

(Res. No. 12262006R003, 12-26-2006)

9.6. - REGIONAL ROAD CAPITAL EXPANSION FEE<sup>[3]</sup>

Footnotes:

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**Editor's note**— Res. No. 12262006R003, adopted Dec. 26, 2006, deleted former § 9.6, and enacted a new § 9.6 as set out herein. The former § 9.6 pertained to regional transportation capital expansion fee. These provisions bore no history note.

9.6.1. - Findings.

- A. *Successor regulation.* This regulation is a successor to that Larimer County Road Capital Expansion Fee Regulation adopted by the county in 2006.
- B. *New growth in county.* The Larimer County Transportation Master Plan 2017 (TMP) projects there will be a significant amount of new growth and development in Larimer County in the next 23 years.
- C. *Need for capacity expansion.* The 2017 Transportation Capital Expansion Fee Study (TCEF) has determined that this new growth and development will require a substantial expansion in road capital facilities if adequate levels of service (LOS) are to be maintained on county roads.
- D. *Improvements needed.* The TMP has identified the cost of growth-related transportation improvements required to maintain adequate levels of service on county roads. In addition, the TCEF has divided the county's road system into "regional" and "non-regional" roads based on the use of the roads.
- E. *Proportionate share policy.* In order to address this need, the county commissioners have established a policy that future growth and new development will contribute its proportionate share of the costs of providing capital facilities for regional roads.
- F. *Regional transportation capital expansion fee preferred.* The county commissioners have determined that the imposition of a regional road capital expansion fee is one of the preferred methods of regulating new growth and development in the county in order to ensure that new growth and development bears a proportionate share of the costs of capital improvements for regional roads necessary to accommodate new growth and development while at the same time maintaining the adopted LOS on the regional road system and promoting and protecting the public health, safety and welfare.
- G. *Consistent with master plan.* A regional road capital expansion fee that contributes to this proportionate share assists in the implementation of and is consistent with the Larimer County Master Plan (the "Master Plan").
- H. *Coordinated provision of services.* In order to implement a region-wide regional road capital expansion fee system, the county commissioners adopt this regulation and will pursue the establishment of intergovernmental agreements with the other local governments in the region that results in those municipalities' participation and cooperation by adoption of a regional road capital expansion fee to accommodate new development within their jurisdictions, or by the adoption of other methods to contribute their proportionate share of funds.
- I. *Compliance with applicable law.* The county commissioners have determined that the TMP, the TCEF, and this regulation comply with the requirements of C.R.S. §§ 29-20-104.5 and other applicable law.

(Res. No. 12262006R00, 12-26-2006)

9.6.2. - Short title, authority, and application.

- A. *Title.* This regulation shall be known and may be cited as the "Larimer County Regional Road Capital Expansion Fee Regulation."
- B. *Authority.* The county commissioners have authority to adopt this regulation under C.R.S. §§ 29-20-101—29-20-107, 30-28-101 et seq., 30-28-133 et seq., and all other relevant state laws.
- C. *Application.* This regulation applies to all lands within unincorporated Larimer County and, under intergovernmental agreements, all other lands within the boundaries of the participating local governments.

(Res. No. 12262006R003, 12-26-2006)

9.6.3. - Intent and purpose.

- A. *Intent.* This regulation is intended to implement and be consistent with the master plan and the TMP.
- B. *Purpose.* This regulation establishes of a system for the imposition of regional road capital expansion fees to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, regional road capital improvements.
- C. *Fair allocation of costs.* This regulation is intended to be consistent with the principle of allocating a fair share of the costs of new public facilities to new growth and development. It approaches the problem of determining the fair share regional road capital expansion fee in a conservative and reasonable manner. This fee will only partially capture the governmental expenditures associated with improving the roads on the regional road system.
- D. *Technical support.* This regulation is based primarily upon the TMP, the TCEF, the master plan, and other technical data collected in connection with those documents, all of which are incorporated herein by reference.
- E. *Compliance with law.* This regulation is intended to comply with the provisions of C.R.S. §§ 29-20-104.5 including without limitation the requirements (i) that the regional road capital expansion fee not be calculated or used to fund existing deficiencies in the regional road system, (ii) that no property owner be required to provide a dedication or improvement for the same improvements funded by the regional road capital expansion fee.

(Res. No. 12262006R003, 12-26-2006; Res. No. 06162009R002, Exh. A, 6-16-2009)

9.6.4. - Intergovernmental agreement.

- A. In order to implement a region-wide regional road capital expansion fee program, Larimer County intends to enter into intergovernmental agreements with the other local governments in the region that result in those municipalities' participation and cooperation by adoption of a regional road capital expansion fee to accommodate new development within their jurisdictions to maintain the adopted LOS on the regional road system.
- B. The intergovernmental agreements must provide for adoption and implementation of a regional road capital expansion fee regulation similar to this regulation by the other local governments in the county, or for the collection of funds equivalent to those fees from other sources consistent with applicable law, and procedures for regional cooperation in the effort to plan for, fund, and construct regional road capital improvements.
- C. The intergovernmental agreements must provide the county commissioners the authority to coordinate the joint efforts of the participating local governments in this effort and to coordinate the administration of the regional road capital expansion fee program.

D. The intergovernmental agreements must provide that the county commissioners appoint a regional road capital expansion fee administrator (the "fee administrator") who will be responsible for the administration of the regional road capital expansion fee program, with assistance from each of the participating local governments.

(Res. No. 12262006R003, 12-26-2006)

9.6.5. - Level of service standard (LOS).

The county commissioners have determined that the regional road system will operate at LOS-D or better.

(Res. No. 12262006R003, 12-26-2006)

9.6.6. - Definitions.

Certain words or phrases unique to this section shall be construed as defined below, unless it is apparent from the context that they have a different meaning.

*Building permit.* A building permit issued by the Larimer County Building Department or any other county office before any building or construction activity can be initiated on a parcel of land.

*Capacity.* The maximum number of vehicles that have a reasonable expectation of passing over a given section of a regional road during a given time period, under prevailing traffic conditions, expressed in terms of vehicles per day. Capacity is measured in this regulation and in the TCEF during the week day.

*Existing traffic-generating development.* The most intense use of land within the past 10 years prior to the time of commencement of new traffic-generating development.

*Expansion of the capacity of a regional road.* Any widening, intersection improvement, signalization, or other capital improvement designed to increase an existing regional road's capacity to carry vehicles.

*Fee payer.* A person commencing traffic-generating development who is obligated to pay a regional road capital expansion fee in accordance with this regulation.

*Level of service (LOS).* Applied to roads, a qualitative measure describing operational conditions, from A (best) to F (worst), within a traffic stream or at intersections, which is quantified for road segments by determination of a volume-to-capacity ratio (V/C), which is a measurement of the amount of capacity of a road that is being utilized by traffic. The LOS and corresponding V/C ratios are defined in the highway capacity manual.

*Non-site-related improvements.* Regional road capital improvements for regional roads that are not site-related improvements.

*Participating local governments.* Any municipality within Larimer County that has entered into an intergovernmental agreement between the governing body and Larimer County to implement this regulation.

*Person.* An individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other entity.

*Regional road capital improvement.* The transportation planning, preliminary engineering, engineering design studies, land surveys, alignment studies, engineering, permitting, and construction of all necessary features for any road on the regional system undertaken to accommodate additional traffic resulting from new traffic-generating development. Regional road capital improvement may include but are not limited to any of the following in connection with the regional road system: (a) construction of new through lanes; (b) construction of new bridges; (c) construction of new drainage facilities in conjunction with new road construction; (d) purchase and installation of traffic signals, including new and upgraded

signalization; (e) construction of curbs, gutters, sidewalks, medians and shoulders; (f) relocating utilities to accommodate new road construction; (g) construction and reconstruction of intersections; (h) widening existing roads; (i) constructing bus turnouts; (j) adding acceleration and deceleration lanes; (k) adding interchanges; and (l) purchasing and installing traffic control devices.

*Regional road system.* That system of regional roads defined in the TMP and shown in Exhibit A.

*Site-related improvements.* Road capital improvements that provide direct access to the development. Direct access improvements are typically located within or adjacent to a development site and include but are not limited to the following (a) driveways and streets leading to and from the development; (b) right- and left-turn lanes leading to those driveways and streets; (c) traffic control measures for those driveways and streets; and (d) internal streets and driveways. Credit is not provided for site-related improvements under the terms of this regulation.

*Traffic-generating development.* Land development, building construction, or activity designed or intended to permit a use of the land that will increase the generation of vehicular traffic over the existing traffic-generating development.

*Traffic-generating development, commencement of.* Occurs upon the approval of a final plat for land division, a special review, or the issuance of a building permit, whichever occurs first after the effective date of this regulation.

*Trip.* A one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

*Trip generation.* The attraction or production of trips caused by a certain type of land development.

*Vehicle-miles of travel (VMT).* The product of the number of vehicles traveling during a given time period and the distance (in miles) they travel.

(Res. No. 12262006R003, 12-26-2006)

#### 9.6.7. - Imposition of regional fee.

##### A. *Time of fee obligation and payment.*

1. After the effective date of this regulation, any person or governmental body (unless exempted by intergovernmental agreement) who causes the commencement of traffic-generating development will be obligated to pay a regional road capital expansion fee consistent with the terms of this regulation.
2. Except as described in subsection 3. below, the fee will be determined and paid to the fee administrator at the time of issuance of a building permit, provided, however that the fee administrator may delay the duty to pay the fee until the issuance of a certificate of occupancy if the fee administrator determines that such delay will not result in a delay in construction of any regional road improvement in the benefit area where the property is located.
3. For traffic-generating development that occurs as a result of a county approval, the fee will be determined and paid to the fee administrator at the time agreed upon by the county commissioners and the applicant as a condition of the county approval, but no earlier than the issuance of a development construction permit for the development containing the county approved activity, if any.
4. If any credits are due under subsection 9.6.9 (credits), they will also be determined at that time.
5. If the building permit or approval is for less than the entire development or activity, the fee will be computed separately for the amount of development covered by the permit, or approval.
6. If the fee is exacted for traffic-generating development that increases traffic impact because of a change in use, the fee will be determined by computing the difference between the fee

applicable to the new traffic-generating development and fee applicable to the existing traffic-generating development.

7. The obligation to pay the transportation capital expansion fee will run with the land.
  8. Any person who, prior to the effective date of this regulation, agreed to pay a transportation capital expansion fee pursuant to a previous regulation, or as a condition of development approval, will be responsible for the payment of the fee under the terms of any such previous regulation or agreement, rather than the terms of this regulation.
- B. *Exemptions.* The following types of development and activity are exempt from the terms of this regulation. An exemption must be claimed by the fee payer at the time of application for a building permit or development construction permit.
1. Alteration of an existing building where no additional vehicular trips will be produced over and above that produced by the existing use.
  2. The construction of residential accessory buildings or structures that will not produce additional vehicular trips.
  3. The replacement of a destroyed or partially-destroyed building or structure of the same size and use, provided that no additional trips will be produced above those produced by the original use of the land.
  4. Any affordable housing development specifically exempted by the board of county commissioners pursuant to C.R.S. §§ 29-20-104.5(5).
  5. Home occupation with ten or fewer average daily trip ends, accessory rural occupation with ten or fewer average daily trip ends, and bed and breakfast with six or fewer guests.
- C. *Establishment of fee schedule.*
1. Any person who causes the commencement of traffic-generating development, except those persons exempted under subsection 9.6.7.B (exemptions) or preparing an independent fee calculation study under subsection 9.6.8 (independent fee calculation study), must pay a regional road capital expansion fee in accordance with the road fee schedule.
  2. The fees in the road fee schedule shall be updated annually by the fee administrator to reflect changes in road construction costs during the previous year. The updated fees shall become effective on the first day of July. To calculate an updated fee, each fee in the road fee schedule shall be multiplied by a ratio, the numerator of which is the annual eight-quarter moving average in the Colorado Construction Cost Index Report prepared by the Colorado Department of Transportation and the denominator of which is the same index for a period one year earlier than the numerator. If the ratio is less than, or equal to 1.05, the fees in the road fee schedule shall be updated by the fee administrator without further action by the county commissioners. If the ratio is greater than 1.05, the fee administrator shall report the ratio to the county commissioners, and the county commissioners shall determine the ratio that shall be used to update the fees. All obligations to pay the regional road capital expansion fee shall apply to the most recent update of the fees in the road fee schedule.
  3. If a fee is to be paid for mixed uses, the fee will be determined according to the above schedule by apportioning the space committed to uses specified on the schedule.
  4. If the type of traffic-generating development for which a building permit or other approval is requested is not specified on the fee schedule, the fee administrator will determine the fee on the basis of the fee applicable to the most nearly comparable development category on the regional road fee schedule. The fee administrator will be guided in the selection of a comparable land use by:
    - a. Using trip generation rates contained in the most current edition of the report titled "Trip Generation," prepared by the Institute of Transportation Engineers (ITE), articles or reports appearing in the ITE Journal, or studies or reports prepared by the U.S. Department of

Transportation or Colorado Department of Transportation, and applying the formula in subsection 9.6.8.B; or

- b. Computing the fee by use of an independent fee calculation study as provided in subsection 9.6.8 (independent fee calculation study).

(Res. No. 06162009R002, Exh. A, 6-16-2009; Res. No. 04062010R003, Exh. A, 3-15-2010; Res. No. 07192011R004, Exh. A, 7-19-2011; Res. No. 07222014R004, Exh. A, § 11, 7-22-2014)

9.6.8. - Independent fee calculation study.

*General.*

1. The regional road capital expansion fee may be computed by the use of an independent fee calculation study (a) at the election of the fee payer, or (b) upon the request of the fee administrator for any proposed land development activity that the fee administrator determines (i) is not listed on the fee schedule and is not comparable to any land use on the fee schedule, or (ii) is likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule, due to its nature, timing, or location.
2. The preparation of the independent fee calculation study will be the responsibility of, and at the expense of, the electing party.
3. Any person electing to perform an independent fee calculation study must pay an application fee for administrative costs associated with the review and decision on such independent fee calculation study.

B. *Formula.*

1. The independent fee calculation study for the regional road capital expansion fee will be calculated using the following formula:

$$\begin{aligned}
 & \text{Total weekday vehicle trip ends} \\
 & \quad \times \\
 & \text{Trip rate adjustment factor for inbound trips, including pass-by} \\
 & \quad \times \\
 & \text{Average miles per trip} \\
 & \quad \times \\
 & \text{Trip length adjustment factor} \\
 & \quad \times \\
 & \text{Capital (Growth) cost per VMT}
 \end{aligned}$$

**Road TCEF Input Factors**

Non-Regional Average Miles per Trip	3.72
2018 Non- Regional Capital (Growth) Cost per VMT *	\$191.42
Regional Average Miles per Trip	0.23
2018 Regional Capital (Growth) Cost per VMT *	\$257.16
*Cost per VMT varies annually (LCLUC 9.5.6.C.2)	
Contact TCEF Administrator for current rate	

Non Residential Development Type	Trip Rate Adjustment	Trip Length Adjustment
Industrial	50%	86%
Commercial	33%	57%
Office & Other Services	50%	86%

2. The independent fee calculations will be based on data, information or assumptions in this regulation or independent sources. Independent sources may be used, provided that:

- a. The independent source is an accepted standard source of transportation engineering or planning data or information; and
- b. The independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer under an accepted methodology of transportation planning or engineering; and
- c. The trip rate adjustment factor used in the independent fee calculation study must be based on actual surveys conducted in Larimer County.

C. *Procedure.*

1. An independent fee calculation study will be undertaken after the submittal of an application to the fee administrator on a form provided by the county, and with information required by that form.
2. Within ten (10) working days of receipt of an application for an independent fee calculation study, the fee administrator will determine if the application is complete. If the fee administrator determines that the application is not complete, a written statement specifying the deficiencies will be sent to the person submitting the application. The application will be deemed complete if no deficiencies are specified. The fee administrator will take no further action on the application until it is deemed complete.
3. When the fee administrator determines the application is complete, the application will be reviewed and the fee administrator will render a written decision in 20 working days on the amount of fee due, based on the standards in subsection 9.6.8.D, and will send that decision to the person submitting the application.

D. *Standards.* If, on the basis of generally recognized principles of impact analysis, the fee administrator determines that the data, information and assumptions used by the applicant to calculate the independent fee calculation study satisfy the requirements of this section, the fee determined in the independent fee calculation study will be deemed the fee due for the proposed traffic-generating development. If the independent fee calculation study fails to satisfy the requirements of this section, the fee administrator may:

1. Adjust the calculated fee to correct for those aspects of the calculation that do not meet the requirements of this section, and impose the adjusted fee; or
2. Determine that one of the fees established in section 9.6.7.C (establishment of fee schedule) is a more accurate reflection of the impacts of the proposed development on regional roads, and impose that fee.

E. *Appeal of independent fee calculation study decision.*

1. A fee payer affected by the administrative decision of the fee administrator on an independent fee calculation study can appeal the decision to the county commissioners by filing with the fee administrator, within ten (10) working days from the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The fee administrator will place the appeal on the county commissioner's agenda for the next regularly scheduled meeting.
2. The county commissioners, after a hearing, will affirm or reverse the decision of the fee administrator. In making their decision, the county commissioners will apply the standards in subsection 9.6.8.D. If the county commissioners reverse the decision of the fee administrator, they will direct the administrator to recalculate the fee in accordance with their findings. In no case will the county commissioners have the authority to negotiate the amount of the fee.

(Res. No. 12262006R003, 12-26-2006)



9.6.9. - Credits.

A. *General standards.*

1. Any person initiating traffic-generating development may apply for a credit against regional road capital expansion fees otherwise due, up to but not exceeding the full obligation for regional road capital expansion fees proposed to be paid under this regulation, for any contribution, payment, or construction, accepted and received by Larimer County for any non-site-related road capital improvements to road segments that are both (a) on the regional road system, and (b) on the county's adopted capital improvement program. No credits will be provided for site-related improvements.
2. Credits for contributions, payments, or construction for non-site-related road improvements on the county's regional road system will run with the land and will be transferable within the same development. Credits are not transferable to other development for credit against the regional capital expansion fees, or for credit against fees required to be paid for other public facilities.

B. *Amount of credit.* Credit will be in an amount equal to the value of the contribution or payment at the time it is made to Larimer County or the costs of road construction at the time of its completion.

C. *Procedure for credit review.*

1. The determination of any credit will be undertaken after the submittal of an application to the fee administrator on a form provided by the county, and with information required by this section. The application shall be filed before payment of any regional road capital expansion fee to which the credit is intended to apply.
2. The application for a credit agreement must include the following information:
  - a. If the proposed application involves a credit for any contribution or payment:
    - (1) A certified copy of the development approval in which the contribution was agreed; and
    - (2) If payment has been made, proof of payment; or if payment has not been made, the proposed method of payment.
  - b. If the proposed application involves credit for construction:
    - (1) The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Colorado engineer or contractor;
    - (2) The construction timetable for the completion of the improvements; and
    - (3) The projected costs for the suggested improvement, which shall be based on local information for similar improvements. The estimated cost must include the cost of construction or reconstruction, the cost of all labor and materials, costs of professional services, and all other expenses necessary or incidental to determining the feasibility or practicability of the construction or reconstruction.
3. Within ten (10) working days of receipt of the proposed application, the fee administrator will determine if the application is complete. If it is determined that the proposed agreement is not complete, the fee administrator will send a written statement to the applicant outlining the deficiencies. The fee administrator will take no further action on the proposed application until all deficiencies have been corrected or otherwise settled.
4. Once the fee administrator determines the proposed application is complete, the application will be reviewed and the fee administrator will render a written decision in 20 working days on the amount of the credit due, based on the standards in subsection 9.6.9.A (credits; general standards), and will mail that decision to the person submitting the application.
5. If the application for credit agreement is approved by the fee administrator, a credit agreement will be prepared and signed by the applicant and the county. It will specifically outline the

contribution, payment, or construction; the time by which it will be completed or paid, and any possible extensions of such time; and the dollar amount of the credit the applicant will receive for the contribution, payment, or construction.

- D. *Appeal of credit decision.* A fee payer affected by the decision of the fee administrator regarding credits can appeal the decision to the county commissioners by filing with the fee administrator, within (10) ten working days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The fee administrator will place the appeal on the county commissioner's agenda for the next regularly scheduled meeting. The county commissioners will affirm or reverse the decision of the fee administrator based on the standards in subsection 9.6.9.A (credits; general standards). If the county commissioners reverse the decision, they will direct the fee administrator to readjust the credit in accordance with their findings. In no case will the county commissioners have the authority to negotiate the amount of the credit.

(Res. No. 12262006R003, 12-26-2006)

9.6.10. - Use of fees collected.

- A. *Single benefit district.* Because the TMP and TCEF show widespread use of the regional road system by all portions of the county, all of the unincorporated area within Larimer County is hereby designated as the regional road capital expansion fee benefit district. This single benefit district is the same as the single benefit district established by the regional transportation capital expansion fee regulation of 2006 that this regulation replaces.
- B. *Expenditure.* Regional road capital expansion fee funds must be spent within the single benefit district defined in subsection A.
- C. *Establishment of trust fund.* There is hereby established the Larimer County Regional Road Capital Expansion Fee Trust Fund for the purpose of ensuring that fees collected under this regulation are designated for the accommodation of impacts reasonably attributable to the proposed traffic-generating development.
- D. *Requirements for trust fund.*
1. All regional road capital expansion fees collected by the fee administrator under this regulation shall be immediately deposited in the regional road capital expansion fee trust fund.
  - 2.
  3. No monies from the trust fund shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any facility of any type, or to address deficiencies in the regional road system existing on the effective date of this regulation.
  4. Any proceeds in the trust fund not immediately necessary for expenditure will be invested in an interest-bearing account. All income derived from these investments must be retained in the trust fund until spent for the same purposes permitted for the remainder of the trust fund deposits.
  5. Proceeds collected and all interest accrued on such funds will be used solely for regional road capital facilities on the regional road.
  7. Records of the trust fund accounts will be available for public inspection in the fee administrator's office during normal business hours.
- E. *Intergovernmental agreement.* Each participating local government will also establish a trust fund into which regional road capital expansion fees collected by that government will be deposited. The procedures for control and expenditure of these funds will be established in the intergovernmental agreements.

(Res. No. 12262006R003, 12-26-2006)

9.6.11. - Refund of fees not spent.

- A. *General.* Any regional road capital expansion fees collected, together with interest earned on such fees, will be returned to the fee payer or the fee payer's successor in interest (if the development subject to the fee is sold by the fee payer), if the fees have not been spent within ten years from the date the first building permit for the traffic-generating development was issued (or, if the fee administrator agreed to delay collection of the fee until the issuance of a certificate of occupancy, then within ten years from the date of the certificate of occupancy). Fees will be spent on the basis of the first fee collected being the first fee spent.
- B. *Refund procedure.* The refund of fees will be administered by the fee administrator through the following process:
1. A refund application must be submitted within one year after the end of the tenth year from the date on which the first building permit for the traffic-generating development was issued (or the date of the issuance of a certificate of occupancy, if the fee was collected at that point). The refund application must include the following information:
    - a. A copy of the dated receipt issued for payment of the fee;
    - b. A copy of the building permit or certificate of occupancy, as applicable; and
    - c. Evidence that the applicant is the fee payer or the successor in interest to the fee payer, if relevant.
  2. Within ten (10) working days of receipt of the refund application, the fee administrator will determine if it is complete. If the fee administrator determines the application is not complete, a written statement specifying the deficiencies will be forwarded by mail to the person submitting the application. Unless the deficiencies are corrected, the fee administrator will take no further action on the refund application.
  3. When the fee administrator determines the refund application is complete, it will be reviewed within 20 working days and will be approved if it is determined the fee payer has paid a fee that the county has not spent within the period of time permitted under this section. The refund will include the fee paid plus interest earned on the fee.
- C. *Appeal.* A fee payer affected by the administrative decision regarding refunds can appeal the decision to the county commissioners by filing with the fee administrator, within ten (10) working days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The fee administrator will place the appeal on the county commissioner's agenda. The county commissioners, after a hearing, will affirm or reverse the decision of the fee administrator based on the standards in this section. If the county commissioners reverse the decision of the fee administrator, they will direct the administrator to issue or adjust the refund in accordance with their findings. In no case will the county commissioners have the authority to negotiate the amount of the refund.
- D. *Prior rights continue.* Any person entitled to a refund pursuant to the terms of the regional transportation capital expansion fee regulation of 2006 shall retain any such rights notwithstanding the replacement of that earlier regulation with this regulation, and the adoption of this regulation shall not affect the dates upon which any such refund may become due or the procedures that the claimant must follow in order to obtain a refund.

(Res. No. 12262006R003, 12-26-2006)

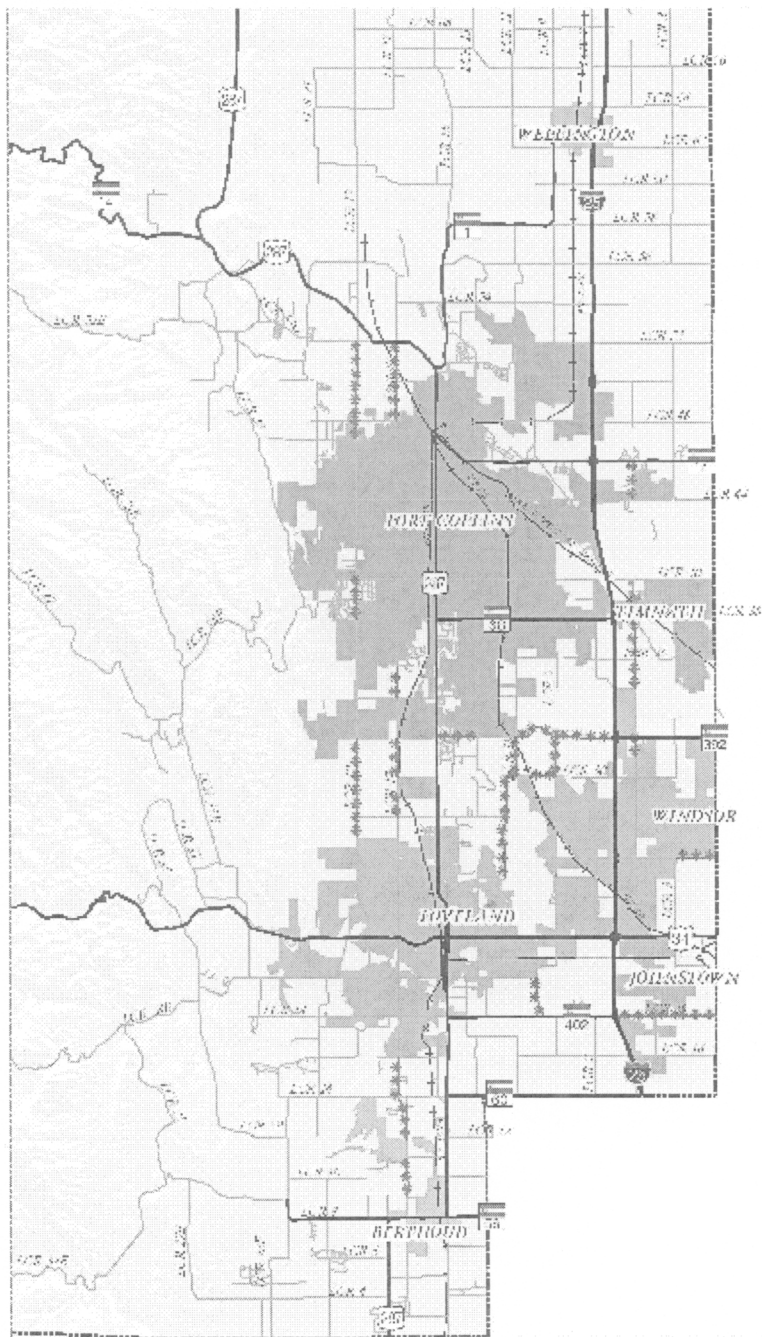
9.6.12. - Miscellaneous provisions.

- A. *Mistake or misrepresentation.* If the regional road impact fee is calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a fee payer shall be refunded by the county within 30 days after the fee administrator's acceptance of the recalculated amount, with interest since the date of such overpayment at the same rate applicable to trust fund deposits since the initial payment was made. Any amounts underpaid by the fee payer shall be paid to the county within 30 days after the fee administrator's notification of the calculated amount, with interest since the date of such underpayment at the same rate applicable to trust fund deposits since the initial payment was made. In the case of an underpayment to the county, the county shall not issue any additional permits or approvals for the project for which the fees were previously paid until such underpayment is corrected, and if amounts owed to the county are not paid within 60 days after the fee administrator's notification of the recalculated amount, the county may also repeal any permits issued in reliance on the previous payment of such fees and refund fees received, with interest since the date of the payment, to the then current owner of the land.
- B. *Review every five years.*
1. At least once every five years, the fee administrator will recommend to the county commissioners whether any changes should be made to the regional road component of the TCEF or this regulation. The fee administrator will be assisted by their counterparts in participating local governments. The purpose of this review is to analyze the effects of inflation on actual costs; to assess potential changes in needs; to assess any changes in the characteristics of land uses; and to ensure that the regional road capital expansion fees will not exceed a fair share of the costs of addressing the impacts of growth and development on regional roads as required by applicable law. Any recommended modifications of this regulation as a result of the review shall only be effective following approval by the county commissioners.
  2. Automatic annual adjustments. The provisions of subsection 9.6.12.B.1 above shall not affect the provisions of section 9.6.7.C.2, which provide for annual adjustments to the fee schedule to reflect changes in construction costs without further action by the county commissioners.
- C. *Severability.* If one or more provisions of this regulation are invalidated by any court of law, those provisions shall be severed from the remainder of this regulation, the validity of the remainder of this regulation shall not be affected, and the invalidated provisions shall be deemed to have been replaced with provisions as close as possible to the intent of the original provisions while correcting for the cause of the invalidation.

non(Res. No. 12262006R003, 12-26-2006; Res. No. 06162009R002, Exh. A, 6-16-2009)

# Exhibit A. Regional Road System

TESTRIG  
HULL &  
OLEVIG



- Legend*
- State or US Highway
  - Regional County Road
  - City Roads
  - - - - - City Boundary



Figure 3  
Regional Roads