMMITTEE OF THE COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS RESOLVES AND MAKES THE FOLLOWING FINDINGS:

1. For all purposes related to the administration of the Eastern Riverside County Transportation Uniform Mitigation Fee, including but not limited to the audit of collections by its member agencies, the Coachella Valley Association of Governments ("CVAG") deems the building permit issuance date to be the date that the TUMF obligation accrues.

2. TUMF assessments are collected for specified, prioritized regional road improvements, as set out in the TPPS. In reliance on the anticipated TUMF assessments, CVAG has authorized the expenditures and obligations associated with the highest priority road projects. CVAG has established and administers the accounts required for the projects financed with TUMF funds.

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3. All TUMF fees shall be collected at the time of building permit issuance. The full amount of TUMF shall be collected by the jurisdiction issuing the building permit and transmitted to CVAG. In the event that any TUMF, or portion thereof, is not remitted to CVAG by the 20th of the month following the date that the corresponding building permit was issued, interest will be charged from the date of the issuance of the building permit through the date the fees are received by CVAG. The interest rate applicable to late transmitted TUMF shall be the rate of the quarterly calculation of LAIF. The jurisdiction issuing the building permit shall be responsible for all such interest penalties.

4. Upon sufficient evidence that the building permit has been subsequently surrendered to the issuing jurisdiction, or is otherwise rendered void and of no effect, and provided that no action whatsoever has been undertaken pursuant to the permit, CVAG shall make refund of the full amount of the TUMF paid at permit issuance directly to the permittee. Said refund shall be without interest.

The foregoing resolution was approved and adopted at a meeting of the Executive Committee held on 6-25-, 2007 by the following vote:


AYES:

ABSENT:

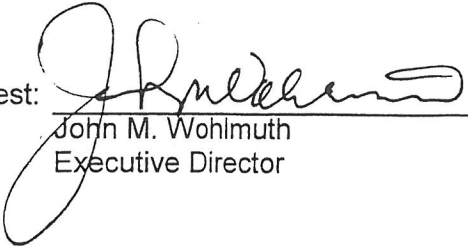
NOES:

ABSTAIN:

By:


Mayor Ben Godfrey
CVAG Chair

Attest:


John M. Wohlmuth
Executive Director