

**ORDINANCE NO. 673
(AS AMENDED THROUGH 673.6)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
ESTABLISHING A COACHELLA VALLEY TRANSPORTATION
UNIFORM MITIGATION FEE PROGRAM**

The Board of Supervisors of the County of Riverside Ordains that Ordinance No. 673 is amended in its entirety to read as follows:

Section 1. 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 Regional System.

c. CVAG, with the assistance of its Member Agencies, commissions fee studies ("Fee Studies") that are updated periodically, the most recent of which is entitled "Transportation Uniform Fee 2018 Fee Schedule Update Nexus Study Report" ("2018 Nexus Study"), incorporated herein by this reference. The Fee Studies outline the facilities to be funded by TUMF, along with increases to estimated construction costs for designated facilities. The Fee Studies also provide for the following:

1. 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 2040.
2. Evaluate 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.
3. Demonstrate 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.
4. 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.

5. Provide 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.
6. Provide that TUMF program revenues to be generated by new Development, as defined herein, will not exceed the total fair share of these costs.

d. The projects and methodology identified in the Fee Studies, as periodically updated, are consistent with the goals, policies, objectives, and implementation measures of the County's General Plan.

Section 2. PURPOSE. The purpose of this ordinance is to authorize the County's participation in the TUMF Program, which establishes and sets forth policies, regulations, and authorized uses of fees collected relating to the funding for the construction of improvements and facilities to enlarge the capacity of the Regional System, as necessary to address the direct and cumulative environmental effects generated by new development projects described and defined herein. The purpose of the TUMF is to fund those certain improvements to the Regional System as identified in the 2018 Nexus Study.

Section 3. AUTHORITY. This ordinance is established under the authority of Article 11, Section 7 of the California Constitution and Title 7, Division 1, Chapter 5 of the California Government Code, beginning with Section 66000 et seq., which provides that a local agency may establish fees for the purpose of defraying all or a portion of the cost of public facilities related to development projects.

Section 4. DEFINITIONS. As used in this ordinance, the following words, terms and phrases shall have the following meanings:

- a. "Average Weekday Trips". The average number of daily vehicle trips to or from a designated land use Monday through Friday.
- b. "Change of Use". Any change in the use of an existing building that results in the increase of vehicular trips.
- c. "Coachella Valley". The TUMF collection boundary area as described by the Coachella Valley Association of Governments Transportation Uniform Mitigation Fee Handbook, as may be amended from time to time.
- d. "Coachella Valley Association of Governments" or "CVAG". The legal entity that manages and administers the TUMF in accordance with the laws of the State of California.

e. "Development". 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.

f. "Employee Housing". Any housing which meets the definition of "employee housing" as defined in the California Employee Housing Act (EHA), Health and Safety Code section 17000 et seq.

g. "Industrial". Land uses including all light manufacturing, industrial parks, warehouses, mini-warehouses, greenhouses and utilities.

h. "Low and Lower Income Housing". 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. Single-family homes are also known as One Family Dwellings as defined in Ordinance No. 348, which may be amended from time to time.

i. "Multi-Family and Mobile Home Parks". Land uses typically include, but are not limited to, high-rise and low-rise apartments, high-rise and low-rise condominiums, and mobile home parks. A Mobile Home Park is a planned development designed to accommodate mobile homes for recreational vehicles on individual pad sites, for lease or rent. Multi-Family are also known as Multiple Family Dwellings, as defined in Ordinance No. 348, which may be amended from time to time.

j. "Nursing/Congregate Care". Nursing/Congregate Care uses provide a group of rooms with shared living quarters for unrelated persons. Occupants of Nursing/Congregate Care uses live and eat together with other persons in the building sharing at a minimum communal kitchen, dining and living facilities. Land uses typically include nursing homes, group homes, correctional facilities, mental hospitals, college dormitories, military barracks, missions, and shelters. Nursing/Congregate Care are also known as Community Care Facilities, as defined in Ordinance No. 348, which may be amended from time to time.

k. "Office". Land uses including general office buildings, corporate headquarters, public facilities, medical office buildings, research centers, office parks, business parks, insurance offices, trade schools and other training centers.

l. "Regional System". The regional system of roads, streets and arterials, and highways identified by CVAG in its 2016 Transportation Project Prioritization Study ("TPPS") to accommodate growth in the Coachella Valley to the year 2040.

m. "Retail". All sales tax producing retail related uses. Retail uses include retail, general merchandise, specialty retail centers, discount stores, hardware or paint stores, beauty salons, supermarkets, wholesale markets, apparel stores, furniture stores, and automotive parts or supply stores.

n. "Single-Family Detached", also known as a One Family Dwelling as defined in Ordinance No. 348. A home on an individual lot, including subdivisions with public streets, or dwelling units within a planned unit development. Single-Family Detached also includes mobile homes not in a Mobile Home Park.

o. "Transit-Oriented Development" or "TOD". A development project consisting of residential use or mixed use, where not less than fifty (50%) percent of the floor space is for residential use if located within one-half mile of a transit station and with direct walking access to the transit station, within one-half mile of convenience retail uses including a store that sells food, and with a maximum number of parking spaces as required by Ordinance No. 348 as may be amended from time to time.

p. "Trip Generation Rate". The number of average weekday trips generated by a particular land use.

Section 5. APPLICABILITY. The provisions of this ordinance shall apply only to new Developments that have yet to receive both final discretionary approval and issuance of a building permit or other development right, and to any reconstruction or new use of existing buildings that results in a Change of Use as defined herein.

Section 6. ESTABLISHMENT AND CALCULATION OF THE TUMF.

a. There is hereby established a Transportation Uniform Mitigation Fee ("TUMF"), the proceeds of which shall be placed in a trust fund established by CVAG and used to construct transportation improvements, as well as provide the additional capacity needed by the year 2040 to accommodate the traffic generated by the development of land in the County and in the entire Coachella Valley.

b. Trip Generation Rates shall be calculated based upon the following measurements:

1. Residential: Single-Family Detached, Multi-Family and Mobile Home Parks, and Nursing/Congregate Care uses are calculated per dwelling unit. Transit-Oriented Developments receive a 15% discount on the calculated fee.
2. Non-Residential: Industrial, Office and Retail uses are calculated per 1,000 square feet.
3. Fuel Dispensers for Gas and Electric: Fuel dispensers for gas and electric vehicles are calculated per dispensing unit.
4. Golf Courses: Golf courses are calculated per acre.
5. Hotels: Hotels, resort hotels, and motels are calculated per room.

c. Fee Adjustments.

1. Periodic Fee Adjustment. The Transportation Uniform Mitigation Fee Schedule set forth in Section 7 of this Ordinance may be periodically reviewed and the amounts adjusted by CVAG as set forth in CVAG's Coachella Valley Association of Governments Transportation Uniform

Mitigation Fee Handbook, as may be amended from time to time. To accomplish this, CVAG conducts a Nexus Study to lawfully link projected growth in the Coachella Valley to the current Transportation Project Prioritization Study (TPPS) Program. CVAG has utilized a five-year period for its updates, seeking to maintain the fee level at a fair and equitable level as conditions change. The Board of Supervisors shall then consider the adjusted amount and amend this ordinance accordingly.

2. Annual Fee Adjustment. In addition to the Periodic Fee Adjustment provided above, CVAG shall provide the County with an annual inflation factor to adjust the Transportation Uniform Mitigation Fee Schedule set forth in Section 7 of this Ordinance as set forth in CVAG's Coachella Valley Association of Governments Transportation Uniform Mitigation Fee Handbook, as may be amended from time to time. The inflation factor shall be the same one utilized by the Coachella Valley Local Development Mitigation Fee, based on the Riverside-San Bernardino-Ontario Consumer Price Index (CPI). Such CPI will be reviewed annually by the Executive Committee of CVAG, which will determine whether or not to apply the inflation factor to ensure 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 Board of Supervisors shall then consider the adjusted amount and either amend this ordinance or adopt a resolution, as appropriate.

d. No entitlement or permit shall be approved unless payment of the TUMF is a condition of approval for any such entitlement or permit. The mitigation fee shall be paid to the County Transportation and Land Management Agency ("TLMA").

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

f. TUMF 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 ("Fund"). All interest or other earnings of the Fund shall be credited to the Fund.

Section 7. TUMF SCHEDULE. The TUMF shall be paid for each residential unit, Development project or a portion thereof to be constructed, in the amounts specified for each category as defined herein and shown below commencing on the effective date of this ordinance:

- a. The following TUMF schedule is effective through December 31, 2022:

Land Use Category:	Fee per Unit:
<u>Residential</u>	
Single-Family Detached	\$2,358/dwelling unit
Multi-Family and Mobile Home Parks	\$1,358/dwelling unit
Nursing/Congregate Care	\$505/dwelling unit
Transit Oriented Development	15% discount
Low Income Housing	Exempt from Fee
Employee Housing	Exempt from Fee
<u>Non-Residential</u>	
Industrial	\$1,240/1,000SF
Office	\$2,440/1,000SF
Retail	\$6,135/1,000SF
Fuel – Gas	\$8,790/dispenser
Fuel – Electric	\$93/dispenser
Golf Course	\$939/acre
Hotel	\$3,583/room

The following TUMF schedule is effective beginning on January 1, 2023:

Land Use Category:	Fee per Unit:
<u>Residential</u>	
Single-Family Detached	\$2,550/dwelling unit
Multi-Family and Mobile Home Parks	\$1,470/dwelling unit
Nursing/Congregate Care	\$545/dwelling unit
Transit Oriented Development	15% discount
Low Income Housing	Exempt from Fee
Employee Housing	Exempt from Fee
<u>Non-Residential</u>	
Industrial	\$1,340/1,000SF
Office	\$2,640/1,000SF
Retail	\$6,640/1,000SF
Fuel – Gas	\$9,515/dispenser
Fuel – Electric	\$100/dispenser
Golf Course	\$1,015/acre
Hotel	\$3,880/room

- b. The fees shall be calculated according to the calculation methodology set forth in the CVAG TUMF Mitigation Fee Handbook, Effective November 1, 2018, as amended from time to time.

Section 8. EXEMPTIONS. The following Developments are exempted from payment of the fee required by this ordinance:

- a. Low and Lower-Income Residential Housing. The following requirements apply:
 1. Exemptions granted for Low and Lower-Income Residential Housing must be reported in the County's monthly TUMF report.
 2. For rental housing, the units shall be made available, rented and restricted to low-income households (as defined in Health and Safety Code section 50079.5 and section 50053 as may be amended from time to time) at an affordable rent for a period of at least fifty-five (55) years after the issuance of a certificate of occupancy for new residential development. A restrictive covenant shall be recorded with the County and shall run with the land for the term of fifty-five (55) years to qualify for the exemption.
 3. For "for-sale" housing units, the units shall be sold to persons or families of low income (as defined in Health and Safety Code section 50093 as may be amended from time to time) at a purchase price that will not cause the purchaser's monthly housing cost to exceed affordable housing cost (as defined in Health and Safety Code section 50052.5 as may be amended from time to time). Affordable units that are "for-sale" housing units shall be restricted to ownership by persons and families of low income for at least forty-five (45) years after the issuance of a certificate of occupancy for the new residential development. A restrictive covenant shall be recorded with the County and shall run with the land for the term of forty-five (45) years to qualify for the exemption.

- b. 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.

- c. Employee Housing. The following requirements apply:
 1. The Employee Housing facility must be listed as active on the California Department of Housing and Community Development (HCD) registry. In the event that an Employee Housing facility is no longer active on the HCD registry, the TUMF shall immediately be due at the scheduled rate.
 2. A restrictive covenant shall be recorded with the County and shall run with the land requiring the Employee Housing facility to be operated in accordance with the EHA, Health and Safety Code section 17000 et seq.
 3. In the County's monthly TUMF report to CVAG, the County shall report any exemptions granted for Employee Housing facilities.
 4. Annually, the County and CVAG shall determine whether any

facility that was granted a TUMF exemption for Employee Housing remains on the HCD registry, as required, and still qualifies for this TUMF exemption.

Section 9. CREDITS.

a. Where a developer improves those regional streets identified in Section 11 of this ordinance beyond the requirements established in Section 9(b), the developer shall receive a credit against the TUMF. 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 TUMF 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 11 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 TUMF 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 developer's total TUMF, 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 10. APPEAL PROCESS. An applicant who disputes the TUMF may file a written notice of appeal with the Executive Committee of CVAG within 90 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 11. LIST OF PROJECTS ON THE REGIONAL SYSTEM.

a. Transportation projects are those which, when completed, will together mitigate the traffic impacts of future growth in the year 2040 throughout the Coachella Valley. The Transportation Uniform Fee 2018 Fee Schedule Update Nexus Study Report 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.

b. CVAG shall annually establish priorities for the Regional System projects based on the criteria set forth in the "Transportation Project Prioritization Study (TPPS) 2016 Update Final Report," as amended from time to time and incorporated herein by this reference. The TPPS is used by CVAG as a basis to prioritize arterial road segments and to make decisions in improvement funding, and is updated by CVAG on a regular basis.

c. The TUMF 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 12. DEVELOPMENT AGREEMENT 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 TUMF 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 13. 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 14. This ordinance shall take effect sixty (60) days after its adoption.

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)
673.3 Item 3.65 of 03/16/2010 (Eff: 05/14/2010)
673.4 Item 19.3 of 08/27/2019 (Eff: 10/25/2019)
673.5 Item 19.2 of 11/02/2021 (Eff: 12/31/2021)
673.6 Item 19.2 11/01/2022 (Eff: 12/30/2022)