

RESOLUTION NO.

265-2006

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO CERTIFYING THE TRAFFIC IMPACT MITIGATION FEE PROGRAM SUPPLEMENT TO THE 2004 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT; ISSUING A SUPPLEMENTAL STATEMENT OF OVERRIDING CONSIDERATIONS; AND MAKING SUPPLEMENTAL FINDINGS OF FACT

WHEREAS, the El Dorado County Board of Supervisors certified a Final Environmental Impact Report on the El Dorado County General Plan (SCH #2001082030) (the "General Plan EIR") pursuant to the California Environmental Quality Act (CEQA, Public Resources Code, Section 21000 et seq.) and adopted the 2004 El Dorado County General Plan on July 19, 2004;

WHEREAS, the General Plan establishes County policy, and identifies planned land uses and infrastructure, for physical development in the unincorporated areas of El Dorado County;

WHEREAS, the General Plan requires the adoption of a Traffic Impact Mitigation Fee Program ("TIM Fee Program") to implement Measure TC-B of the General Plan;

WHEREAS, the County Department of Transportation conducted traffic analysis in its preparation of the TIM Fee Program and determined through the TIM Fee Program analysis that an increase in the degree of severity of one significant and unavoidable impact identified in the General Plan EIR is projected to occur;

WHEREAS, the County decided to prepare a Supplement to the General Plan EIR to fully disclose the projected variation in one significant and unavoidable impact identified in the General Plan EIR;

WHEREAS, the County prepared a TIM Fee Program Draft Supplement to the General Plan EIR which identified the projected variation in one significant and unavoidable impact identified in the General Plan EIR;

WHEREAS, the TIM Fee Program Draft Supplement to the General Plan EIR was released for public review on March 17, 2006 for a 45-day review period extending from March 17, 2006 through May 1, 2006;

WHEREAS, a total of 30 written comment letters, including electronic mail messages, were submitted to the County during the review period;

WHEREAS, the County prepared a TIM Fee Program Final Supplement to the General Plan EIR which contains all written comments received during the 45-day review period and contains individual responses to all written comments;

WHEREAS, the Board of Supervisors independently reviewed the TIM Fee Program Final Supplement to the General Plan EIR and related staff reports which are hereby incorporated by reference into this Resolution;

WHEREAS, the TIM Fee Program Final Supplement to the General Plan EIR identified the increase in severity of one significant and unavoidable impact previously identified in the General Plan EIR;

WHEREAS, the Board of Supervisors desires, in accordance with CEQA, to declare that, despite the increase in the severity of this one significant effect that can not be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that the Council believes justify the occurrence of those impacts; and

WHEREAS, the Board of Supervisors specifically finds that where more than one reason for approving the Project and rejecting alternatives is given in its findings or in the record, where more than one reason for rejecting or modifying mitigation measures is given in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the Board would have made its decision on the basis of any one of those reasons.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of El Dorado as follows:

1. Pursuant to Sections 15163 and 15090 of the CEQA Guidelines, the Board of Supervisors hereby certifies that: a) the TIM Fee Program Final Supplement to the General Plan EIR has been completed in compliance with CEQA; b) the TIM Fee Program Final Supplement to the General Plan EIR was presented to the Board, and the Board reviewed and considered the information contained in the TIM Fee Program Final Supplement to the General Plan EIR prior to taking action on the TIM Fee Program; and c) the TIM Fee Program Final Supplement to the General Plan EIR reflects the independent judgment and analysis of the County of El Dorado.
2. As set forth in Section 15403 of the CEQA Guidelines a public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that: (a) there is no feasible way to lessen or avoid the significant effect and (b) specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project. The Board of Supervisors hereby makes that decision as set forth more fully in Exhibits A and B hereto.
3. Exhibit A of this Resolution provides the supplemental findings relating to accepting adverse impacts of the project due to overriding considerations. The Board of Supervisors has balanced the economic, legal, social, technological, and other benefits of the TIM Fee Program against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits identified in its findings associated with the General Plan CEQA review outweigh the unavoidable adverse environmental effects. The Board of Supervisors, therefore, finds the adverse environmental effects of the TIM Fee Program to be "acceptable". The Board of Supervisors hereby adopts the Supplemental Statement of Overriding Considerations attached hereto as Exhibit A (Supplemental Statement of Overriding Considerations).
4. Exhibit B of this Resolution provides supplemental findings of fact for the variation in one significant effect of the project identified through the TIM Fee Program analysis. The Board of Supervisors hereby adopts these findings of fact attached hereto as Exhibit B.
5. After considering the TIM Fee Program Final Supplement to the General Plan EIR and in conjunction with making these findings, the Board of Supervisors hereby finds, pursuant to Sections 15092 and 15163 of the CEQA Guidelines, that approval of the adopted TIM Fee Program will not substantially change the severity of 39 of the 40 significant and unavoidable impacts identified in the General Plan EIR and that, as set forth in Exhibit B of this Resolution, the Board of Supervisors hereby finds these effects to be unavoidable under Section 15091 and acceptable under Section 15093.

6. After considering the TIM Fee Program Final Supplement to the General Plan EIR, the Board of Supervisors hereby finds, pursuant to Sections 15092 and 15163 of the CEQA Guidelines, that approval of the adopted TIM Fee Program will result in an increase in the severity of one significant effect on the environment previously identified in the General Plan EIR (Impact 5.4-2); however, the County eliminated or substantially lessened this significant effect where feasible in its development of the General Plan, and as set forth in Exhibits A and B of this Resolution, the Board of Supervisors has determined that the increase in the severity of this significant effect is unavoidable under Section 15091 and acceptable under Section 15093.
7. These findings made by the Board of Supervisors are supported by substantial evidence in the record.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 22nd day of AUGUST, 2006, by the following vote of said Board:



Attest:

Cindy Keck Clerk of the Board of Supervisors

Ayes: James R. Sweeney, Norma Santiago,
Rusty Dupray, Helen K. Baumann

Absent: None

Noes: None

By:  Deputy Clerk
 Chairman, Board of Supervisors

I CERTIFY THAT:

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE: _____

Attest: CINDY KECK, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: _____

Exhibits Attached:

- A. Supplemental Statement of Overriding Considerations
- B. Supplemental CEQA Findings of Fact

**EL DORADO COUNTY 2004 GENERAL PLAN
TRAFFIC IMPACT MITIGATION FEE PROGRAM**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF EL DORADO CERTIFYING THE TRAFFIC IMPACT
MITIGATION FEE PROGRAM SUPPLEMENT TO THE 2004
GENERAL PLAN ENVIRONMENTAL IMPACT REPORT**

EXHIBIT A

**SUPPLEMENTAL STATEMENT OF OVERRIDING
CONSIDERATIONS**

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SECTION A. INTRODUCTION AND SIGNIFICANT AND UNAVOIDABLE IMPACTS

GENERAL INTRODUCTION

In approving the Traffic Impact Mitigation (TIM) Fee Program which is evaluated in the Final Supplement to the 2004 El Dorado County General Plan Environmental Impact Report (Final Supplement), the County makes the following Supplemental Statement of Overriding Considerations in support of its findings regarding the TIM Fee Program pursuant to the California Environmental Quality Act (CEQA). The Board of Supervisors has considered the information contained in the Final Supplement which was prepared to document the variation in impacts identified as a result of analysis of the TIM Fee Program as compared to the impacts identified in the 2004 El Dorado County General Plan Environmental Impact Report (General Plan EIR), and has fully reviewed and considered the public testimony and record in this proceeding.

The Board of Supervisors has carefully balanced the benefits of adoption of the TIM Fee Program against the increase in severity projected for one unavoidable adverse impact identified in the General Plan EIR. Notwithstanding the disclosure of the increase in severity of one impact identified in the Final Supplement which has not been eliminated or mitigated to a less-than-significant level, the Board of Supervisors, acting pursuant to Section 15093 of the State CEQA Guidelines, hereby determines that the benefits of the TIM Fee Program outweigh the significant unmitigated adverse environmental impact.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

The General Plan EIR identified 40 potentially adverse impacts which could not be mitigated to a less-than-significant level. The Board of Supervisors made findings and a statement of overriding considerations for each of the significant and unavoidable impacts. The TIM Fee Program Final Supplement identifies a projected increase in the severity of one of the significant and unavoidable impacts identified in the General Plan EIR – Impact 5.4-2: Increase in Daily and Peak Hour Traffic – and identifies 19 additional roadway segments which are projected to decline below the General Plan EIR thresholds of significance.

SECTION B. PROJECT LOCATION AND OBJECTIVES

PROJECT LOCATION

The TIM Fee Program applies to all areas within unincorporated El Dorado County, excepting the Lake Tahoe Basin.

PROJECT OBJECTIVES AND DESCRIPTION

The TIM Fee Program implements Measure TC-B of the General Plan. The TIM Fee Program identifies traffic impact mitigation fees applicable to new development within unincorporated areas of El Dorado County to provide funding for roadway improvements required as a result of new development.

SECTION C. TRAFFIC AND CIRCULATION CONSIDERATIONS

Substantial evidence in the record demonstrates traffic and circulation benefits which the County would derive from the implementation of the TIM Fee Program which include the implementation of a program to collect roadway improvement funds from new development.

SECTION D. CONCLUSION

The TIM Fee Program Final Supplement was prepared pursuant to the CEQA Guidelines. The Board of Supervisors independently determined that the Final Supplement fully and adequately addresses the variation in impacts identified through the TIM Fee Program analysis. The alternatives identified and considered in the General Plan EIR met the test of "reasonable" analysis and provided the Board with important information from which to make an informed decision. The TIM Fee Program implements Measure TC-B of the final General Plan alternative selected by the Board of Supervisors. Policy choices made in developing the TIM Fee Program do not require consideration as alternatives in the environmental review of the TIM Fee Program and do not affect the impact conclusions of the TIM Fee Program analysis.

Public input on the TIM Fee Program and CEQA analysis was solicited and considered by the Board of Supervisors.

Substantial evidence in the record demonstrates various benefits and considerations including economic, legal (regulatory), social, technological, environmental, and other benefits which the County would achieve from the implementation of the TIM Fee Program. The Board of Supervisors has balanced the benefits of the TIM Fee Program and considerations against the increase in the severity of one significant and unavoidable impact identified in the Final Supplement and has concluded that this variation in the impact is outweighed by the benefit of implementing the TIM Fee Program. Upon balancing the environmental risks and countervailing benefits, the Board of Supervisors has concluded that the benefits that the County will derive from the implementation of the TIM Fee Program, as compared to the analysis presented in the General Plan EIR, outweigh the increase in severity of the environmental impact.

The Board of Supervisors has determined that the benefits of adopting the General Plan, including the implementation of Measure TC-B, documented in the July 19, 2004 General Plan CEQA Findings of Fact (Section J, Benefits) override the significant, unavoidable and irreversible increase in the severity of the environmental impact identified through the TIM Fee Program analysis.

In conclusion, the Board of Supervisors finds that any remaining (residual) effects on the environment attributable to the TIM Fee Program, which are found to be unavoidable in the preceding Findings of Fact, are acceptable due to the overriding concerns set forth in Sections B (Specific Findings) and C (Overriding Considerations) of the Statement of Overriding Considerations made by the Board of Supervisors in its adoption of the General Plan and certification of the General Plan EIR.

The Board concludes that the TIM Fee Program should be adopted.

**EL DORADO COUNTY GENERAL PLAN
TRAFFIC IMPACT MITIGATION FEE PROGRAM**

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COUNTY OF EL DORADO CERTIFYING THE TRAFFIC IMPACT
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EXHIBIT B

SUPPLEMENTAL CEQA FINDINGS OF FACT

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SECTION A. INTRODUCTION

The purpose of these supplemental findings of fact is to satisfy the requirements of Sections 15091, 15092, and 15093 of the California Environmental Quality Act (CEQA) Guidelines, associated with adoption of the 2006 El Dorado County Traffic Impact Mitigation Fee Program (hereinafter referred to as the "TIM Fee Program") to implement Measure TC-B of the 2004 El Dorado County General Plan (hereafter referred to as the General Plan).

When a supplement to a previous EIR is prepared, CEQA Guidelines Section 15163 require that when an agency decides whether to approve the project the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under Section 15091 shall be made for each significant effect shown in the previous EIR as revised.

In its certification of the General Plan EIR, the El Dorado County Board of Supervisors identified significant and unavoidable impacts that would occur with the adoption of the final General Plan. The General Plan CEQA Findings of Fact and Statement of Overriding Considerations (Exhibits A and B of the Board's Resolution Certifying the General Plan EIR) document these decisions by the Board of Supervisors.

To implement Measure TC-B of the General Plan, the County has developed a TIM Fee Program. As a result of the analysis necessary for developing the TIM Fee Program, the County determined that, with roadway improvements identified in the TIM Fee Program in place, traffic levels of service on a limited number of roadway segments are projected to vary from those presented in the General Plan EIR, CEQA Findings of Fact and Statement of Overriding Considerations for the General Plan adoption.

The County decided to prepare a Supplement to the General Plan EIR to document the projected variation in Impact 5.4-2 of the General Plan EIR. This Supplement to the General Plan CEQA Findings of Fact has therefore been prepared as required for the Board of Supervisors to certify the TIM Fee Program Supplement to the General Plan EIR. During its evaluation of the proposed TIM Fee Program, the County's review of other resource issues addressed in the General Plan EIR determined that, with the exception of Impact 5.4-2, the proposed TIM Fee Program would not cause new, previously unidentified impacts or substantially contribute to impacts previously identified in the General Plan EIR.

SECTION B. PROJECT LOCATION AND DESCRIPTION

PROJECT LOCATION

The TIM Fee Program applies to all areas within unincorporated El Dorado County, excepting the Lake Tahoe Basin.

PROJECT OBJECTIVES AND DESCRIPTION

The TIM Fee Program implements Measure TC-B of the General Plan. The TIM Fee Program identifies traffic impact mitigation fees applicable to new development within unincorporated areas of El Dorado County to provide funding for roadway improvements required as a result of new development.

SECTION C. DOCUMENTS AND RECORD

THE SUPPLEMENT TO GENERAL PLAN FINAL EIR

The TIM Fee Program Supplement to the General Plan EIR includes:

- 1) Traffic Impact Mitigation Fee Program Draft Supplement to the El Dorado County General Plan EIR (SCH #2001082030), dated March 2006.
- 2) Traffic Impact Mitigation Fee Program Final Supplement to the El Dorado County General Plan EIR, dated August 2006.

The Final EIR for the General Plan includes the following items:

- 1) Draft EIR (SCH #2001082030), three volumes, dated May 2003.
- 2) Response to Comments on the Draft EIR and Draft General Plan, six volumes, dated January 2004.
- 3) Environmental Assessment of General Plan Policy Modifications, dated June, 2004, and Environmental Assessment of Revisions to Mitigation Measures, dated June, 2004.

THE RECORD

For the purposes of CEQA and the supplemental findings hereinafter set forth, the administrative record consists of those items listed in Section 21167.6(e) of the Public Resources Code. Pursuant to the requirements of CEQA Guidelines Section 15091(e) the location and custodian of the documents and other materials which constitute the record of proceedings upon which these decisions are based is as follows:

Planning Director
El Dorado County Planning Department
2850 Fairlane Court
Placerville, CA 95667
(530) 621-5355

SECTION D. DISCRETIONARY ACTIONS

The discretionary actions for approval of this project are identified as follows:

- 1) Adoption of the TIM Fee Program.

2) Direction to staff to take actions necessary to implement the adopted TIM Fee Program.

SECTION E. PROJECT BENEFITS

The Board of Supervisors finds that adoption of the TIM Fee Program will result in the following benefits for the County of El Dorado and County residents (in no relative order):

- 1) Implement Measure TC-B of the General Plan.
- 2) Achieve the objectives of General Plan policies associated with requiring new development to fully fund roadway improvements necessary as a result of such development.
- 3) Provide funding for the roadway improvements necessary to achieve traffic operations levels of service consistent with the requirements of the General Plan.

SECTION F. SUPPLEMENTAL FINDINGS REGARDING IMPACTS AND MITIGATION MEASURES

CEQA Guidelines Section 15163(e) require that when an agency decides whether to approve a project which is the subject of a supplement to a previous EIR, "the decision-making body shall consider the previous EIR as revised by the supplemental EIR", and that a finding be made under CEQA Guidelines Section 15091 "for each significant effect shown in the previous EIR as revised."

The General Plan EIR identified 40 significant and unavoidable impacts associated with the General Plan. The General Plan EIR CEQA Findings of Fact documented the Board's determination that no additional mitigation was feasible for the significant and unavoidable impacts and the Board's findings that specific economic, legal, social, technological, and other considerations identified in the General Plan CEQA Statement of Overriding Considerations supported approval of the General Plan despite significant and unavoidable residual impacts.

The TIM Fee Program Supplement to the General Plan EIR documents the County's review of the potential for the proposed TIM Fee Program to result in any new impacts or substantial changes to impacts previously identified in the General Plan EIR. With the exception of one impact that would increase in severity (Impact 5.4-2, for which specific findings are discussed below), the Board finds that the proposed TIM Fee Program would not cause new, previously unidentified impacts or substantially contribute to the other 39 impacts previously identified in the General Plan EIR and that no project modifications or new mitigation has been identified that would lessen or avoid these impacts. The Board therefore finds that each of the 39 significant and unavoidable impacts identified in the General Plan CEQA Findings would remain

significant and unavoidable, and that the specific economic, legal, social, technological, and other considerations identified in the General Plan CEQA Statement of Overriding Considerations remain and support approval of the project as modified, despite significant and unavoidable residual impacts.

IMPACTS AND MITIGATION MEASURES

The TIM Fee Program Supplement to the General Plan EIR identifies that as a result of the analysis conducted for the TIM Fee Program, one impact identified in the General Plan EIR would increase in severity as compared to that identified in the General Plan EIR and that no new mitigation not previously considered and adopted is available to lessen this impact and the projected variation in severity.

Impact Identified in General Plan EIR – Impact 5.4-2: Increase in Daily and Peak Hour Traffic (levels of service on 75 roadway segments projected to decline below General Plan EIR threshold of significance)

Significance Identified in General Plan EIR Before Mitigation – Significant

Mitigation Measures Adopted with General Plan – Implement 1996 General Plan Alternative Mitigation Measures 5.4-1(a), 5.4-1(b), or 5.4-1(d).

Significance Identified in General Plan After Mitigation – Significant and Unavoidable

Impact Identified in TIM Fee Program Final Supplement – Increase in severity of *Impact 5.4-2: Increase in Daily and Peak Hour Traffic* (levels of service on 19 additional roadway segments for a total of 94 roadway segments projected to decline below General Plan EIR threshold of significance)

Significance Identified in TIM Fee Program Final Supplement – Significant (increase in severity)

Mitigation Measures Identified in TIM Fee Program Final Supplement – No new mitigation measures (no change to mitigation measures adopted with General Plan remain as applicable)

Significance Identified in TIM Fee Program Final Supplement After Mitigation – Significant and Unavoidable

FINDINGS OF FACT

As discussed in the General Plan CEQA Findings of Fact, the traffic impacts of the adopted General Plan were analyzed in a technical memorandum prepared by the EIR traffic consultant, Ronald T. Milam, Fehr & Peers, Technical Memorandum re: Modified 1996 General Plan Alternative Modeling (June 7, 2004). The results of the analysis showed that the adopted General Plan was expected to result in 75 roadway segments

that would, by 2025, experience a decline in traffic levels of service below the LOS C threshold used in the EIR. (Although 75 segments were projected to exceed level of service thresholds in the General Plan EIR analysis, certain documentation for the General Plan EIR and the General Plan CEQA Findings of Fact erroneously referenced that 74 segments were projected to exceed the General Plan EIR LOS C threshold.) The projection that 75 segments would experience a decline in levels of service below the General Plan EIR significance threshold was considered a significant impact. Certain mitigation measures were considered and adopted as policies in the General Plan; however, no measures were identified that would avoid or further reduce this impact and it was therefore determined to be significant and unavoidable by the Board of Supervisors in its certification of the General Plan EIR.

The TIM Fee Supplement to the General Plan EIR identifies that an additional 19 roadway segments (for a total of 94 segments) are projected to experience a decline in the levels of service below the General Plan EIR significance threshold. Although this addition of 19 segments is not a new impact not previously considered, the additional 19 segments represent a variation in the severity of Impact 5.4-2.

This variation in the severity of Impact 5.4-2 is identified as a result of the refined methodology used to determine the roadway improvement requirements to be included in the TIM Fee Program as necessary to achieve the requirements of Measure TC-B.

As identified within the General Plan CEQA Findings of Fact, this impact is significant and unavoidable. To the extent that this adverse impact has been determined through the TIM Fee Program analysis to be of increased severity and will not be eliminated or lessened to an acceptable (less than significant) level, the Board of Supervisors finds that the TIM Fee Program would contribute to the implementation of the General Plan. The Board specifically finds that adoption of the TIM fee program has significant benefits to the County by providing funding to develop the roadway network needed to support the growth anticipated under the 2004 General Plan. The Board further finds that the specific economic, legal, social, technological, and other considerations documented in the July 19, 2004 General Plan CEQA Findings of Fact (Section J, Benefits) and in the July 19, 2004 General Plan CEQA Statement of Overriding Considerations (Section B, Specific Findings and Section C, Overriding Considerations) support approval of the TIM Fee Program, despite unavoidable residual impacts.