

Western Nevada County
Regional Transportation Mitigation Fee
ADMINISTRATIVE PLAN

June 30, 2008

**PREPARED BY THE
NEVADA COUNTY TRANSPORTATION COMMISSION
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INTRODUCTION

Future development within western Nevada County will result in traffic volumes exceeding the capacity of the REGIONAL SYSTEM of roads, streets, and highways (the "REGIONAL SYSTEM") as it presently exists (see Regional Transportation Mitigation Fee (RTMF) 2008 Fee Schedule Update Nexus Study Report). The REGIONAL SYSTEM needs to be improved to accommodate anticipated future growth. Current funds are inadequate to construct the REGIONAL SYSTEM needed to avoid the unacceptable levels of traffic congestion and related adverse impacts.

The RTMF Program will provide significant additional funds from new development to make improvements to the REGIONAL SYSTEM, complementing local transportation fee programs and other funding sources. By adopting a fee on new development in the region, local agencies can establish a mechanism by which developers will effectively contribute their "fair share" toward sustaining the REGIONAL SYSTEM. This is a twenty-two year program and will be influenced by a variety of market factors that could cause a shortfall or surplus in the revenue projections. The RTMF Program shall be reviewed at a minimum of five year intervals to ensure the integrity of the program with the first review occurring not later than 2013. The program is not designed to be the only source of revenue to construct the identified facilities, and it will be necessary for matching funds to be provided from a variety of available sources.

With approval from both the local jurisdiction imposing the fees and the Nevada County Transportation Commission (NCTC), RTMF requirements may be met by paying cash, building eligible facilities or through public financing, such as Community Facility Districts and Assessment Districts, or private financing vehicles consistent with local jurisdiction policies.

General RTMF Program parameters, definitions, and procedures are described in the RTMF Program resolutions adopted by participating western Nevada County jurisdictions. The NCTC is designated as the RTMF Program Administrator, and as such, will work closely with member jurisdictions to coordinate transportation expenditure programs to maximize the effectiveness of future transportation investments.

The term "Administrative Plan" means this Administrative Plan for the Western Nevada County RTMF Program prepared by NCTC dated June 30, 2008. This Plan may be amended from time to time, provided that any material amendments to this RTMF Administrative Plan shall be approved by the NCTC Executive Committee (described in Section 8.A.2). This Administrative Plan serves as the guideline to implement the RTMF Program and will be amended as needed to address changing conditions over the life of the program.

1. **Purpose** - The purpose of this Administrative Plan is to provide those jurisdictions that are participants in the RTMF Program with guidelines and policies for implementation and administration of the RTMF Program.

RTMF Program funds may only be used for capital expenditures associated with the REGIONAL SYSTEM consistent with the RTMF Nexus Study. These purposes include expenditures for the engineering and design costs, environmental documentation, right-of-way acquisition, construction, construction management, and administrative costs.

2. **Authority** - The RTMF Program has been developed pursuant to and consistent with authority provided in the requirements of California Government Code Chapter 5, Section 66000-66008, Fees for Development Projects (also known as California Assembly Bill 1600 or the Mitigation Fee Act), which governs the assessment of development impact fees in California.
3. **Participation and Imposition of the RTMF Program Fee** - Participating jurisdictions in western Nevada County are responsible for collecting the fees on new development within their jurisdictions. To be considered a participant in the RTMF Program, a jurisdiction must

adopt the RTMF Program no later than September 1, 2008, and adopt any amendment of the RTMF Program within ninety (90) days of approval by the Executive Committee, unless otherwise directed by the Executive Committee. Participating jurisdictions shall not modify the RTMF Program, except to meet local municipal codes and references. Further, in order to be considered a participating jurisdiction, local jurisdictions shall collect the full RTMF and transmit the fee to NCTC as provided herein.

A. Land Uses Subject to the RTMF - The RTMF 2008 Fee Schedule Update Nexus Study Report identifies the land uses subject to the RTMF Program by two types, residential and non-residential. For each land use type, Figures 1 and 1A display additional subcategories of residential and non-residential land uses and an average daily trip rate for each subcategory. The average daily trip rates are based on a review of land use categories and trip generation rates in the “Trip Generation Manual, 7th Edition” prepared by the Institute of Transportation Engineers (ITE) (see Figure 1).

For the RTMF obligation, a residential dwelling unit is defined as a building or portion thereof used by one (1) family and containing one (1) kitchen, which is primarily designed for residential occupancy. Residential dwelling units may include, but are not limited to, detached houses, apartment homes, condominiums, and mobile homes. Mobile homes located in a mobile home park will be calculated as multi-family dwelling units and mobile homes located on individual lots will be calculated as single-family dwelling units.

For the purpose of calculating the RTMF obligation, non-residential development is defined as retail, service, and industrial development that is designed primarily for use as a business and is not intended for residential occupancy or dwelling use. The applicable non-residential land use category for a non-residential development is determined by the predominate use of the building or structure associated with the new development, and may be related to the underlying land use zoning of the new development site.

Retail developments with an average daily trip generation rate of thirty-five (35) or fewer trips per 1,000 square feet are included in the Retail-Low category. Retail developments with an average daily trip generation rate between thirty-six (36) and sixty-six (66) trips per 1,000 square feet are included in the Retail-Medium category. Retail developments with an average daily trip generation rate greater than sixty-six (66) trips per 1,000 square feet are included in the Retail-High category.

Specialized land uses not included in the RTMF categories may have unique trip generation rates, and in these cases, the city or county may require a project-specific traffic study, or will calculate the appropriate fee based on the National Cooperative Highway Research Program (NCHRP) Report 365, the Trip Generation Manual (latest edition), and local or regional traffic model data that is available to the jurisdiction.

Figure 1

Residential Land Uses

Single Family Residential:	9.57 per Dwelling Unit
Multi-Family Residential:	6.72 per Dwelling Unit
Retirement/Senior Residential:	3.48 per Dwelling Unit

**Figure 1A
Non-Residential Land Uses¹**

	Retail-Low	Retail-Medium	Retail-High
RTMF Trip Generation Rate per 1,000 sq. ft.	28.20	47.19	127.15
ITE Trip Rate Range	Retail uses generating less than 35 trips per 1,000 sq. ft.	Retail uses generating between 35 and 66 trips per 1,000 sq. ft.	Retail uses generating more than 66 trips per 1,000 sq. ft.
	Office/Service	Industrial	
RTMF Trip Generation Rate per 1,000 sq. ft.	12.09	4.96	
Sample Uses	General Office Office Park Business Park Hospital Medical-Dentist Office Building Clinic	General Heavy Industry Mini-Storage Manufacturing Warehousing Industrial Park General Light Industry Truck Terminal	

Note 1: Median weekday daily trip generation data derived from ITE Trip Generation (Seventh Edition), 2003

- B. Calculation of the RTMF** - Each participating jurisdiction shall calculate and collect the RTMF for projects as outlined in this Administrative Plan. The RTMF shall be calculated using the most current fee schedule in effect at the time the fee is due.

Figure 2 is a form to calculate the amount of RTMF to be charged to development projects. The steps listed below describe how to complete the fee calculation:

1. Fill in the information requested about the project at the top of the sheet.
2. Select the land use category for the project. The column on the far left below the project description identifies the land use categories covered by the RTMF.
3. The next column to the right requires identification of units or square footage associated with the project. Residential projects are described in terms of number of dwelling units (DU). Non-residential projects are described according to the number of square footage in the project, expressed in thousands of square feet (KSF).
4. Multiply the number of units or KSF applicable to the project times the Trip Generation Rate. The product of the multiplication should be entered into the column titled "Total Trips." The result of the multiplication is the number of total daily trips applied to the project.
5. Multiply the total daily trips by the appropriate "Cost Per Trip" (\$439/trip for residential and \$110/trip for non-residential) for the project and enter the product in the column labeled "Total".
6. Add the amounts in the Totals column and enter the sum on the "Total Mitigation Fees" line.
7. Enter any credits on the next line labeled "Credits Applied".
8. Subtract the credits, if any, from the "Total Mitigation Fee" and enter the amount on the line labeled "Net Mitigation Fee." This is the amount of RTMF for the project.

- C. Expiration Of Building Permits** - If a building permit should expire, is revoked, or is voluntarily surrendered, and is therefore voided and no construction or improvement of land or construction has commenced, then the applicant is entitled to a refund of the RTMF collected, which was paid as a condition of approval, less administrative costs [\$500 or ½% of fee amount, whichever is greater]. The administrative cost shall be used to offset the cost of collection, accounting, and refund. The fee payer shall submit an application for a refund to the local jurisdiction who will forward it to NCTC for processing.

The applicant must pay the appropriate RTMF in full if he reapplies for the permit.

If a development project is partially under construction at the time of the effective date of the RTMF Program, the RTMF shall be paid only on that portion of the development for which a building permit is next issued.

D. Exemptions - The following development shall be exempt from the RTMF:

1. The reconstruction of, or addition to, a building, as long as the building continues a use in the same category as the prior use, and generates the same, or fewer, trips as the original building.

It should be noted that the Regional Transportation Mitigation Fee is in addition to any other fees, conditions, or exactions for on-site and off-site improvements imposed on a project according to state law, local ordinances, or administrative policy. In addition, the developer of a project shall not be entitled to any credits for such fees, conditions or exactions.

Figure 2

**Regional Transportation Mitigation Fee
Calculation Form**

Owner	Contractor
Permit Reference Number	Permit Type
Property ID Number	Job Address

Date _____

Land Use Category	Units		Daily Trips Per Unit		Total Trips		Cost Per Trip (based on land use type)		Total
RESIDENTIAL									
Single Family Residential	_____	X	9.57	=	_____	X	\$439	=	\$ _____
Multiple Family Residential	_____	X	6.72	=	_____	X	\$439	=	\$ _____
Retirement/Senior Residential	_____	X	3.48	=	_____	X	\$439	=	\$ _____
Other Residential (specify):	_____	X	_____	=	_____	X	\$439	=	\$ _____
<hr/>									
NON-RESIDENTIAL									
	KSF								
Retail – Low	_____	X	28.20	=	_____	X	\$ 110	=	\$ _____
Retail – Medium	_____	X	47.19	=	_____	X	\$ 110	=	\$ _____
Retail – High	_____	X	127.15	=	_____	X	\$ 110	=	\$ _____
Office/Service	_____	X	12.09	=	_____	X	\$ 110	=	\$ _____
Industrial	_____	X	4.96	=	_____	X	\$ 110	=	\$ _____
Other Non-Residential (specify):	_____	X	_____	=	_____	X	\$ 110	=	\$ _____

Cost per trip by land use type:

Residential : \$439

Non-Residential \$110

Total Mitigation Fees	\$ _____
Credits Applied	\$ _____
Net Mitigation Fees	\$ _____

4. **Allocation of Funds** - RTMF funds shall be distributed in accordance with Executive Committee actions, the Nexus Study, this Administrative Plan, and any future amendments thereto.
5. **Administration of the RTMF** - NCTC shall administer the RTMF Program as described in this Administrative Plan adopted by participating jurisdictions.
6. **Administration of Credits** - Each jurisdiction shall be responsible for the administration of RTMF credit agreements. Each jurisdiction shall transmit all RTMF credit agreements to NCTC within sixty (60) days of execution by that jurisdiction. NCTC may administer credit agreements upon written request from that jurisdiction. The credit agreements shall be in accordance with the following:

A. Developer Credits - Any RTMF credit shall be used first by the developer to offset any obligation of the developer to pay RTMF impact fees of the same development project.

- Credits may not be transferred or sold to other development projects.
- Developers must exhaust all credits before they are eligible for reimbursements.
- Credits shall run with the sale of the land.

If a developer constructs improvements identified on the REGIONAL SYSTEM, the developer shall receive credit for all costs associated with the improvements based on approved project cost estimates for the REGIONAL SYSTEM.

The amount of the development fee credit shall not exceed the maximum amount determined by the most current project cost estimates for the REGIONAL SYSTEM, or actual costs, whichever is less. This shall be known as the maximum RTMF credit. The maximum RTMF credit shall be determined based on approved Improvement Plans and after Conditions of Approval have been determined. The maximum RTMF credit shall identify, at a minimum, the facility, the dimensions of the facility, the number of lanes, and applicable project cost estimates as identified in the adopted Nexus Study.

Should the NCTC Executive Committee determine that a jurisdiction granted credits exceeding the maximum RTMF credit, that jurisdiction shall provide NCTC payment in the amount equal to the excess credit amount.

B. Improvement Agreements - If a developer constructs an improvement included in the RTMF Capital Improvement Program (CIP), prior to receiving any credit, a three party written credit agreement shall be entered into with NCTC, the applicable local jurisdiction and the developer.

C. Local Development Impact Fees and Other Funding Programs - The local jurisdiction shall compare facilities in local fee programs against the REGIONAL SYSTEM and eliminate any overlap in its local fee program.

7. **Administration of Reimbursements** - Local jurisdictions/agencies and developers are eligible for reimbursement for construction of RTMF facilities. The processes for both are different and are described below.

- A. Developer Reimbursements** - Each jurisdiction shall be responsible for the administration of reimbursement agreements.

Should the developer construct REGIONAL SYSTEM improvements in excess of the RTMF fee obligation, the developer may be reimbursed based on actual costs or the approved project cost estimates, whichever is less at the time of the agreement. A development that is exempt from paying the RTMF is not eligible for a reimbursement. Reimbursements shall be made through an agreement between the developer and the local jurisdiction, and are contingent upon funds being available. In all cases, reimbursements under such agreements must coincide with construction of the transportation improvements as scheduled in the Five-Year Transportation Improvement Program (TIP) adopted annually by NCTC.

The developer may enter into a reimbursement agreement with the jurisdiction to reimburse the developer/owner for the direct and verifiable costs of constructing improvements to the REGIONAL SYSTEM when all of the following conditions are met:

1. All available credits are exhausted.
2. The improvements received prior approval from the jurisdiction and NCTC Executive Committee based on the review of the RTMF project priority list.
3. The jurisdiction and NCTC Executive Committee have reviewed and approved the scope of the project to be constructed.

In no event shall the developer be reimbursed for improvements to the REGIONAL SYSTEM in excess of the most current approved project cost estimates for the RTMF at the time of the agreement.

- B. Local Jurisdictions/Agencies:** In such cases where a local jurisdiction constructs RTMF facilities, it is eligible for reimbursement up to the maximum share identified in the Nexus Study or actual cost whichever is less, in accordance with the prioritization schedule in the adopted TIP. Local jurisdictions are required to enter into a reimbursement agreement with NCTC in order to be eligible to receive RTMF funds from NCTC.

8. Administrative Responsibilities

- A. Regional Administration** - As set forth in Section 5 above, NCTC is designated as the RTMF Program Administrator. As Administrator, NCTC will receive all fees generated from the RTMF as collected by local jurisdictions. NCTC shall invest, account for and expend such fees in accordance with this Administrative Plan and applicable state laws. Exhibit "A" provides a flow chart of the administrative decision making process.

1. **The NCTC Executive Director** - Reporting to the NCTC Executive Committee, the Executive Director shall be responsible for the following RTMF Program activities:
 - a. Administration of the RTMF Program, including development of credit agreements, fee collection process and processing Program appeals.
 - b. An independent fiscal audit conducted to report on the evidence that the expenditure of funds collected is in accordance with the Mitigation Fee Act. The audit shall be presented to the Executive Committee and made available to the public.

- c. Establishment and management of the "RTMF Program Trust Fund" for the purposes of depositing RTMF revenues and income interest earned on Trust Fund deposits.
- d. Preparation of an Annual Report for consideration by the Executive Committee detailing the status of the RTMF Program including, but not limited to, fees collected and disseminated; capital projects planned for, prioritized, and built; reimbursement and credit agreements; appeals; and recommendations for RTMF Program adjustments.
- e. Preparation of periodic comprehensive RTMF Program review reports that provide, in concert with requirements of the California Mitigation Fee Act, an analysis of the RTMF Program, including review of the various Nexus Study inputs and assumptions, and preparation of recommendations on potential RTMF Program revisions for consideration by the Executive Committee. Such reports may include, but are not limited to recommended fee adjustments based on changes in the facilities required to be constructed, and revenues received pursuant to the Program.
- f. Preparation of technical studies/analysis required to select and prioritize REGIONAL SYSTEM projects.
- g. Development of a Strategic Plan that identifies long term planning goals and objectives for implementation of the RTMF Program.
- h. Development of a Five-Year TIP that identifies projects that are scheduled and funded for construction over a specified period of time and is reviewed on an annual basis. (See Exhibit "C").
- i. Other related activities as directed by the Executive Committee.

2. **The NCTC Executive Committee** - The Executive Committee shall be comprised of one member of NCTC representing Nevada County and the NCTC members representing Grass Valley and Nevada City. The Executive Committee has final authority and shall be responsible for reviewing and acting on recommendations for project selection and prioritization of projects in the RTMF CIP, Strategic Plan, and the TIP. The Executive Committee shall review and consider recommendations on projects from the Administrative Committee (see #4 below) and the NCTC Technical Advisory Committee (TAC) (see #3 below). The Executive Committee shall also be responsible for approval of this Administrative Plan and any subsequent amendments thereto. From time to time the Executive Committee shall recommend changes to the Program for consideration by participating jurisdictions. All actions by the Executive Committee must be approved by all three members in order to be in force. If there is a dispute at the Executive Committee level regarding project prioritization of a specific project(s) and a consensus cannot be reached, that project shall be tabled until such time as new information is presented and the matter can be resolved.

In developing recommendations on RTMF projects for consideration by the Executive Committee, NCTC staff and TAC shall work to coordinate compatibility with local project priorities and schedules of area transportation improvements.

3. **The NCTC TAC** - The TAC shall review the technical documents and recommendations for RTMF projects. The TAC shall forward any recommendations to the Executive Committee for its consideration. The TAC shall also provide additional assistance to the RTMF Program as requested by the Executive Committee.

4. **The Administrative Committee** - The Administrative Committee shall be comprised of the chief administrative officer, public works director or designee from the three participating jurisdictions, and NCTC's Executive Director. The Administrative Committee shall be responsible for the following:
 - a. Develop objective criteria for project selection and prioritization, including, but not limited to, the following factors: traffic safety issues potentially created by growth, regional significance, availability of matching funds, mitigation of congestion created by new development, system continuity, geographic balance, project readiness, and completed projects with reimbursement agreements.
 - b. Provide additional assistance to the RTMF Program as requested by the Executive Committee and/or the NCTC TAC.
 - c. Prepare the Strategic Plan.
 - d. Prepare the Five-Year TIP which will be reviewed annually.
 - e. Review and recommend changes in project priorities to the NCTC TAC and Executive Committee.
 - f. Select a lead agency for each of the projects in the CIP.
 - g. Review the Annual Report prepared by NCTC.
 - h. Review and revise the REGIONAL SYSTEM as may be necessary (at a minimum every five years).
 - i. Review and revise Project Cost Estimates for the REGIONAL SYSTEM projects as may be necessary (at a minimum every five years).

5. **RTMF Program Updates** - The NCTC Executive Committee shall undertake a review of all components of the RTMF Program in accordance with AB 1600 and other applicable laws, and, if necessary, recommend Program amendments and/or adjustments. Amendments to the Administrative Plan will be subject to the approval of the NCTC Executive Committee. Amendments required to the RTMF Program shall be approved by the three participating jurisdictions acting on recommendations provided by the Executive Committee. The review shall consider whether adjustments to future administration costs are needed. The RTMF program is subject to annual inflation adjustments, periodic updates, and five year comprehensive updates. The purpose of each update is described in this section.

- a. **Annual Inflation Adjustment** - The RTMF shall be adjusted annually to account for the inflation of construction, right-of-way acquisition, and design costs.

It is recommended that in March of each calendar year, the RTMF should be reviewed and fee increases should be recommended by the TAC based on the average of the San Francisco Construction Cost Index as reported in the Engineering News Record 20-City Construction Cost Index for the 12 month period ending December of the prior year.

For right-of-way cost adjustments, it is recommended that NCTC utilize the "Existing Home Price Trend" compiled by the National Association of Realtors (NAR) to track the median sales price of existing single family homes in metropolitan markets across the country.

b. Periodic RTMF Update - The RTMF is subject to periodic updates based on changes in developable land, cost estimates, or outside funding sources. The TAC will periodically review the costs and fees to determine if any updates to the fees are warranted. During the periodic reviews, the TAC will analyze the following items:

- Changes to the required facilities listed in the Capital Improvement Program.
- Changes in the cost to update or administer the fee.
- Changes in costs greater than inflation.
- Changes in assumed land uses.
- Changes in other funding sources.

Any changes to the RTMF, based on the periodic update, will be presented to the Executive Committee for approval and recommendation to the cities and county.

During a periodic update, the Executive Committee may change the funding priority of a project. Such a change will be based on level of service evaluations, the location and timing of new development that will add significant housing, or jobs, or other considerations. RTMF revenues may be spent on any of the projects identified in the CIP without regard to the location of the project and the location of collected fees.

c. Five-Year Comprehensive Update - RTMF funds will be deposited, invested, and expended in accordance with Government Code Section 66006. The fifth year following the first deposit into the RTMF account or fund and every five (5) years thereafter, NCTC staff will provide the cities and county with information required to make all of the following findings with respect to that portion of the account or fund remaining unexpended:

- Identify the purpose for which the RTMF is to be used.
- Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
- Identify all sources and amounts of funding anticipated to complete financing of incomplete CIP projects.
- Designate the approximate dates that the RTMF funding referred to in the above paragraph is expected to be deposited in the appropriate account or fund.

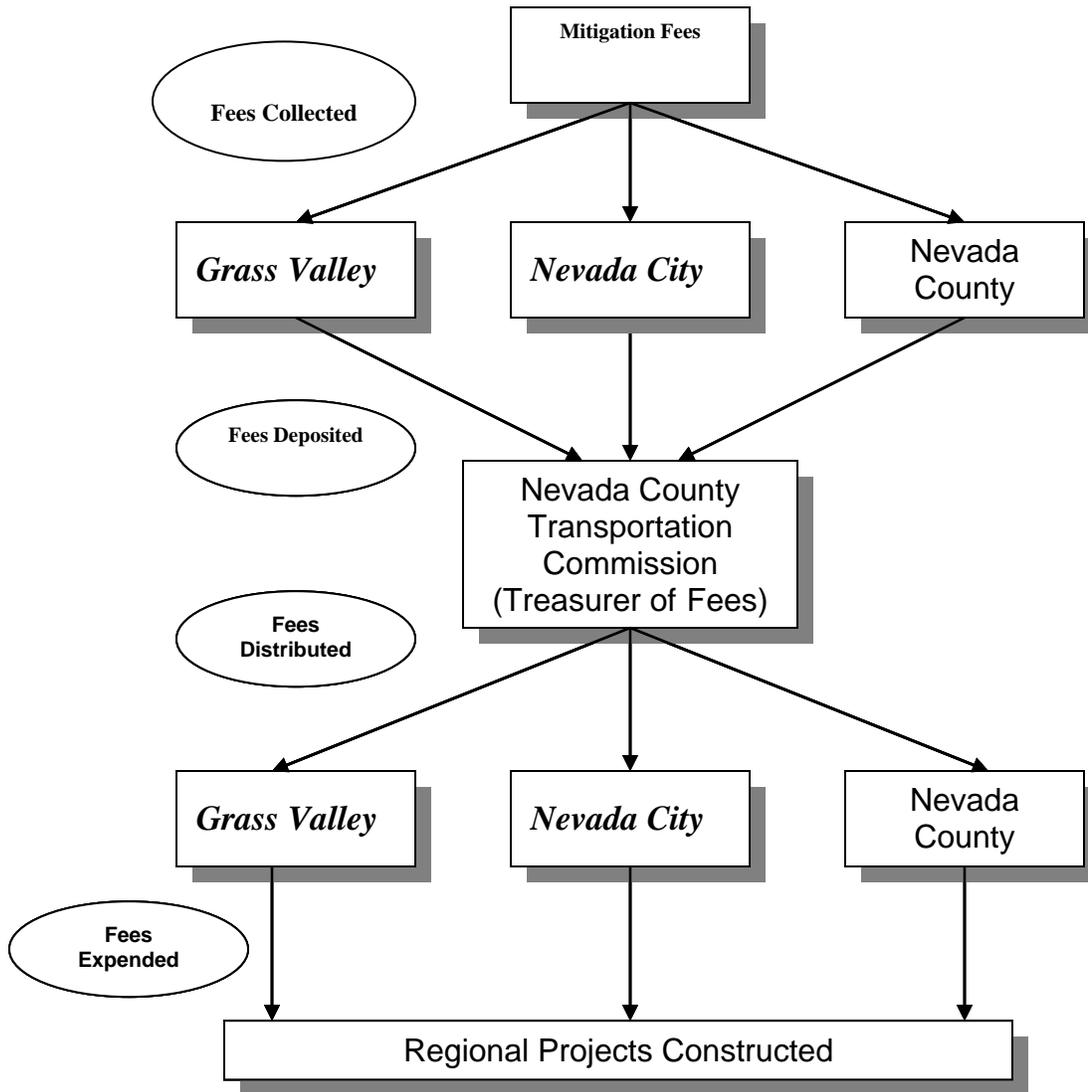
The cities or county must refund the unexpended or uncommitted revenue portion of the RTMF for which a need cannot be demonstrated in the above findings, unless the administrative costs exceed the amount of the refund.

6. Disposition of RTMF Revenues - The fees that are paid to the County of Nevada and the cities of Grass Valley and Nevada City are deposited into a trust account for which the NCTC is the treasurer. The three local jurisdictions are then responsible for implementing and constructing the projects approved by the NCTC Executive Committee. They are reimbursed by NCTC for the cost incurred up to, but not to exceed, the project cost estimates in the approved CIP, upon submittal of valid invoices. A graphical illustration of the fee collection and disposition process may be found in Figure 3.

7. **Annual Program Accountability** - An annual report will be produced which will show the current revenue balance for the RTMF Program, as well as provide a status of the REGIONAL SYSTEM projects to be constructed with the fee revenues. In addition, annual fiscal audits by an independent accounting firm are required by law to examine the fiscal responsibility of local governments. The NCTC is subject to an annual financial audit. The annual report and the annual financial audit will serve as the accountability mechanisms for the collection and use of the RTMF revenue.

8. **Program Termination** - Upon termination of the RTMF program, any surplus money in the RTMF account shall be returned to Grass Valley, Nevada City, and Nevada County in proportion to the contributions made by each entity.

Figure 3
Flow of Mitigation Fees



- B. Local Administration** - The RTMF program will be adopted by Grass Valley, Nevada City, and Nevada County through ordinances authorizing collection of the RTMF, and through resolutions establishing the RTMF. The RTMF will be effective no sooner than sixty (60) days following final action by each local agency on the ordinances authorizing collection of the RTMF, and on the resolutions establishing the RTMF. The local ordinances or resolutions should reference the automatic inflation adjustment process discussed in this Administrative Plan.

The local jurisdictions are responsible for collecting the RTMF. Fees collected and a corresponding activity report are to be transmitted to the Executive Director of NCTC within thirty (30) days of the fiscal year quarter in which the fees were collected. In accordance with the Mitigation Fee Act, NCTC will deposit, invest, account for, and disburse the transmitted fees. Participating jurisdictions are required to transmit reports as set forth below to NCTC which shall include, but not be limited to, the following information regarding the RTMF Program status:

1. **Quarterly Remittance/Activity Reports** - Within thirty (30) days of the end of the quarter in which RTMF was collected, the participating jurisdiction shall submit the standard Remittance/Activity Report to NCTC containing information necessary for NCTC to determine the total amount of fees collected within each fee category as it relates to the number of building permits, certificates of occupancy, or final inspections issued during the same period of time. The information in the Remittance/Activity Report shall include: the name of the developer or payee, project address, APN, total square feet or number of dwelling units, credits issued, and such other information as requested by NCTC. This information will assist NCTC in tracking new development, total revenue received, and revenue projections for purposes of program audits and program updates.

If an audit is required due to reporting and remittance irregularities, the jurisdiction will incur the cost of the audit.

9. **Administrative Costs** - The RTMF program includes the costs of program administration and comprehensive program updates. NCTC administration costs will be reimbursed on a time and material basis, but not to exceed \$10,000 per year. The total cost for comprehensive program updates during the life of the program has been set at \$400,000 or \$100,000 for each update.
10. **Appeals** - Appeals shall only be made in accordance with the provisions of this Section.
 - A. **Persons or Entities Who Have Standing to Appeal** - No person or entity shall have standing to avail themselves of this Section, except those persons or individuals who are responsible for paying the RTMF and have an unresolved appealable issue or matter.
 - B. **Appealable Issues and Matters** - No issue or matter shall be heard or reviewed under this Section 10 unless the issue or matter is appealable. An issue or matter is appealable if a qualified person or entity ("Appellant") has a good-faith dispute directly related to Appellant's Property ("RTMF Dispute") regarding (i) the amount of Appellant's RTMF obligation; (ii) the administration of RTMF Credits; (iii) exemption of Appellant's property from the RTMF Program; (iv) administration of RTMF reimbursements; or (v) RTMF refunds.

C. Appeal Process. (Exhibit "B")

1. If an Appellant has a RTMF dispute, the Appellant shall first attempt to resolve the dispute informally with the staff of the local jurisdiction. If the RTMF dispute remains unresolved after a reasonable attempt to address it at the local level, the Appellant may submit a written appeal to the NCTC Executive Director. The written appeal shall thoroughly identify the RTMF dispute. The NCTC Executive Director shall present the matter to the Administrative Committee. If the Administrative Committee determines the issue or matter is not a RTMF dispute, the written appeal shall be rejected. The Administrative Committee's decision shall be provided in writing to the Appellant.
2. If the Appellant desires further review and consideration, the Appellant must submit a written request for review to the NCTC Executive Director within five (5) days of receiving the Administrative Committee's written decision, and the RTMF dispute shall be presented to the NCTC Executive Committee within thirty (30) days of the receipt of the appeal.

At the conclusion of the thirty (30) day period, the Executive Committee shall render a written decision on the appeal. The decision of the Executive Committee shall be conclusive.

11. **CEQA** - The RTMF Program currently is a financing mechanism dependent on future actions of the NCTC Executive Committee for improvements to the REGIONAL SYSTEM. The NCTC Executive Committee and its associated committees will be prioritizing and scheduling improvements on the REGIONAL SYSTEM, and the appropriate environmental documentation shall be completed before a project can commence construction.

The RTMF Program was developed to mitigate the cumulative impacts of future growth on the REGIONAL SYSTEM. It was not developed to mitigate project-specific traffic impacts. Accordingly, the program does not relieve any development project of the responsibility to mitigate project-specific impacts identified in the environmental analysis prepared for the project. When a development project is required to construct REGIONAL SYSTEM facilities as project-specific mitigation, it shall be eligible for credit and/or reimbursement.

EXHIBIT "A"
RTMF Decision Flowchart

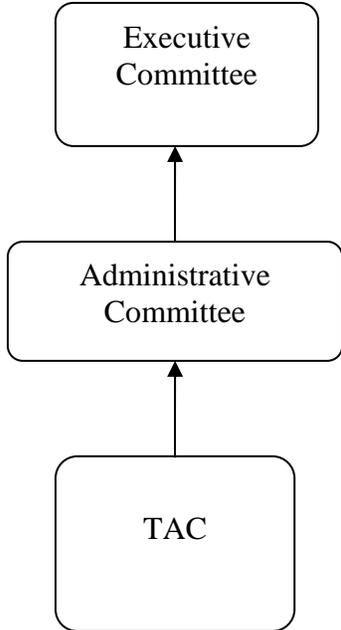


EXHIBIT "B"
RTMF Appeals Flowchart

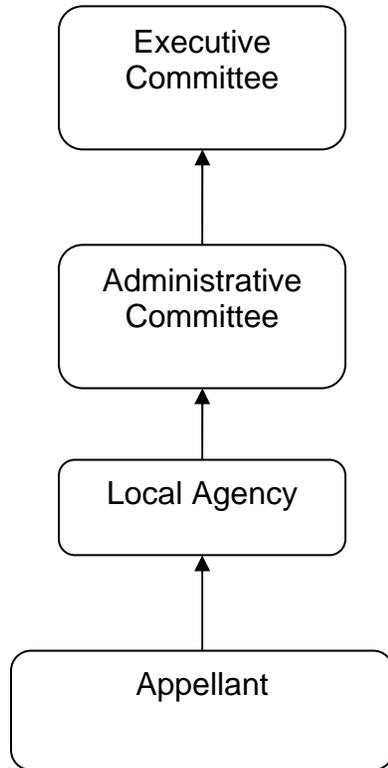


Exhibit "C"

Guidelines for Administration of Programmed Projects in the Adopted Five-Year Transportation Improvement Program

Once a Five-Year TIP is adopted by the Executive Committee, said TIPs shall be incorporated into and governed by these guidelines, the Administrative Plan, and Strategic Plan in accordance with AB 1600. Annually, NCTC staff meets with the Technical Advisory Committee to review the status of all programmed projects on the Five-Year TIP and brings the subsequent project adjustment requests to the Executive Committees for approval. The goals of the annual review process are as follows:

1. To update project cost estimates.
2. To review project status.
3. To determine the continued viability of projects.
4. To review the backlog of reimbursement projects.
5. To address local jurisdiction issues.
6. To address compliance with AB 1600.

Adjustments:

In accordance with the TIP and the original reimbursement agreement entered into with the lead jurisdiction, all approved projects' funding and schedules are directly tied to critical milestones. As such, requests to change a project's funding or schedule shall necessitate an amendment to the original agreement and the adopted TIP.

Annual Five-Year TIP adjustments could include, but are not limited to:

1. Scope of work reductions or additions.
2. Project or phase delays.
3. Project or phase cancellations.
4. New shelf-ready network projects being added as replacement projects.
5. Project or phase advances.

Levels of Approval:

A. Executive Committee

The following shall be approved and adopted by the Executive Committee as required in the Administrative Plan:

1. Annual updates to the TIP.
2. Requests to increase total RTMF funding allocations to projects in the TIP. These requests may be made by the local jurisdiction administratively outside of the annual TIP update cycles if deemed necessary by one of the participating jurisdictions and NCTC management due to unforeseen circumstances that necessitate immediate action. Such unforeseen circumstances shall include, but not be limited to, higher than expected bid prices. NCTC staff will obtain action from the Executive Committee in these cases either by calling for a Special Executive Committee meeting or through individual consultation.
3. Administrative requests to advance funds or adjust project schedules on TIP approved projects, upon the recommendation of the Administrative Committee. Such advancements are subject to:

- Jurisdiction's proof of readiness to move forward with project.
- RTMF current cash flow can support the advancement or change.

B. NCTC Executive Director

The NCTC Executive Director shall be responsible for the review and approval of the following changes to an approved TIP, including the review and approval of any agreements, for:

1. Change in lead jurisdiction, with the written consent of the transferring and accepting lead jurisdiction.
2. Cancellation of project upon request of the local jurisdiction. In the event of cancellation, all funds shall revert to the RTMF Trust Account.
3. Approval of final completion of the project. Upon notification from the jurisdiction that the Project has been completed, all unused funds programmed for that Project shall revert to the RTMF Trust Account.
4. All other administrative requests, upon consultation with the Administrative Committee.

C. Administrative Committee

The Administrative Committee shall be responsible for the review and approval of the following:

1. Requests to move funds within project categories (environmental, design, etc.) administratively, contingent upon participating jurisdiction's certification of viability of all phases.
2. Provide recommendations to the NCTC Executive Director on any other requests that are deemed administrative in nature by the Executive Director.

All administrative adjustments will be submitted to the Executive Committee as part of the next Annual Review Report for final adoption.

D. Obligating Programmed Funds

The RTMF Program has established the policy that construction projects take priority, and therefore NCTC limits the obligation of RTMF dollars. NCTC has two options by which to obligate RTMF. In both options, steps 1, 2 and 3 (Option A) or 6 (Option B) must be completed by the local jurisdiction to ensure RTMF funding can be made available for use on an eligible project. Since RTMF project funds are generally obligated on a first come first served basis, failure to follow the prescribed steps for either option may preclude a project sponsor from receiving RTMF payments for completed work until sufficient funds are available to be obligated.

Option A

Funding for a project programmed in the Five-Year TIP is not considered obligated by NCTC until certain steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted Five-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.

3. Submit **an invoice for RTMF eligible work** prior to the end of the fiscal year to obligate the project phase funding. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.
4. NCTC will obligate the entire phase of the project if there is available revenue at the time the invoice is submitted.

Option B

Funding for a project programmed in the Five-Year TIP is not considered obligated by NCTC until the steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted Five-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.
3. Send NCTC a letter of **notice of intent** to issue RFP, solicit bids, make offer to purchase ROW or other similar action to verify that sufficient funding is available and that funds are obligated and reserved exclusively for the particular project phase.
4. Receive a **notice of obligation** from NCTC within fourteen (14) working days of receipt of the notice of intent confirming the amount of funding that is obligated and reserved exclusively for the particular project phase. Alternatively, the project sponsor will receive a **notice of deferred obligation** if NCTC determines that insufficient funds are currently available for the project phase to be obligated.
5. Award the project and execute a contract within four (4) months of receipt of the notice of obligation from NCTC, and send a letter of **confirmation of award** to NCTC, including evidence of a Board/Council action relating to the project award and contract execution.
6. Commence project work and submit the **first invoice** for payment within nine (9) months of receipt of letter of obligation by NCTC to preserve fund obligation. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.

If a contract has not been executed within four (4) months of receipt of the notice of obligation from NCTC (step 5), there will be a review of the project status. Based on the review of project status, NCTC will either:

1. Extend the fund obligation for up to a total of nine (9) months from the notice of obligation if the project sponsor can demonstrate a realistic expectation that the project will be awarded and a confirmation of award can be provided to NCTC within that time frame; or
2. De-obligate the funds.

Similarly, if the first invoice has not been submitted to NCTC within nine (9) months of receipt of the letter of obligation (step 6), there will be a review of the project status. Based on the review of project status, NCTC will either:

1. Extend the fund obligation for up to an additional nine (9) months if the project sponsor can demonstrate a realistic expectation that the project work will commence and a first invoice is submitted within that time frame; or
2. De-obligate the funds.

Project Priorities and Expenditure Plans:

Setting project priorities and establishing an Expenditure Plan are two critical steps necessary in implementing a mitigation fee program. In Figure 4, "RTMF Capital Improvement Program", there is a column titled "Funding Priority" which displays the project priorities adopted in 2008.

Figure 5, "RTMF Expenditure Plan" is based on the project priorities in Figure 4 and an assumed revenue generation across the twenty-two years of the program, with 30% of the funding from the fee collections set aside for the Dorsey Drive Interchange project. The Expenditure Plan shows that by setting aside 30% of the funds for the Dorsey Drive Interchange, two other high priority projects could be constructed early in the program. The project priorities used in the Expenditure Plan can only be changed by unanimous vote of the NCTC Executive Committee.

Figure 4
RTMF Capital Improvement Program

TIER No.	PROJECT No.	LOCATION	PROPOSED IMPROVEMENT	COST	NEW GROWTH %	RTMF SHARE	FUNDING PRIORITY
1	1	Dorsey Drive Interchange	Construct new interchange.	\$34,950,000	33%	\$11,533,500	1
1	11	SR-20/49 SB Ramps/ Idaho Maryland/ E. Main St.	Install two-lane roundabout.	\$2,600,000	70%	\$1,823,000	2
1	22	Brunswick Road/ Loma Rica Drive Brunswick Road/ E. Bennett Street/ Greenhorn Road	Provide solution for Loma Rica/ Brunswick Road intersection future LOS deficiency.	\$2,941,400	63%	\$928,000	3
1	13	Ridge Road/Gold Flat Road/SR-20/49 NB Ramps, Ridge Road/Gold Flat Road/SR-20/49 SB Ramps, & Zion St./Ridge Rd.	Install intersection improvements: roundabout or signals. Close spacing of intersections necessitates improvements at all 3 intersections.	\$4,000,000	79%	\$3,132,421	4
2	4	SR-49 NB Ramps/ E. McKnight Way, SR-49 SB Ramps/ W. McKnight Way, McKnight Way/La Barr Meadows Rd, & McKnight Way/Taylorville Rd.	Closely spaced intersections necessitate improvements at all 4 intersections.	\$5,499,457	44%	\$2,438,438	8
2	3	SR-49/ Combie Road	Provide second southbound left-turn lane with receiving lane.	\$2,345,800	100%	\$2,345,800	6
2	37	SR-20/ Pleasant Valley Road	Restripe southbound approach to include a left turn lane and a through left turn lane.	\$575,900	100%	\$575,900	9
2	12	SR-20/49 SB Ramps/ Brunswick Road	Improve operation of Brunswick Rd/Nevada City Hwy. intersection and eastbound Brunswick Rd. access to SB on ramp.	\$892,279	100%	\$892,279	5
2	36	SR-20/ Penn Valley Drive/ R&R Hwy	Add WB LT Storage and provide 4 through lanes at intersection.	\$2,492,600	60%	\$1,492,600	13
2	10	SR-20/49 NB Ramps/ Idaho Maryland Rd.	Install coordinated signals at ramps and Railroad Ave.	\$1,143,935	100%	\$996,935	10
2	6	SR-20 EB Ramps/ McCourtney Road	Install single-lane roundabout or traffic signal.	\$1,290,215	84%	\$1,078,967	11
2	24	SR 174/ Brunswick Road	Realign SR 174 to create 4 way intersection and install signal.	\$4,269,200	33%	\$1,408,836	12
2	29	E. Main St./Bennett St.	Continue to collect reimbursement for improvement constructed under original RTMF program.	\$1,500,000	100%	\$1,500,000	7
2	38	Dorsey Drive Extension	Extend two lane road from Sutton Way to Brunswick Road.	\$4,529,602	40%	\$1,793,683	14
2	2A-D, 14,&15	State Route Facilities	Local Initial Contribution.	\$216,371,600		\$3,000,000	15
Annual administrative costs and five-year updates.						\$620,000	
TOTAL				\$285,401,988		\$35,560,359	

Figure 5

RTMF Expenditure Plan

YEAR	REVENUE	30%	TOTAL FOR DORSEY INTERCHANGE	TOTAL FOR OTHER PROJECTS	EXPENSE	TOTAL BALANCE	PROJECT(S)
2008/09	\$1,249,473	\$374,841.77	\$374,842	\$874,631		\$1,249,473	
2009/10	\$1,633,852	\$490,155.51	\$864,997	\$2,018,327	\$1,823,000	\$1,060,324	#2 Idaho-Maryland/East Main
2010/11	\$1,633,852	\$490,155.51	\$1,355,153	\$3,162,023	\$928,000	\$1,766,176	#3 Brunswick Loma Rica
2011/12	\$1,633,852	\$490,155.51	\$1,845,308	\$3,377,719	\$0	\$3,400,028	
2012/13	\$1,633,852	\$490,155.51	\$2,335,464	\$4,521,416		\$5,033,879	
2013/14	\$1,633,852	\$490,155.51	\$2,825,619	\$5,665,112		\$6,667,731	
2014/15	\$1,633,852	\$490,155.51	\$3,315,775	\$6,808,808		\$8,301,583	
2015/16	\$1,633,852	\$490,155.51	\$3,805,930	\$7,952,504		\$9,935,435	
2016/17	\$1,633,852	\$490,155.51	\$4,296,086	\$9,096,200	\$11,533,500	\$35,786	#1 Dorsey Dr. Interchange
2017/18	\$1,633,852	\$490,155.51		\$1,669,638		\$1,669,638	
2018/19	\$1,633,852	\$490,155.51		\$3,303,490	\$3,132,421	\$171,069	#4 Gold Flat Interchange
2019/20	\$1,633,852	\$490,155.51		\$1,804,920	\$892,279	\$912,641	#5 SR 20 SB ramp/Brunswick
2020/21	\$1,633,852	\$490,155.51		\$2,546,493	\$2,345,800	\$200,693	#6 SR 49/ Combie
2021/22	\$1,633,852	\$490,155.51		\$1,834,545	\$1,500,000	\$334,545	#7 East Main/Bennett
2022/23	\$1,633,852	\$490,155.51		\$1,968,397	\$0	\$1,968,397	
2023/24	\$1,633,852	\$490,155.51		\$3,602,248	\$2,438,438	\$1,163,810	#8 McKnight Way Interchange
2024/25	\$1,633,852	\$490,155.51		\$2,797,662	\$575,900	\$2,221,762	#9 SR 20 /Pleasant Valley
2025/26	\$1,633,852	\$490,155.51		\$3,855,614	\$2,075,902	\$1,779,712	#10 SR 20 NB Ramp/Idaho Maryland #11 SR 20 SB Ramps/ McCourtney
2026/27	\$1,633,852	\$490,155.51		\$3,413,563	\$1,408,836	\$2,004,727	#12 SR 174/ Brunswick Rd.
2027/28	\$1,633,852	\$490,155.51		\$3,638,579	\$1,492,600	\$2,145,979	#13 SR 20/ R&R Hwy
2028/29	\$1,633,852	\$490,155.51		\$3,779,831	\$1,793,683	\$1,986,148	Dorsey Drive Extension
2029/30	\$1,633,852	\$490,155.51		\$3,620,000	\$3,620,000	\$0	State Hwy Projects & Admin Cost
TOTAL	\$35,560,359				\$35,560,359		