ORDINANCE NUMBER 1114

AN ORDINANCE OF THE CITY COUNCIL, CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AUTHORIZING PARTICIPATION IN THE WESTERN RIVERSIDE COUNTY TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM BY ASSESSING DEVELOPMENT FEE CITY WIDE TO ASSIST WITH THE FINANCING OF A REGIONAL ROADWAY SYSTEM FOR THE BENEFIT OF WESTERN RIVERSIDE COUNTY (ORDINANCE AMENDMENT 03-0058)

THE CITY COUNCIL OF THE CITY OF PERRIS ORDAINS AS FOLLOWS:

Section 1: **Title**

This Ordinance shall be known as the "Transportation Uniform Mitigation Fee Program Ordinance."

Section 2: **Findings**

A. The City Council has been informed and advised, and hereby finds, that future development within Western Riverside County and the cities therein will result in traffic volumes exceeding the capacity of the Regional System of Highways and Arterials (the "Regional System") as it presently exists. A map depicting the boundaries of Western Riverside County and the Regional System is attached hereto as Exhibit "A" and made a part hereof.

B. The City Council has been further informed and advised, and hereby finds, that if the capacity of the Regional System is not enlarged, the result will be substantial traffic congestion in all parts of Western Riverside County, with unacceptable levels of service throughout Western Riverside County by 2025.

C. The City Council has been further informed and advised, and hereby finds, that funds will be inadequate to construct the Regional System needed to avoid the unacceptable levels of traffic congestion and related adverse impacts. Absent a Transportation Uniform Mitigation Fee (“TUMF”), existing and known future funding sources will be inadequate to provide the necessary improvements to the Regional System, resulting in an unacceptably high level of traffic congestion within and around Western Riverside County.

D. The City is a Member Agency of the Western Riverside Council of Governments (“WRCOG”), a joint powers agency consisting of the County of Riverside and the fourteen cities situated in Western Riverside County. Acting in concert, the Member Agencies of WRCOG developed a plan whereby the shortfall in funds needed to expand the capacity of the Regional System could be made up in part by a Transportation Uniform Mitigation Fee on future residential and non-residential development. As a Member Agency of WRCOG, the City participated in the preparation of that certain "Western Riverside County Transportation Uniform Mitigation Fee Nexus Study", dated October 18, 2002, prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act (the "Nexus Study").

E. The City Council finds that future development within the County and Cities will substantially adversely affect the Regional System, and that unless such development contributes to the cost of improving the Regional System, the System will operate at unacceptable levels of service.

F. The City Council hereby finds and determines that the failure to mitigate growing traffic impacts on the Regional System within Western Riverside County will substantially impair the ability of public safety services (police and fire) to respond. The failure to mitigate impacts on the Regional System will adversely affect the public health, safety and welfare.

G. The City Council further finds and determines that there is a reasonable and rational relationship between the use of the TUMF and the type of development projects on which the fees are imposed because the fees will be used to construct the transportation improvements that are necessary for the safety, health and welfare of the residential and non-residential users of the development projects on which the TUMF will be levied.

H. The City Council further finds and determines that there is a reasonable and rational relationship between the need for the improvements to the Regional System and the type of development projects on which the TUMF is imposed because it will be necessary for the residential and non-residential users of such projects to have access to the Regional System. Such development will benefit from the Regional System improvements and the burden of such development will be mitigated in part by the payment of the TUMF.

I. The City Council further finds and determines that the cost estimates set forth in the Nexus Study are reasonable cost estimates for constructing the Regional System improvements, and that the amount of the TUMF expected to be generated by new development will not exceed the total fair share cost to such development.

J. The fees collected pursuant to this Ordinance shall be used to help pay for the construction and acquisition of the Regional System improvements identified in the Nexus Study. The need for the improvements is related to new development because such development results in additional traffic thus creating the demand for the improvements.

K. By notice duly given and published, the City Council set the time and place for a public hearing on the Nexus Study and the fee proposed thereunder and at least ten days prior to the hearing, the City made the Nexus Study available to the public.

L. At the time and place set for the hearing, the City Council duly considered that data and information provided by the public relative to the cost of the services for which the fees are proposed and all other comments, whether written or oral, submitted prior to the conclusion of the hearing.

M. The City Council hereby adopts the Nexus Study, which Study is attached hereto as Exhibit "B", and incorporates it herein as though set forth in full.

Section 3: **Definitions**

For the purpose of this Ordinance, the following words, terms and phrases shall have the following meanings:

A. "**Administrative Plan"** means the Administrative Plan for the Western Riverside County Transportation Uniform Mitigation Fee Program as adopted by resolution of the City Council, as may be amended from time to time.

B. "**Development Project" or "Project"** means any project undertaken for the purpose of development including the issuance of a permit for construction.

C. **"Gross Acre"** means the total property area as shown on a land division map of record, or described through a recorded legal description of the property. This area shall be bounded by road rights of way and property lines.

D. "**Industrial Project**" means any Development Project that proposes any industrial or manufacturing use allowed in Title 19 of the Perris Municipal Code in the LI and GI and BP zoning classifications or in a specific plan with one of the aforementioned zones used as the base zone.

E. "**Low Income Residential Housing**" means Residential Dwelling Units in publicly subsidized projects constructed as housing for low-income households as such households are defined pursuant to section 50079.5 of the Health and Safety Code.

F. **"Multi Family Residential Unit**" means a Residential Dwelling Unit in a Development Project that has a density of greater than eight (8) Residential Dwelling Units per Gross Acre.

G. "**Non-Residential Project**" means a Retail Commercial Project, Service Commercial Project or Industrial Development Project which is designed primarily for non-dwelling use, but shall include hotels and motels.

H. "**Residential Dwelling Unit**" means a building or portion thereof used by one (1) family and containing but one (1) kitchen, which is designed primarily for residential occupancy including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

I. "**Retail Commercial Project**" means any Development Project that proposes any commercial use not defined as a Service Commercial Project, and defined and allowed by Title 19 of the Perris Municipal Code and within the BP, PO, CC, CN and the Downtown Design Overlay, LI and GI zoning classifications, or in a specific plan with one of the aforementioned zones used as the base zone.

J. "**Service Commercial Project**" means any Development Project that is predominately dedicated to business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices.

K. "**Single Family Residential Unit**" means each Residential Dwelling Unit in a Development Project that has a density of eight (8) units or less to the Gross Acre.

Section 4: Establishment of the Transportation Uniform Mitigation Fee

A. **Adoption**. There is hereby adopted the following schedule of fees:

$6650 per Single Family Residential Unit
$4607 per Multi Family Residential Unit
$1.45 per square foot of an Industrial Project
$7.81 per square foot of a Retail Commercial Project
$4.84 per square foot of a Service Commercial Project

B. **Fee Calculation.**

i. For Non-Residential Projects, the fee rate utilized shall be based upon the predominate use of the building or structure approved for the Project and identified in the building permit, and as further specified in the Administrative Plan.

ii. For Non-Residential Projects, the fee shall be calculated on the total square footage of the building or structure identified in the building permit and as further specified in the Administrative Plan.

C. **Fee Adjustment**. The fee schedule may be periodically reviewed and the amounts adjusted by resolution of the City Council upon recommendation from the WRCOG Executive Committee. The fees may be increased or decreased to reflect changes in actual and estimated costs of the Regional System including, but not limited to, debt service, lease payments and construction costs. The adjustment of the fees may also reflect changes in the facilities required to be constructed, in estimated revenues received pursuant to this Ordinance, as well as the availability or lack thereof of other funds with which to construct the Regional System. WRCOG shall review the TUMF program within two (2) years of the effective date of this Ordinance and no less than every five (5) years thereafter.

D. **Purpose**. The purpose of the TUMF is to fund those certain improvements to the Regional System depicted on Exhibit "A" and identified in the Nexus Study, Exhibit "B."

E. **Applicability**. The TUMF shall apply to all new Development Projects within the City, unless otherwise exempt hereunder.

F. **Exemptions**. The following new Development Projects shall be exempt from the TUMF:

i. Low Income Residential Housing.

ii. Government/public buildings, public schools and public facilities.

iii. The rehabilitation and/or reconstruction of any legal residential structure and/or the replacement of a previously existing dwelling unit.

iv. 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 current applicable rate.

v. Development Projects which are the subject of a Public Facilities Development Agreement entered into pursuant to Government Code, Section 65864 et seq. prior to the Effective Date of this Ordinance, wherein the imposition of new fees are expressly prohibited, provided, however that, if the term of such a Development Agreement is extended after the Effective Date of this Ordinance, the TUMF shall be imposed.

vi. Detached second units and residential accessory structures located on the same parcel pursuant to the provisions of 19.81 of the Perris Municipal Code.

vii. The sanctuary building of a church or other house of worship, eligible for a property tax exemption.

viii. Residential Projects that have been issued a building permit prior to the Effective Date of this Ordinance.

ix. Non-Residential Projects that have been issued a building permit prior to June 30, 2004.

F. **Credits.** Credits for TUMF fees shall be determined in accordance with the Administrative Plan.

Section 5: **Reimbursements**

Reimbursements for improvements constructed in excess of the TUMF obligation shall be determined in accordance with the Administrative Plan.

Section 6: **Procedures for the Levy, Collection and Disposition of Fees**

A. **Authority of the City Manager**. The City Manager, or his/her designee, is hereby authorized to levy and collect the TUMF and make all determinations required by this Ordinance.

B. **Payment of the fees shall be as follows:**

i. The fees shall be paid prior to the issuance of a building permit for the Development Project, or later if required by force of law.

ii. For Non-Residential Projects only, the fees shall be phased in as follows:

From July 1, 2004 to June 30, 2005, the fee schedule shall be:

$0.48 per square foot of an Industrial Project
$2.60 per square foot of a Retail Commercial Project
$1.61 per square foot of a Service Commercial Project

From July 1, 2005 to June 30, 2006, the fee schedule shall be:

$0.96 per square foot of an Industrial Project
$5.20 per square foot of a Retail Commercial Project
$3.23 per square foot of a Service Commercial Project

After June 30, 2006, the full amount of the fee shall be imposed pursuant to Section 4.

i. The fees required to be paid shall be the fee amounts in effect at the time of payment.

ii. If all or part of any Development Project is sold prior to payment of the fee, the property shall continue to be subject to the requirement for payment of the fee, accordingly, the fees shall run with the land.

iii. Fees shall not be waived.

C. **Disposition of Fees**. All fees collected hereunder that are required to be transferred to WRCOG shall be transferred as specified in the Administrative Plan for deposit, investment, accounting and expenditure in accordance with the provisions of this Ordinance and the Mitigation Fee Act.

D. **Appeals.** Appeals shall be filed with WRCOG in accordance with the provisions of the Administrative Plan. Appealable issues shall be application of the fee, application of credits, application of reimbursement, and application of exemptions.

E. **Reports to WRCOG**. The City Manager, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as established in the Administrative Plan.

Section 7: **Appointment of TUMF Fund Administrator**

WRCOG is hereby appointed as the Administrator of the Transportation Uniform Mitigation Fee Program. WRCOG is hereby authorized to receive all fees generated from the TUMF within the City, and to invest, account for and expend such fees in accordance with the provisions of this Ordinance and the Mitigation Fee Act. Detailed administrative procedures concerning the implementation of this Ordinance shall be set forth in the Administrative Plan.

WRCOG shall expend only that amount of the funds generated from the TUMF for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities and in no case shall the funds expended for salaries and benefits exceed one percent (1%) of the annual net amount of revenue raised by the TUMF.

Section 8: **Severability**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid or unenforceable.

Section 9: **Effect of Enactment**

Except as expressly provided herein, nothing contained in this Ordinance shall be deemed to modify, supersede, or repeal any prior enactment of the City Council which addresses the same subject addressed herein.

Section 10: **Effective Date**

The Effective Date of this Ordinance shall be the 60th day following its adoption by the City Council.

Exhibits:

A. Regional System of Highways and Arterials
B. Nexus Study

ADOPTED, SIGNED and ***APPROVED*** this 8th day of April, 2003.

_____
Mayor, Daryl R. Busch

ATTEST:

_____
City Clerk, Margaret Rey

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1114, introduced at an adjourned regular meeting of the City Council of the City of Perris held on the 18th day of March, 2003, was duly and regularly adopted by the City Council at a regular meeting thereof held on the 8th day of April, 2003, and that it was so adopted by the following called vote:

AYES: Landers, Motte, Rogers, Busch
NOES: Yarbrough
ABSENT:
ABSTAIN:

_____
City Clerk, Margaret Rey