

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

County of Placer

TO: BOARD OF SUPERVISORS

DATE: July 9, 2013

FROM: KEN GREHM / ANDREW GABER

SUBJECT: **FIRST AMENDMENT TO TIER II DEVELOPMENT FEE PROGRAM MEMORANDUM OF AGREEMENT**

ACTION REQUESTED / RECOMMENDATION

1. Adopt a Resolution approving the First Amendment to the Memorandum of Agreement (MOA) between Placer County, the Cities of Roseville, Rocklin and Lincoln, and South Placer Regional Transportation Authority (SPRTA) allowing for fee deferral for the Tier II Development Fee Program and authorizing the Chair to execute the agreement with County Counsel and Risk Management's review and approval. There is no net County Cost.

BACKGROUND / SUMMARY

In 2009, Placer County, the Cities of Roseville, Rocklin and Lincoln ("Local Jurisdictions") and SPRTA entered into an agreement for the future funding of the regional Placer Parkway project. The agencies agreed that the fee would be implemented through development agreements for projects with specific plans within each jurisdiction.

Due to the economic downturn, the Local Jurisdictions desire to provide an opportunity to facilitate development while balancing the need for adequate, timely funding for the design and construction of the Parkway. The current proposal would allow developers to defer a portion of the fee for 30 years when a second term bond for a community facilities district, or other approved financing mechanisms, would then provide the funds due.

The proposed deferral program would have a maximum fee deferral of \$29 million, approximately 5% of the total project costs. Other program criteria include a cap of the amount of the fee to be deferred, the number of dwelling unit equivalents' (DUE's) allowed to participate and calendar deadlines. Section 2 of the proposed Agreement (attached) contains a detailed list of the program criteria. The SPRTA Board would review the fee deferral program as it proceeds, to determine if revisions to, or termination of the program are appropriate. The deferral program will likely defer initial phases of the Parkway by 5 years or more.

At this time, there are only two projects within the County that could participate in this program, the Placer Vineyards Specific Plan and the Regional University Specific Plan. If developers within either specific plan wished to participate, they would be required to prepare a proposal containing details such as amount of fees to be deferred, number of DUE's to participate, and repayment timelines and mechanisms, which would require approval by your Board. Participation in an approved program is voluntary and at the discretion of the jurisdiction.

ENVIRONMENTAL

This action is not a project, as defined by Public Resources Code Section 21065, and is therefore exempt under California Environmental Quality Act (CEQA).

FISCAL IMPACT

The Amendment to the MOA which would allow agencies to utilize the fee deferral has no financial impact to the County. If the County does allow a developer to utilize the deferral program, adequate financial guarantees will be needed to limit the County's risk of paying back the deferred fees.

Attachments: Resolution

Copy of First Amendment to Tier II Development Fee Program Memorandum of Agreement

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Resol. No: _____

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT (MOA) BETWEEN PLACER COUNTY, THE CITIES OF ROSEVILLE, ROCKLIN AND LINCOLN, AND THE SOUTH PLACER REGIONAL TRANSPORTATION AUTHORITY (SPRTA) FOR THE TIER II DEVELOPMENT FEE DEFERRAL PROGRAM AND AUTHORIZING THE CHAIR TO EXECUTE THE AGREEMENT, WITH COUNTY COUNSEL AND RISK MANAGEMENT'S REVIEW AND APPROVAL

The following Resolution was duly passed by the Board of Supervisors of the County of Placer

at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the Placer Parkway will be necessary to convey traffic created by new growth and development from unincorporated Placer County and the Cities of Roseville, Rocklin and Lincoln at acceptable levels of service; and

WHEREAS, the Placer County Board of Supervisors continues to support a joint jurisdictional approach to transportation improvements and financing; and

WHEREAS, this proposed program provides an innovative way to encourage development and responsible growth while ensuring that the needed transportation facilities will be funded when needed; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that this Board approves the First Amendment to the Memorandum of Agreement (MOA) between Placer County, the Cities of Roseville, Rocklin and Lincoln and the South Placer Regional Transportation Authority (SPRTA) for the Tier II Development Deferral Fee Program, and authorizing the Chair to execute the Agreement with County Counsel and Risk Management's review and approval.

**FIRST AMENDMENT TO THE
MEMORANDUM OF AGREEMENT**

Establishment of the Tier II Development Fee Deferral Program

THIS FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT ("Amendment") is made effective as of the ____ day of _____, 2013, by and among the County of Placer ("**Placer County**"), the City of Roseville ("**Roseville**"), the City of Rocklin ("**Rocklin**") and the City of Lincoln ("**Lincoln**"). Placer County, Roseville, Rocklin and Lincoln are hereinafter collectively referred to as the "**Local Jurisdictions**."

Recitals

- A. WHEREAS, on May 27, 2009, the Local Jurisdictions entered into a Memorandum of Agreement ("MOA") for the establishment and collection of Tier II Development Fees for all new development in the Tier II Development Fee Area, as defined in the MOA, for the future funding of the regional Placer Parkway project; and
- B. WHEREAS, the South Placer Regional Transportation Authority ("SPRTA") was designated as the administrator of the Tier II Development Fees; and
- C. WHEREAS, in consideration of the economic pressures that have resulted in a reduction of the processing and development of projects within the Local Jurisdictions, the Local Jurisdictions desire to provide an opportunity to stimulate near-term development within the South Placer County Region while balancing the need for adequate funding to design and construct portions of Placer Parkway when needed to accommodate future traffic demands; and
- D. WHEREAS, a fee deferral option has been presented that protects the integrity of the fee program, provides an incentive to build, ensures a method of future repayment, minimizes the exposure of the overall fee program by limiting the number of DUEs that can participate, the maximum amount that can be deferred, limiting the time for which the deferral will be made available, and provides the parties with the ability to terminate the deferral program at any time; and
- E. WHEREAS, SPRTA has reviewed and supports the fee deferral program subject to concurrence of the Local Jurisdictions; and
- F. WHEREAS, the Local Jurisdictions remain committed to the Tier II Development Fee Program and to working cooperatively with each other towards the construction of this regionally important facility.

NOW, THEREFORE, the parties hereby agree as follows:

1. Establishment of the Tier II Development Fee Deferral Program. The Local Jurisdictions each agree to the establishment of a Tier II Development Fee Deferral Program that provides opportunity for projects within and subject to the Tier II Development Fee Area (as previously defined in the original MOA) to defer a portion of their Tier II Development Fees as set forth in Paragraph 2. This deferral program establishes a short term incentive to the development community and can be terminated by the Local Jurisdictions according to the termination provisions set forth in Paragraph 8 of the MOA, provided that any preexisting obligations to pay Tier II Development Fees shall include any deferred fee amounts.

2. Criteria of Fee Deferral Program. The fee deferral program will be available to all new development projects that establish a Community Facilities District ("CFD") as reviewed by SPRTA staff, or other financing mechanism approved by the SPRTA Board to pay the deferred fees. The basic program parameters are as follows:
 - A CFD with the ability to implement a second bond issuance or other financing mechanism is required for all participating Dwelling Unit Equivalents (DUEs), as defined in the MOA.
 - Maximum combined fees for the entire Fee Deferral Program shall not exceed \$29 Million Dollars.
 - Fee deferrals shall occur at the time of building permit issuance. Prior to building permit issuance, the Local Jurisdictions will report to SPRTA staff on the total amount of units being deferred.
 - The Fee Deferral Program will initially provide for deferral of not more than 50% of the Tier II fees for eligible projects.
 - On January 1, 2026, or upon the participation of 7,000 DUEs in the Fee Deferral Program, whichever is the first to occur, the maximum amount of fees subject to deferral shall be reduced to not more than 30% of the Tier II fees for eligible projects.
 - On January 1, 2031, or upon the participation of 14,000 DUEs in the Fee Deferral Program, whichever is the first to occur, no additional DUEs shall become subject to, or participate in, the Fee Deferral Program.
 - SPRTA Board to review by December 31, 2020 and periodically thereafter at its discretion to determine if revisions to or termination of the program are appropriate.

3. Guarantee of Repayment. All qualifying properties taking advantage of the fee deferral program are obligated to future payment of the deferred fee amount within thirty (30) years from the date of initial deferral. The guarantee of future payment will come in the form of either: (1) a second issuance of the CFD which will be collected with either a second bond sale or continuance of max tax collection (defined as the maximum special tax that can be collected as

determined in the rate and method of apportionment adopted with a CFD) until the fees are paid in full or (2) other financing mechanism as approved by the SPRTA Board until the fees are paid in full. The obligations of the original CFD, which shall run with the land, will specify that the deferred Tier II Development Fees will be paid with proceeds from the second issuance of the CFD or other approved financing mechanism consistent with the requirement that all fees be paid within thirty (30) years of the initial deferral and authorize the city and/or county having jurisdiction to continue to collect taxes. The amount of the deferred fee shall be based upon the amount of the future fee estimated to be charged at the time of payment of the deferred amount. This calculation shall be made utilizing standard methodologies that include calculations for inflation based upon consumer price index growth and other reasonable factors. If for whatever reason the second issuance of the CFD or other financing mechanism does not occur, the county or applicable city which granted the fee deferral will be responsible for future payment of the deferred fees at such time as the fees were otherwise due to be paid. This obligation for repayment by the applicable city or county shall be guaranteed utilizing all lawfully permitted amounts that may be pledged for security, and shall survive the expiration of any applicable development agreement and the subject city or county's participation in the MOA.

4. Actual Deferred Repayment. The repayment amount of the deferred fee shall be the future fee at the time of payment of the deferred amount.

5. Accounting, Tracking and Reporting of Deferred Payments. The Local Jurisdictions shall each provide SPRTA with an annual accounting of the fee deferral program within their respective jurisdictions. The annual accounting report shall include the following:
 - A list of all participating properties, including Assessor's Parcel Numbers (APN's).
 - Date of building permit issuance for participating properties.
 - Identification of underlying CFD or other financing mechanism approved by the SPRTA Board that secures future repayment.
 - Date of CFD origination or other financing mechanism approved by the SPRTA Board.
 - Expiration date of original CFD, and anticipated date of second bond sale or repayment of another financing mechanism approved by the SPRTA Board.
 - Total number of participating parcels, and total amount of deferral to date.

6. SPRTA's Responsibilities.
 - a. SPRTA, as Administrator of the Tier II Development Fees, shall continue to receive that portion of the Tier II Development Fees collected by the Local Jurisdictions which is not part of the fee deferral program and shall remain obligated pursuant to the MOA.

- b. On an annual basis, SPRTA shall collect the fee deferral program annual reports prepared by each Local Jurisdiction and shall deliver copies of such reports to the Local Jurisdictions with the copies of the audit report required by Paragraph 5(e) of the MOA.
- 7. MOA Full Force and Effect. This First Amendment to the MOA is intended to supplement the existing MOA, which is incorporated herein by this reference. All other provisions of the existing MOA shall remain unchanged and in full force and effect.
- 8. SPRTA Review or Approval. In reviewing a CFD or approving other financing mechanism that utilizes a fee deferral program, SPRTA may, in its reasonable discretion, require the City and/or County requesting SPRTA review or approval to provide additional indemnity or other guarantee(s) to SPRTA and/or its member entities to ensure future payment of deferred amounts.
- 9. Section 3 of the MOA is amended in its entirety as follows: On an annual basis, SPRTA and the Local Jurisdictions will meet to review the estimated cost of the Subject Improvements, the continued need for the Subject Improvements and the reasonable relationship between such need and the impacts of the various types of development pending or anticipated and for which the Tier II Development Fees are charged. Based upon their review, the Local Jurisdictions may agree to a special adjustment of the amount of the Tier II Development Fees. If no special adjustment is made, the Tier II Development Fees shall be automatically adjusted based upon averaging the Construction Cost Index ("CCI") for 20 cities and for San Francisco, as published in the Engineering News Record publication for the preceding twelve (12) months ending April 1st.

IN WITNESS WHEREOF, the parties hereto have entered into this First Amendment to the MOA effective as of the date first above written.

ATTEST:

COUNTY OF PLACER

 Clerk of the Board,
 Placer County

By _____
 Chairman

Approved as to Form:

 County Counsel

ATTEST:

CITY OF LINCOLN
A Municipal Corporation

City Clerk, City of Lincoln

By _____
Mayor

Approved as to Form:

City Attorney

ATTEST:

CITY OF ROCKLIN
A Municipal Corporation

City Clerk, City of Rocklin

By _____
City Manager

Approved as to Form:

City Attorney

ATTEST:

CITY OF ROSEVILLE
A Municipal Corporation

City Clerk, City of Roseville

By _____
City Manager

Approved as to Form:

City Attorney

The South Placer Regional Transportation Authority (SPRTA) hereby consents to the provisions of this MOA and agrees to be bound hereby.

By: _____
Chairperson

Dated: _____

APPROVED AS TO FORM:

General Counsel