

RESOLUTION NO. 2004-234

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR TRANSFER OF
CERTAIN FUND BALANCES BETWEEN THE COUNTY OF SACRAMENTO,
SACRAMENTO REGIONAL TRANSIT DISTRICT, AND THE CITY**

WHEREAS, the County of Sacramento (the "County") levied Transit Development Impact Fees within Transit Districts 4, 5, and 6, portions of which are located within the City; and

WHEREAS, the County transferred the fees collected in those Fee Districts to the Sacramento Regional Transit District ("RT"), which holds these funds in separate accounts; and

WHEREAS, the City has adopted a development impact fee for the provision of capital facilities that includes a city-wide transit-bus fee component, which is the successor fee program to the Transit Districts 4, 5, and 6 in the City; and

WHEREAS, the County, the City, and RT have agreed that the portion of the existing fund balances held by RT with respect to Transit Districts 4, 5, and 6 representing fees generated from Elk Grove shall be transferred from RT to the City pursuant to an "Agreement for Transfer of Certain Fund Balances" (the "Transfer Agreement") and will be used by the City to complete eligible transportation improvements that will benefit the City portion of Transit Districts 4, 5, and 6.

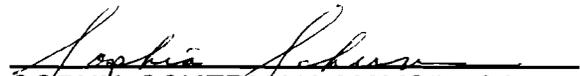
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove that:

1. **Recitals**. Each of the above recitals is incorporated herein and is true and correct.
2. **Authorization of Officers to Execute and Deliver Transfer Agreement**. The City Council hereby authorizes and directs the Mayor, City Attorney, and the City Clerk, and each of them individually (the "Designated Officers"), for and in the name of and on behalf of the City, to execute the Transfer Agreement in substantially the form of the draft presented to this meeting, which agreement is hereby approved, with such changes, insertions, revisions, corrections, or amendments as shall be approved by the Designated Officer or Officers executing the Transfer Agreement for the City. The execution of the Transfer Agreement by a Designated Officer or Officers of the City shall constitute conclusive evidence of such officer's or officers' and the City Council's approval of the Transfer Agreement and any such changes, insertions, revisions, corrections, or amendments.
3. **General Authorization**. The Designated Officers and other officers of the City, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the City, to do any and all things and take any and all actions

that may be necessary or advisable, in their discretion, in order to effect the purposes of this resolution. All actions heretofore taken by officers, employees, and agents of this City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

4. **Effective Date**. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 15th day of September 2004.


SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

**AGREEMENT FOR TRANSFER OF CERTAIN FUND BALANCES
BETWEEN THE COUNTY OF SACRAMENTO, SACRAMENTO
REGIONAL TRANSIT DISTRICT AND THE CITY OF ELK GROVE**

This Agreement is made and entered into this _____ day of _____, 2004, by and between the County of Sacramento, a political subdivision of the State of California ("County"), Sacramento Regional Transit District ("RT"), a public agency organized and existing under the laws of the State of California, and the City of Elk Grove, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS:

WHEREAS, the County adopted Chapter 16.87 of the Sacramento County Code entitled Roadway and Transit Development Fees in 1988, which included the imposition of Transit Development Fees to assure that adequate transit facilities are financed and provided to serve new development in the unincorporated area of the County;

WHEREAS, Sacramento County Code Section 16.87.090 created certain fee districts within the unincorporated area of the County;

WHEREAS, effective July 1, 2000, the City was incorporated;

WHEREAS, portions of Fee District 4 and all of Fee Districts 5 and 6 are located within the territory of the City;

WHEREAS, pursuant to Sacramento County Code section 16.87.040, the County imposed certain developer fees in Transit Development Fee Districts 4, 5, and 6 and transferred those fees to RT which holds these funds in separate accounts;

WHEREAS, the City has adopted a development impact fee for the provision of capital facilities pursuant to City Council of Elk Grove Resolution No. 2004-49 and Ordinance No. 6-2004, effective May 17, 2004, which fee includes a city-wide transit-bus fee component as the successor fee to Districts 4, 5 and 6 Transit Fee;

WHEREAS, the County, City and RT have agreed that the portion of the existing fund balances held by RT with respect to Transit Development Fee Districts 4, 5, and 6 representing fees generated from Elk Grove shall be transferred from RT to the City and used by the City to complete eligible transportation improvements which shall benefit Transit Development Fee Districts 4, 5 and 6;

NOW, THEREFORE, in consideration of the mutual promises, conditions, and covenants hereinafter set forth, the City and RT hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference, however, the recitals create no enforceable obligation(s) and should there

be a conflict between a recital and any language in the following paragraphs, the language in the following paragraphs shall control.

2. Transfer and Apportionment of Fund Balances. RT shall transfer the amounts set forth in this Section 2 following execution of this Agreement by all parties and receipt of a fully executed Agreement. The amounts to be transferred by RT to the City from the accounts for Transit Development Fee Districts 4, 5, and 6 are as follows:

- a). Transit Development Fee District 4. \$1,726,943.
- b). Transit Development Fee District 5: \$1,440,088
- c). Transit Development Fee District 6: \$640,873

Following transfer of the above amounts to the City, the parties agree that RT shall have no further responsibility, liability or obligation regarding the transferred fees

3. Use of Fees. The City agrees to use the amounts transferred from RT in accordance with its capital improvement plan for the transit- bus fee component of the City's Capital Facilities Fee, which use shall benefit the City portion of Transit Fee District 4 and Transit Fee Districts 5 and 6.

4. Effective Date This Agreement shall be effective as of the date first entered above

5. Assignment. No party hereto shall assign or transfer any interest in this Agreement.

6. Amendments. This Agreement may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties hereto.

7. Entire Agreement. This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms and conditions of this Agreement between the parties hereto concerning the division of fund balances and supersedes all prior negotiations, representations or agreements, oral or written, that may be related to the division of the fund balances.

8. Construction and Interpretation. It is agreed and acknowledged by the parties hereto that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, any rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

9. **Waiver.** The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

10. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto, if any.

11. **Notices.** Any notice, demand, request, consent, or approval that any party hereto may, or is required to, give the other shall be in writing and shall be deemed to have been served on the date deposited, and received three (3) days after being deposited, in the United States mail, first class postage prepaid, and addressed as follows:

TO RT:

Michael R. Wiley
Assistant General Manager
Planning & Transit System Development
P.O. Box 2110
Sacramento, CA 95812-2110

TO CITY

City of Elk Grove
8400 Laguna Palms Way
Elk Grove, CA 95758
Attn: Joe Chinn, Finance Administrator

TO COUNTY

County of Sacramento, Municipal Services Agency
Department of Transportation
906 G Street, Suite 510
Sacramento, CA 95814
Attention: Dan Shoeman

Any party hereto shall have the right to serve any notice by personal delivery, and change the address at which it will receive such communications by giving fifteen (15) days advance notice to the each party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day of the year first written above.

Dated: **CITY OF ELK GROVE**

By: _____
Sophia Scherman, Mayor

Attest:

Peggy Jackson, City Clerk

Approved as to form:



Anthony Manzanetti, City Attorney

Dated: **SACRAMENTO REGIONAL TRANSIT DISTRICT**

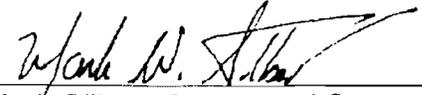
By: _____
Chairperson, Board of Directors

By: _____
Beverly A. Scott, Ph.D., General Manager

Approved as to Content:

Michael R. Wiley, Assistant General Manager
Planning & Transit System Development

Approved as to form:



Mark Gilbert, Chief Legal Counsel

Dated:

COUNTY OF SACRAMENTO

Bv: _____
Chair, Board of Supervisors

Approved as to form:



Supervising Deputy County Counsel

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-234

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 15th day of September 2004 by the following vote:

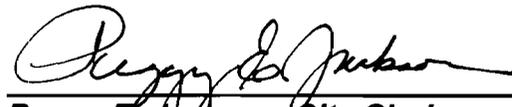
AYES 5: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary

NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:





Peggy E. Jackson, City Clerk
City of Elk Grove, California