

**SAN JOAQUIN COUNTY
REGIONAL TRANSPORTATION IMPACT FEE PROGRAM
OPERATING AGREEMENT**

THIS REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT (“Agreement”) dated as of the Effective Date is made by and between the San Joaquin Council of Governments (“SJCOG”), and the following eight public agencies located within San Joaquin County (collectively the “Participating Agencies”), including, the County of San Joaquin (“County”), the City of Escalon (“Escalon”), the City of Manteca (“Manteca”), the City of Lathrop (“Lathrop”), the City of Lodi (“Lodi”) the City of Ripon (“Ripon”) the City of Stockton (“Stockton”), and the City of Tracy (“Tracy”) (the identified cities are hereinafter collectively the “Cities”).

RECITALS

WHEREAS, SJCOG has the responsibility as the region’s designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network; and

WHEREAS, the Participating Agencies and SJCOG find that future development within the County of San Joaquin will result in traffic volumes in excess of capacity on a regional system of highways, interchanges, and local roadways; and,

WHEREAS, the Participating Agencies and SJCOG find that failure to expand the capacity of the existing circulation system will cause unacceptable levels of congestion on the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find that existing and future sources of revenue are inadequate to fund substantial portions of the Regional Transportation Network improvements needed to avoid unacceptable levels of congestion and related adverse impacts; and,

WHEREAS, SJCOG, following extensive analysis and consultations with the Participating Agencies and other stakeholders, has prepared a Regional Transportation Impact Program Fee Technical Report (“RTIF Technical Report”) that establishes a nexus between new development and its impacts (increased travel demand, reductions in service levels, and the need for capital improvements) upon the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Technical Report has determined the extent to which new development of land will generate traffic volumes impacting the Regional Transportation Network and have determined that the Regional Transportation Impact Fee Program (“RTIF Program”) establishes a fair and equitable method to fund costs of transportation improvements necessary to accommodate the traffic volumes generated by future development of land within each City and the County; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Program is necessary to help mitigate the impact of new development on the Regional Transportation Network and along with other transportation funding mechanisms, in providing for the construction of improvements to accommodate traffic generated by land development; and,

WHEREAS, the Participating Agencies and SJCOG have determined that it is in their best interest to join together to administer the funds provided by the RTIF Program and to authorize SJCOG to manage the RTIF Program for the San Joaquin County region; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that in order to serve the purposes described herein, additional funding, other than that received from the RTIF Program is necessary and must be obtained and each party agrees to cooperate in obtaining additional funding; and,

WHEREAS, the Participating Agencies and SJCOG find and declare SJCOG prepared, adopted and certified in July 2004 a Final Program Environmental Impact Report (“EIR”) for the 2004 Regional Transportation Plan, State Clearing House number 2003082053. The RTIF Program, as adopted in 2005, relied on and was consistent with this previously prepared, approved and certified EIR.

WHEREAS, the Participating Agencies have adopted or will adopt a Regional Transportation Impact Program Fee (“RTIF Program Fee” or “RTIF Fee”) pursuant to their authority to protect the public health, safety, and welfare consistent with the provisions of California Government Code Section 66000 et seq.; and,

WHEREAS, the integrity and success of the RTIF Program is dependent upon all Participating Agencies and SJCOG working cooperatively with each other in order to fulfill their obligations faithfully and promptly; and,

WHEREAS, funds collected pursuant to the Participating Agencies’ ordinances and/or resolutions adopting the RTIF Program are to be held and expended by the Participating Agencies and SJCOG as specified herein.

AGREEMENT

Now, therefore, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:

SECTION 1. PURPOSE

1.1. The RTIF Program requires management procedures that assure that the objective of the RTIF Program is achieved. Specifically, the RTIF Program objective is to obtain funding from development projects that have an impact upon the Regional Transportation Network and to integrate these funds with federal, State, and other local funding to fund transportation improvements identified in the RTIF Program. While the RTIF Program and the RTIF Program

Fee will be imposed and collected by the Participating Agencies, the RTIF Program will be managed by SJCOG for the benefit of the entire County region.

1.2. This Agreement defines the terms of the required management procedures for Participating Agencies and SJCOG including specifications regarding levy and collection, administration, project selection, fund management, appropriation of fee funds, and ongoing technical review and updating.

SECTION 2. DEFINITIONS

2.1. "Development Project" or "Project" means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction, but not a permit to operate.

2.2. "Industrial Project" means any Development Project that proposes manufacturing, transportation or logistics as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference. Examples of the industrial land-use category are printing, material testing, assembly plants, manufacturing plants (where raw materials or parts are converted to finished products) and utilities.

2.3. "Measure K" means the San Joaquin County Transportation Authority Local Transportation Improvement Plan: Air Quality, Mandatory Developer Fees and Growth Management Ordinance which establishes and implements a retail transactions and use tax, as may be extended from time to time.

2.4. "Multi-Family Residential Unit" means a Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.5. "Non-Conforming Land Use" is any Development Project not adequately represented by the six land use categories called out in this agreement. This is typically a non-retail, non-residential development project that has minimal or no building area and yet would generate impacts at a level that is significantly more than represented in the RTIF fee schedule. Examples of these are projects related to mining, intermodal facilities, agriculture, and outdoor recreation. For these projects a "per trip" calculation is included in the fee schedule.

2.6. "Office Project" means any Development Project that involves business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal and laundry services, or similar uses, and religious centers as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.7. "Warehousing Project" means any Development Project that is primarily devoted to the storage of materials. Examples of warehousing land-uses include self-storage facilities, distribution centers (used for storage of finished material prior to their distribution to retail centers or other storage facilities, data centers, agricultural storage, refrigerated/cold storage, and

wrecking yards. Other examples are contained in Exhibit “A” hereto and incorporated herein by reference.

2.8. “On-Going Third Party Costs” means costs to implement the program associated with outside professional services secured by SJCOG. Examples of third party professional services include, but are not limited to the following: a) Conducting RTIF program review every five years in accordance with California Government Code Section 66000 et seq.; b) Technical support (e.g., nexus analysis); c) Legal Fees; and, d) Annual fiscal audit.

2.9. “Participating Agencies” means the County of San Joaquin and each of the cities situated in San Joaquin County if such agencies have (1) adopted the RTIF Program Fee by ordinance and/or resolution and (2) entered into this Agreement.

2.10. “Regional Transportation Impact Fee Program” or “RTIF Program” is the regional program established by this Agreement by the Participating Agencies and SJCOG to impose, collect and distribute a RTIF Fee to assist in the funding of transportation improvements to the Regional Transportation Network.

2.11. “Regional Transportation Impact Program Fee” or “RTIF Program Fee” or “RTIF Fee” means the fee established by each Participating Agency consistent with this Agreement to implement the RTIF Program.

2.12. “Regional Transportation Network” means the regional network of highways and arterials as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG.

2.13. “RTIF Capital Projects” or “Capital Projects” or “RTIF Project List” is the RTIF Program improvements and projects as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG’s adoption and amendment of a “RTIF Capital Projects Report.”

2.14. “RTIF Capital Projects Report” means the report adopted by SJCOG annually which identifies the RTIF Capital Projects as amended from time to time consistent with Section 9 of this Agreement.

2.15. “RTIF Technical Report” means the San Joaquin County Regional Transportation Impact Fee RTIF Technical Report dated October 2005, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act.

2.16. "Residential Dwelling Unit" means a building or portion thereof which is designed primarily for residential occupancy by one family including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

2.17. "Retail Project" means any Development Project that retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise at a fixed point of sale as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.18. "Single-Family Residential Unit" means the use of a parcel for only one residential dwelling unit as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

SECTION 3. FEE RATE

3.1. RTIF Program Fees and Annual Adjustment. The RTIF Program Fee shall be adjusted annually. Annual adjustments to the RTIF Program Fee shall be adjusted by each Participating Agency on an annual basis at the beginning of each fiscal year (July 1). The annual adjustment shall be calculated by SJCOG as the arithmetic average of the annualized percentage change of the Engineering News Record California Construction Cost Index (CCCI) for each of the three most recent years. For example, for the 14/15 fiscal year adjustment, the adjustment calculation would be:

<i>Year</i>	2014	2013	2012	2011
<i>CCCI Index (April)</i>	5956	5786	5740	5636
<i>Annual % Change</i>	2.94%	0.80%	1.85%	N/A

3-Year Average

1.86%

Changes to the annual adjustment methodology or index will be considered during each five-year RTIF review as specified in Section 8.1. However, changes to the annual adjustment methodology or index may be instituted as needed, with approval of the SJCOG Board of Directors, without necessitating a change in the Operating Agreement. Based on the annual adjustment methodology noted, the fee schedule for fiscal year 2014/2015 is as follows:

RESIDENTIAL		NON – RESIDENTIAL				
Single Family	Multi-Family	Retail	Office	Industrial	Warehouse	Non-Conforming
\$3,084.58	\$1,850.75	\$1.23	\$1.55	\$0.93	\$0.39	\$136.10
DUE	DUE	Square Foot	Square Foot	Square Foot	Square Foot	Per Trip

The RTIF fee collected is based on the predominant use of the project or addition. General definitions and examples for each land-use category are included in Section 2 and Exhibit "A" of

this Agreement. Within these parameters, application of the appropriate fee is determined by the local agency at the time of permit issuance.

SECTION 4. COLLECTION OF RTIF PROGRAM FEES

4.1. Payment of RTIF Program Fees. Payment of the RTIF Program Fees shall be as follows:

(a). The RTIF Program Fees shall be paid at the time of issuance of a building permit for the Development Project, or as otherwise required or permitted pursuant to Government Code section 66007.

(b). The amount of the RTIF Program Fees shall be the fee amounts in effect at the time of payment.

(c). RTIF Program Fees shall not be waived or subject to negotiation.

4.2. Payment by all Development Projects. Except as otherwise expressly provided by this Agreement, the RTIF Program Fee imposed by all Participating Agencies shall be payable by (1) all Development Projects within the jurisdiction of the Participating Agency for which building permits or other entitlements for Development Projects are issued on or after the effective date of the adoption of the RTIF Program Fee by the Participating Agency, and (2) all Development Projects within the Participating Agency for which building permits or other entitlements for Development Projects were issued prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency and which permits or entitlements were issued subject to a condition requiring the developer to pay a RTIF Program Fee to be imposed upon such Development Project within the jurisdiction of the Participating Agency.

4.3. Exemptions from the RTIF Program Fee. The following Development Projects shall not be subject to the RTIF Program Fee:

(a). The rehabilitation and/or reconstruction of any legal, residential structure and/or the replacement of a previously existing legal dwelling unit, including an expansion of an existing dwelling unit that does not create an additional dwelling unit.

(b). The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.

(c). Development Projects for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency.

(d). Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq. prior to the effective date of the initial adoption of the RTIF Program Fee by the Participating Agency (2005), wherein the imposition of new fees are expressly prohibited by the development agreement, provided, however, that if the term of such a development agreement is

extended after the effective date of the adoption of the RTIF Program Fee, the RTIF Program Fee shall be imposed.

4.4. Future Development Agreements. All future development agreements entered into by the Participating Agencies shall require the full payment of the RTIF Program Fee.

4.5. Payments for non-residential projects. For non-residential projects the amount of the fee imposed on the entire Development Project shall be determined based upon (1) the gross floor area and (2) the predominant use of the building or structure as identified in the building permit.

4.6. Payment for mixed use projects. For mixed land use projects, which are projects that have both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the following:

- (a) The fee associated with the type of residence; and,
- (b) The predominant use of the non-residential portion of the project.

4.7. Previously Paid RTIF Program Fees. In the event that RTIF Program Fees have previously been paid for an existing building which is a new Development Project with a new or different RTIF Fee category, the previously paid RTIF Program Fees for that existing building shall be credited against the amount of the RTIF Program Fee attributable to the new Development Project, up to the amount of the previously paid RTIF Program Fee. A rebate will not be granted if the change in land use represents a lower fee.

SECTION 5. DISTRIBUTION OF RTIF PROGRAM FEES

5.1. Purpose of RTIF Program Fees. Except as otherwise provided in this Agreement, all RTIF Program Fees received by each Participating Agency or SJCOG shall be used solely for the purpose of funding Regional Transportation Network projects as specified in the RTIF Technical Report and which are included within the RTIF Capital Projects Report. Each Participating Agency and SJCOG may spend RTIF Program Fees held by that entity on RTIF Capital Projects at the discretion of that entity.

5.2. Distribution of Fee Revenue. All fees collected by each Participating Agency pursuant to the RTIF Program Fee shall be distributed as follows:

- (a). Ten (10) percent of the amounts collected by the Cities shall be paid directly to the County on a semi-annual basis for the purpose of funding RTIF Capital Projects within the County of San Joaquin.
- (b). Ten (10) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding state highway improvements on the RTIF Project List.

(c). Five (5) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding transit improvements on the RTIF Project List.

(d). Semi-annual payments shall be received no later than February 28th and August 31st with a collection period of July 1st – December 31st and January 1st – June 30th ., respectively. Each payment shall be accompanied by a report that shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including such information as the types of permits issued by land-use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the amount of RTIF Program fees forwarded to the County and SJCOG as appropriate.

(e). Seventy Five (75) percent of the amounts collected by each city shall be retained by each city collecting such funds for the purposes of funding RTIF Capital Projects, and Eighty Five (85) percent of the amounts collected by the County shall be retained by the County for the purposes of funding RTIF Capital Projects. In the event a Participating Agency determines it does not want to retain or manage this portion of the RTIF Program Fees, the Participating Agency may provide this portion of the RTIF Program Fees to SJCOG for administration to assist with the construction of Capital Projects on behalf of the Participating Agency.

SECTION 6. ADMINISTRATIVE COSTS

6.1. Participating Agency Administrative Costs. The amount of RTIF Program Fee funds that are permitted to be used by each Participating Agency to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two (2) percent of the first one million dollars (\$1,000,000) retained each year by each City pursuant to subdivision (e) of section 5.2 of this Agreement or received each year by the County pursuant to subdivisions (a) and (e) of section 5.2 of this Agreement. In addition, each Participating Agency may use up to one (1) percent of the amounts retained or received each year in excess of the initial one million dollars (\$1,000,000).

6.2. SJCOG Administrative Costs. The amount of RTIF Program Fee funds permitted to be used by SJCOG to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two percent (2%) of the first one million dollars (\$1,000,000) received each year by SJCOG pursuant to subdivision (b) and (c) of section 5.2 of this agreement and up to one percent (1%) of the amounts received each year in excess of the initial one million dollars (\$1,000,000).

6.3. On-going Third Party Costs. On-going third party costs approved by the SJCOG Board of Directors to regionally implement the RTIF Program will be paid to SJCOG by each Participating Agency and SJCOG on an annual basis. The amount of on-going third party costs each Participating Agency and SJCOG shall pay is based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. These payments for the on-going third party costs shall not be considered

administrative costs and shall not be subject to the limitations provided in sections 6.1 and 6.2 of this Agreement.

6.4. Legal Challenges. In the event that any Participating Agency and/or SJCOG is subject to a legal challenge of the RTIF Program then all Participating Agencies and SJCOG will be responsible for the costs associated with such legal challenge. At the time of such legal challenge the Participating Agencies and SJCOG will coordinate the defense of such legal challenge and the costs incurred for such legal challenge will be the responsibility of the Participating Agencies and SJCOG based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. For the purposes of this section 6.4, a legal challenge of the RTIF Program is limited to a challenge to either (a) the legal ability to adopt or impose the RTIF Program; or (b) the validity of the RTIF Technical Report. This section 6.4. will not apply to any legal challenge due to the manner of implementation of the RTIF Program that is either unique to a Participating Agency or that is not consistent with the provisions of this Agreement.

SECTION 7. ADMINISTRATION OF THE RTIF PROGRAM

7.1. RTIF Account or RTIF Funds. All fees collected pursuant to the RTIF Program Fee by each Participating Agency shall be deposited in a RTIF account or RTIF fund and shall not be commingled with other funds of the Participating Agency. The contents of this RTIF fund shall be designated solely for the purpose of contributing to the financing of the RTIF Capital Projects included in the RTIF Capital Projects Report and for the funding of incidental administrative costs. Any interest income earned on the RTIF fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Agreement.

7.2. Prohibition on Interfund Transfers or Loans. Notwithstanding subsection (b)(1)(G) of section 66006 of the Government Code there shall be no interfund transfer, grant or loan of the RTIF Program Fees or RTIF fund or RTIF account to other accounts, funds, programs or fees. However, a Participating Agency may provide loans, grants or transfers of RTIF Program Fees to other Participating Agencies or SJCOG provided that such funds are consistent with the RTIF Program and used for the development or construction of RTIF Capital Projects.

7.3. Annual Reports. By October 15th of each year, SJCOG shall prepare and deliver to the Executive Director of SJCOG an annual report consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.). The annual report, which will be reviewed by the SJCOG Board of Directors, shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including, such information as the types of permits issued by land use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the status of RTIF Program fees forwarded to the County and SJCOG by the Cities. For purposes of preparing the annual reports to satisfy the requirements of the Mitigation Fee Act, SJCOG and the County shall coordinate with and provide to each Participating Agency in a timely manner, and no later than August 31st of each year, all necessary information regarding the RTIF Program funds held by SJCOG and the County that were distributed to the County and SJCOG from the Participating Agencies pursuant to section 5.2 of this Agreement.

7.4. Annual Audit. The RTIF Program financial activity for each Participating Agency and SJCOG shall be reviewed annually by December 31st of each year by an independent certified public accountant selected and retained by SJCOG.

7.5. RTIF Program Administrator. SJCOG is the monitor of the RTIF Program and will monitor all fee revenue generated pursuant to the RTIF Program as reported semi-annually by all Participating Agencies.

SECTION 8. PERIODIC REVIEW OF RTIF PROGRAM FEES

8.1. Except as otherwise provided in Section 3.1 of this Agreement, the RTIF Program Fee shall not be adjusted during the first five years following the Effective Date of this Agreement. Thereafter, the RTIF Program Fee shall be evaluated, and adjusted accordingly, by all Participating Agencies and SJCOG every five (5) years to reflect the projected revenues generated or any other local or new funding sources, and to reflect changes in actual and estimated costs of the RTIF Capital Projects including, but not limited to, debt service, lease payments and construction costs. This evaluation shall include the report required by the Fee Mitigation Act (Gov. Code §§ 66000 et seq.) which includes, but is not limited to, all of the following information:

- (a). Identifies the purpose (project need) to which the fee is to be put;
- (b). Demonstrates a reasonable relationship between the fee and the purpose for which it is charged;
- (c). Identifies all sources and amounts of funding anticipated to complete financing in incomplete improvements;
- (d). Commits RTIF Program funds to RTIF Capital Project(s) and indicates that such funds are expended or reimbursed within the time periods established by the Fee Mitigation Act requirements; and,
- (e). Identifies the RTIF Capital Projects to be constructed, the estimated costs of the RTIF Capital Projects, the costs to be funded by the RTIF Program Fee revenue, and the availability or lack thereof of other funds with which to construct the Regional Transportation Network.

8.2. If the periodic reports prepared pursuant to section 8.1 above demonstrates a need, the Participating Agencies, in coordination with SJCOG, may consider modifying the RTIF Program Fee amount to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth.

8.3. SJCOG and the County shall coordinate with each Participating Agency in the preparation of the periodic reports required by Section 8.1 of this Agreement and the Fee Mitigation Act, and provide any and all information and/or commitments necessary regarding RTIF Program fees distributed to SJCOG and the County from the Cities. In the event RTIF Program fees must be refunded pursuant to section 66001 of the Government Code, SJCOG and

the County will provide to each City for refund any proportional share of RTIF Funds that must be refunded that were distributed to SJCOG and/or the County by each City.

SECTION 9. SJCOG CAPITAL PROJECTS SELECTION.

9.1. RTIF Capital Projects Report. SJCOG will be responsible for establishing and maintaining the RTIF Project List. From time to time, at the request of a Participating Agency, and at least annually, SJCOG shall review the RTIF Capital Projects Report to add, modify, or remove RTIF Capital Projects. Each Participating Agency will have the opportunity to suggest changes to the Capital Projects within the RTIF Program at this time. SJCOG will make any and all changes to the Capital Projects Report annually taking into consideration the comments received from each Participating Agency consistent with the screening criteria contained within the RTIF Technical Report.

9.2. Project Inclusion Criteria. The technical basis of the RTIF Program is a list of road improvement projects identified as Capital Projects within the Regional Transportation Network which are eligible and appropriate for funding from the RTIF Program. The inclusion criteria used to select the RTIF Capital Projects are as set forth in the RTIF Technical Report. It is the application of these criteria that assure adherence to the required nexus principles. Modification to the inclusion criteria will require approval by resolution of all Participating Agencies and an update of the RTIF Technical Report.

9.3. Selection of New Capital Projects. Any new projects recommended for listing as a RTIF Capital Project must be modeled and screened consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.) criteria for establishing a rational nexus. In addition, new projects added to the RTIF Project List must meet all of the following criteria:

9.3.1. Highway, Interchange, and Regional Roadway Improvements

- (a) The project is on the adopted Regional Transportation Network;
- (b) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (c) The project involves a capacity improvement of one or more through travel or passing lanes, or auxiliary lanes (i.e. turn lanes). This criterion shall not be applied to interchange improvement projects.

9.3.2. Public Transit Improvements

- (a) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (b) The project involves an improvement to an existing or a new service/facility which connects at least two (2) or more cities or regions.

9.4. Jobs Balancing Investment Fund Improvements. This category provides funding for transportation projects that support non-residential development projects considered a high

priority to meet economic development policy objectives. Funding for these projects shall come from the “regional” share component of RTIF funding overseen by SJCOG. The maximum funding for any single project is \$500,000; the annual program maximum is \$1,000,000. Funding limits may be revised by the SJCOG Board. Use of these funds shall be consistent with the adopted RTIF nexus study and compliant with the Mitigation Fee Act. These improvements must meet the following criteria:

9.4.1. If the improvement is an RTIF Capital Project and is scheduled for delivery within the time frame evaluated in the RTIF Technical Report, the project may be funded with RTIF revenues up to the fair share total costs identified for the project.

9.4.2. If the improvement is not an RTIF Capital Project, the project must meet one or more of the following:

- (a) The improvement is on the RTIF Network;
- (b) The improvement provides a benefit to or supports improvement to the RTIF Network as set-forth in the currently adopted RTIF Technical Analysis.
- (c) The RTIF Network is amended to include the improvement;
- (d) If the improvement does not meet the criteria for 9.3.1., 9.3.2., 9.4.1. or 9.4.2., the improvement shall be screened against the criteria set forth in the Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update or currently adopted RTIF Technical Analysis, and appropriate findings made to support the adopted RTIF nexus study.

In addition to meeting at least one of the criteria set forth in (a) – (d), the improvement must be reviewed and recommended for funding by the RTIF Project Selection Committee.

9.5. Inclusion in Regional Transportation Plan. Prior to receiving any RTIF Program Fee revenue a project must be identified in the SJCOG Board approved Regional Transportation Plan (RTP) and the RTIF Project List.

9.6. RTIF Project Management. Each City is responsible for managing and delivering RTIF interchange and regional roadway projects located within its incorporated boundaries, except as otherwise specifically agreed to by such city. The County is responsible for managing and delivering RTIF Projects located within the unincorporated area of the county, except as otherwise specifically agreed to by the County.

SECTION 10. CREDITS AND REIMBURSEMENTS

10.1. Reimbursements and Credits. In the event that RTIF Capital Projects are constructed by a developer in excess of the Development Project's RTIF Program Fee obligation or in lieu of payment of RTIF Program Fees by a developer pursuant to an agreement between the developer and the Participating Agency, the developer may be reimbursed or credited for future application for any costs based on the actual costs of construction of the RTIF Capital Project incurred by the developer in excess of the amount the RTIF Program Fees that apply to the Development Project. Reimbursements shall be enacted pursuant to an agreement between the developer and the Participating Agency contingent on payment of funds when available for reimbursement to the developer. In all cases, however, reimbursements to developers pursuant to any agreement must be consistent with construction of the transportation improvements as scheduled in the RTIF Capital Projects Report.

SECTION 11. EXISTING REGIONAL TRANSPORTATION FEES

11.1. Each Participating Agency shall evaluate and adjust, if necessary, its existing local fee program(s), if any, associated with regional traffic impacts to determine continued compliance with the Fee Mitigation Act due to the adoption of the RTIF Program.

SECTION 12. WITHDRAWAL

12.1. For reasons pertaining to the lack of direct benefit, a Participating Agency may elect to withdraw from the RTIF Program upon providing one year written notice to SJCOG and each Participating Agency. If the Participating Agency has accrued RTIF Program Fee revenue, all funds plus interest earned shall be expended on RTIF Capital Projects by the Participating Agency or by any Participating Agency or SJCOG.

SECTION 13. MISCELLANEOUS

13.1. Effective Date. This Agreement shall be effective and all Participating Agencies and SJCOG shall be authorized to proceed under this Operating Agreement at the date in which this Agreement has been executed by the San Joaquin County Board of Supervisors, the City Councils of each of the Cities, and SJCOG.

13.2. Partial Invalidity. If any one or more of the terms or provisions of this Agreement shall be adjudged invalid, unenforceable, void or voidable by a court of competent jurisdiction, each and all of the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

13.3. Amendments. Any amendments to this Agreement shall be made by the SJCOG and all Participating Agencies.

13.4. Enforcement. It shall be the responsibility of the Participating Agencies and SJCOG to adopt, implement, and maintain the RTIF Program consistent with the terms of this Agreement.

13.5. Execution. The Board of Supervisors of the County of San Joaquin, the City Councils of the Cities, and the Board of Directors of SJCOG have each authorized execution of this Agreement as evidence by the authorized signatures below.

13.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

<u>PARTY</u>		<u>DATE OF APPROVAL</u>
Board of Supervisors, County of San Joaquin		
By		
Chair		Date
Attest:		
Clerk of the Board		
City Council, City of Escalon		
By		
Mayor		Date
Attest:		
City Clerk		

City Council, City of Lathrop		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Lodi		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Manteca		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Ripon		
By		
Mayor		Date
Attest:		
City Clerk		

City Council, City of Stockton		
By		
Mayor		Date
Attest:		
City Clerk		
City Council, City of Tracy		
By		
Mayor		Date
Attest:		
City Clerk		
San Joaquin Council of Governments		
By		
Board Chair		Date
Attest:		
Executive Director		

EXHIBIT A

RTIF LAND USE FEE CATEGORY SUMMARY

RESIDENTIAL

Single-Family Dwelling

A single family dwelling is defined as a residence designed for or occupied exclusively as a residence for one family; including a vacation home or seasonal dwelling and is located on one parcel.

Multi-Family Dwelling

Multi-family dwellings are defined as single structures designed for and/or constructed to contain two (2) or more dwelling units which share common walls (i.e., rowhouse, townhouse, duplex, triplex, quadraplex, condominium, apartment complex). When an existing single-family dwelling is converted into two (2) or more dwellings, it will be reclassified and subject to the multi-family dwelling regional fee. As a planned development containing two (2) or more residences, mobile homes parks are considered multi-family dwellings. A “commercial apartment” dwelling located within a commercial building is classified as a multi-family dwelling.

NON-RESIDENTIAL

Relationship of businesses to RTIF non-residential land use categories are based on the North American Industry Classification System (NAICS)

Retail

Sector comprises establishments engaged in retailing merchandise, generally without transformation and rendering services incidental to the sale of merchandise—fixed point of sale location. NAICS Sectors 44 & 45 represents the retail industry. Examples of retail businesses include:

- Garden material and garden supply dealers
- Food and beverage stores (i.e., grocery stores, specialty food stores, beer/wine/liquor stores)
- Health and personal care stores
- Gasoline stations
- Motor vehicle and parts dealers
- Furniture and home furnishing stores
- Electronics and appliance stores
- Clothing and clothing accessories stores

- Sporting goods, hobby, book and music stores
- General merchandise stores
- Miscellaneous store retailers
- Non-store retailers such as electronic shopping and mail-order houses, direct selling establishments

Office/Service

Sector comprises finance, insurance, real estate professional, scientific and technical services, research and development, administrative & support services, education, health care and social assistance and other such as repair & maintenance, personal & laundry, and religious centers, including churches. NAICS Sectors 51 – 72, 81 & 92 represents the office industry. Examples of office related businesses include:

- Publishing industries, except Internet
- Motion picture and sound recording industries
- Broadcasting, except Internet
- Internet publishing and broadcasting
- Telecommunications
- Internet Service Providers, search portals, and data processing
- Other information services such as libraries and archives, news syndicates
- Monetary authorities such as banks, credit unions, credit card issuing services, sales financing, mortgage and non-mortgage loan brokers
- Securities, commodity contracts, investments
- Insurance carriers and related activities
- Funds, trusts, and other financial vehicles
- Real estate
- Rental and leasing activities
- Lessors of non-financial intangible assets
- Professional and technical services such as legal, accounting, engineering, design, consulting, research and development, advertising services
- Management of companies and enterprises
- Administrative and support services such as employment, business support (i.e., call centers, collection agencies), travel arrangement and reservation services, services to buildings and dwellings (i.e., janitorial, landscaping, pest control, carpet cleaning)
- Waste management and remediation services
- Educational services
- Health care and social assistance
- Hospitals
- Nursing and residential care facilities
- Social assistance (i.e., child/youth services, services for the elderly and persons with disabilities, shelters, food banks, vocational rehabilitation services, day care)
- Art, entertainment, and recreation
- Museums, historical sites, zoos, and parks
- Amusements, gambling, and recreation

- Accommodation and food services (i.e., traveler accommodations such as hotels and motels, bed-and breakfast inns, RV parks, rooming and boarding houses)
- Food services and drinking places (i.e., caterers, mobile food services, drinking places of alcoholic beverages, and full service restaurants)

Warehouse

The warehouse land use category should be applied to projects that are primarily devoted to the storage of materials, but they may also contain ancillary industrial, office, or maintenance areas. When the associated industrial, office, or maintenance area is primary rather than ancillary, the industrial or office categories should be used. NAICS sector 493 represents the warehouse land-use category. Examples include:

- Self-storage facilities
- Distribution centers (used for storage of finished material prior to distribution to retail centers or other storage facilities)
- Data centers (primarily used for off-site storage of computer systems, components, and data systems)
- Agricultural storage
- Refrigerated/Cold storage
- Wrecking yards

Industrial

RTIF land use category of industrial may be properly applied to a wide range of uses containing a mix of manufacturing, industrial, and warehouse and includes establishments engaged in the mechanical, physical, or chemical transformation of components into products to include construction engaged in buildings and other structures. The industrial land use category also includes establishments engaged in wholesaling merchandise, generally without transformation and rendering services incidental to the sale of merchandise including industries providing transportation of passengers and cargo, and scenic and sightseeing transportation. The NAICS Sectors 21, 22, 23, 31 through 33, 42, 48 & 49 (with the exception of NAICS 493 – warehousing and storage) represents the industrial land use category. Examples of industrial related businesses include:

- Utilities (i.e., power generation and supply, natural gas distribution, water treatment plants)
- Construction of buildings
- Heavy and civil engineering construction
- Specialty trade contractors such as roofing, sheet rock, framing contractors
- Building and equipment contractors
- Building finishing contractors
- Other specialty trades such as residential and non-residential site preparations
- Food manufacturing (i.e., animal, flour, rice, breakfast cereal, dairy products, bakeries, nuts)

- Beverage and tobacco product manufacturing
- Textile and textile product mills
- Apparel manufacturing
- Leather and applied product manufacturing
- Wood product manufacturing
- Paper Manufacturing
- Printing and related support activities
- Petroleum and coal products manufacturing
- Chemical manufacturing
- Plastics and rubber products manufacturing
- Nonmetallic mineral product manufacturing (i.e., glass, cement & concrete, clay, lime/gypsum)
- Primary metal manufacturing
- Fabricated metal product manufacturing
- Machinery manufacturing
- Computer and electronic product manufacturing
- Electrical equipment and appliance manufacturing
- Transportation equipment manufacturing
- Furniture and related product manufacturing
- Miscellaneous manufacturing (i.e., medical equipment, jewelry, sporting goods, signage)
- Merchant wholesalers of durable and non-durable goods (i.e., motor vehicles and parts, furniture, lumber, paper, clothing, petroleum bulk stations and terminals)
- Electronic markets and agents and brokers
- Air, rail, water, truck, pipeline, scenic/sightseeing transportation
- Transit and ground passenger transportation
- Support activities for transportation