



**Contra
Costa
County**

Public Works Department

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Deputy Director

August 8, 2006

LETTER OF TRANSMITTAL

To: Lisa Hammon
West Contra Costa Transportation Advisory Committee
13831 San Pablo Avenue
San Pablo, CA 94806

Regarding: WCCTAC STMP Update

WE ARE SENDING YOU THE FOLLOWING ITEMS:

COPIES	DESCRIPTION
1	July 18, 2006 Board Order
1	Urgency Interim Ordinance No. 2006-20
1	Regular Ordinance No. 2006-21

REMARKS:

Signed: Brian Louis
Transportation Engineering
Phone: 925-313-2245

SD. 3

TO: BOARD OF SUPERVISORS
FROM: MAURICE M. SHIU, PUBLIC WORKS DIRECTOR
DATE: July 18, 2006



Contra
Costa
County

SUBJECT: HEARING to consider the adoption of Urgency and Regular Fee Ordinances to fund the Subregional Transportation Mitigation Program for the West Contra Costa Transportation Advisory Committee, and DETERMINE that the West Contra Costa Transportation Advisory Committee (WCCTAC) Sub-Regional Transportation Mitigation Program (STMP) update is not subject to the California Environmental Quality Act (CEQA), West County area. (Districts I and II) [CDD-CP#06-13] Project No.: 0676-6P4007

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

I. **Recommended Action:**

1. CONDUCT a public hearing to consider the adoption of an urgency ordinance (Ordinance No. 2006-20) and regular ordinance (Ordinance No. 2006-21), substantially in the form attached, to adopt fees to fund the revised Subregional Transportation Mitigation Program ("STMP") for the West Contra Costa Transportation Advisory Committee ("WCCTAC") and WAIVE reading.
2. ADOPT urgency Ordinance No. 2006-20 adopting interim revised STMP fees.
3. ADOPT Ordinance No. 2006-21 adopting revised STMP fees.
4. DIRECT the Director of Public Works and the Auditor/Controller to establish a trust fund for STMP fee revenues and the Treasurer to invest said monies with interest to accrue in the trust fund account.
5. DIRECT the Public Works Department and the Department of Community Development to review the fee schedule every July 1 the STMP fee is in effect, and to adjust for the effects of inflation or deflation as described in the attached ordinance.

Continued on Attachment:

SIGNATURE:

RECOMMENDATION OF COUNTY ADMINISTRATOR
 APPROVE OTHER

RECOMMENDATION OF BOARD COMMITTEE

SIGNATURE(S):

ACTION OF BOARD ON 07/18/2006
APPROVED AS RECOMMENDED OTHER

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT none)
AYES: _____ NOES: _____
ABSENT: _____ ABSTAIN: _____

ATTESTED: 07/18/2006
JOHN CULLEN, Clerk of the Board of Supervisors and
County Administrator

BL:je
G:\TransEng\AOB\WCCTAC\BO-WCCTAC Adopt Ordinances (07-18-06) doc
Orig. Div: Public Works (TE)
Contact: Brian Louis, 313-2245
c: PW Accounting - C. Raynolds
PW Eng. Svcs. - T. Torres
PW Trans. Eng. - C. Lau
Community Development- H. Li
County Auditor/Controller
County Treasurer/Tax Collector

By Deputy

SUBJECT: HEARING to consider the adoption of Urgency and Regular Fee Ordinances to fund the Subregional Transportation Mitigation Program for the West Contra Costa Transportation Advisory Committee, and DETERMINE that the West Contra Costa Transportation Advisory Committee (WCCTAC) Sub-Regional Transportation Mitigation Program (STMP) update is not subject to the California Environmental Quality Act (CEQA), West County area. (Districts I and II) [CDD-CP#06-13] Project No.: 0676-6P4007

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6. DIRECT the Public Works Department to collect an additional administrative fee equal to 2% of the program revenue.
7. DIRECT the Director of Community Development to monitor future amendments to the currently adopted General Plan and their impact on traffic within the West Contra Costa Subregional Transportation Mitigation Fee Area and to report those amendments to the Public Works Director as necessary to facilitate updating of the STMP fees.
8. DECLARE the intention of the Board that WCCTAC aggressively pursue outside funding sources, such as federal and state monies, to finance the projects in the revised STMP to the maximum extent possible.
9. DETERMINE that the WCCTAC STMP update activity is not subject to the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061 (b)(3) of the CEQA Guidelines, and
10. DIRECT the Director of Community Development to file a Notice of Exemption with the County Clerk, and
11. AUTHORIZE the Public Works Director to arrange for payment of a \$25 fee to Community Development for processing, and a \$25 fee to the County Clerk for filing the Notice of Exemption

II. Financial Impact:

Adoption of the revised STMP fees will result in the potential collection of fees from new development to fund subregional transportation improvements within the West Contra Costa Subregional Transportation Mitigation Fee Area. There will be no impact to the General Fund.

III. Reasons for Recommendations and Background:

The STMP was first adopted by the WCCTAC, the Cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, Contra Costa County, and the Contra Costa Transportation Authority (CCTA) in 1997, by way of a Cooperative Agreement and local ordinance. The program consisted of developer fees in the amount of \$700 per residential unit, \$560 per multi-family residential unit, and \$.20 per square foot for commercial/industrial/office space. The fees charged were considerably lower than what would have been allowed by the nexus analysis. [California legislation requires, among other things, that fees on new developments bear a reasonable relationship (nexus) to the cost of the public facilities, or portion of the public facilities, attributable to the developments on which the fee is imposed. California courts have long-used the reasonableness standard or nexus to evaluate the constitutionality of exactions, including developer fees.] The three projects that were partially funded in the 1997 program were: the Highway 4 West divided highway, the El Cerrito BART Parking Structure, and the Richmond Intermodal Station.

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Another purpose of this board order is to determine that the action of updating the STMP fees is exempt from CEQA Guidelines. Any future construction activities associated with the STMP will require independent CEQA analysis.

INFORMATION ON THE PROGRAM UPDATE

The updated STMP program is a 25-year program. Association of Bay Area Governments (ABAG) Projections 2003 provided the growth projections in households and employment for West County. These statistics and standard trip generation rates from the Institute of Transportation Engineers Trip Generation Handbook allowed the consultants to estimate the total increase in peak hour trips in the morning commute period (28,571 trips). Richmond and Hercules account for more than 75 percent of the new trips. The following table shows the growth in new a.m. peak hour trips in the next 25 years (2005 to 2030) for the West County jurisdictions:

Richmond	58.5%
Hercules	18.1%
Pinole	7.8%
El Cerrito	5.6%
San Pablo	5.2%
Rodeo-Crockett	4.8%

A list of projects needed to accommodate future traffic, was prepared by the WCCTAC Technical Advisory Committee (TAC). Eleven projects are currently on the list. In general, because most projects mitigate both existing and future deficiencies, the amount of STMP funding varies from 27.5% to 50% of the project cost. The consultant team includes a firm that specializes in studying the relationship between the impacts of the new growth and the fees proposed.

UPDATED PROJECT LIST

The eleven projects recommended by the TAC (and the STMP funding amount) are:

1. Richmond Intermodal Station - \$15,000,000.
2. Interchanges on I80 at San Pablo Dam Road and at Central; and on Highway 4 at Willow - \$14,280,000.
3. Capital Corridor Improvements (Hercules train station and track/safety improvements) - \$13,255,000.
4. Ferry Service from Richmond and/or Hercules/Rodeo - \$12,650,000.
5. BART access and/or parking improvements - \$25,330,000.
6. Bay Trail Gap Closure - \$1,510,000.
7. San Pablo Dam Road Improvements in Downtown El Sobrante - \$1,900,000.
8. San Pablo Avenue Corridor Improvements - \$1,650,000.

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9. N. Richmond Road Connection Project -\$4,000,000.
10. Hercules Transit Center Relocation - \$1,650,000.
11. Del Norte Area Transit Oriented Development Project – 6,875,000.

Project numbers 6, 7, and 8 are located in the unincorporated West Contra Costa County area, which would benefit from these improvements. Specific project descriptions can be found in the attached program update.

There are a diverse range of projects represented, and many of the projects are also funded by Measure J- the renewed transportation sales tax measure in Contra Costa County. With the recent shortfall in transportation funding, the developer fees will help to make up funding gaps.

POTENTIAL FEES AND REVENUES

In 1997, the nexus analysis showed that WCCTAC could legally establish fees at a level (i.e. residential at \$2,345 per dwelling unit) that would generate total \$24.5 million over 13 years; however, the established fees were set lower (i.e. residential at \$700 per dwelling unit) and it was anticipated that \$5.1 million would be raised over the life of the program (1997 to 2010) at the reduced fee level.

If the full fees justified by the updated nexus analysis are approved by WCCTAC and the other member entities, the updated program would generate approximately \$95 million over 25 years. The proposed fees are:

Single family residential	\$2,595 per dwelling unit
Multi-family residential	\$1,648 per dwelling unit
Senior Housing	\$701 per dwelling unit
Hotel	\$1,964 per room
Retail/Commercial	\$1.82 per square feet
Office	\$3.51 per square feet
Industrial	\$2.45 per square feet
Storage Facility	\$0.53 per square feet
Church	\$1.58 per square feet
Hospital	\$4.21 per square feet
Other	\$3,507 per AM peak hour trip

The above WCCTAC STMP Fees are subject to annual adjustment. An additional administrative fee equal to 2% of the program revenue will be assessed by the County.

In order to implement the new STMP fee schedule, it is necessary for the County and the other member agencies to adopt new ordinances or resolutions.

IV. Consequences of Negative Action:

Failure to adopt the recommended STMP fee ordinances could result in the loss of potential revenues and

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would be inconsistent with the intent of the Master Cooperative Agreement, which established the WCCTAC fee program. In addition, the developer contribution for subregional improvement projects is necessary to comply with the concepts of the County's Growth Management Program which requires new growth to fund the additional infrastructure capacity required to serve that growth. The Growth Management Program became a requirement with the passage of Measure "C" which was approved by the voters in 1988.

ORDINANCE NO. 2006-20

**(Urgency Interim Ordinance Adopting Revised West Contra Costa Subregional
Transportation Mitigation Fees)**

The Board of Supervisors of Contra Costa County ordains as follows:

SECTION I. **SUMMARY.** This ordinance provides for the repeal of Contra Costa County Ordinance No. 97-22 and the adoption of revised transportation mitigation fees for subregional transportation improvements within the West Contra Costa Subregional Transportation Mitigation Fee Area. This ordinance is enacted as part of the Subregional Transportation Mitigation Program (“STMP”) approved by the West Contra Costa Transportation Advisory Committee (“WCCTAC”) and its member agencies (Cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo; Contra Costa County; AC Transit; and BART) pursuant to Measure C, the Contra Costa County half-cent sales tax measure adopted in 1988.

SECTION II. **AUTHORITY.** This ordinance is enacted, in part, pursuant to the Mitigation Fee Act (Gov. Code, § 66000 et seq.) and Article 11, Section 7 of the California Constitution.

SECTION III. **NOTICE AND HEARING.** This ordinance was adopted pursuant to the procedure set forth in Government Code sections 54986 and 66017-18, and all required notices have been properly given and public hearing held.

SECTION IV. **REPEAL.** Contra Costa County Ordinance No. 97-22 is hereby repealed.

SECTION V. **FEE ADOPTION AND COLLECTION.**

A. The following fees are hereby adopted to fund the eleven improvement projects (“Projects”) described in the 2005 Update of the Subregional Transportation Mitigation Program (“Report”) prepared by TJKM Transportation Consultants, on file with the Clerk of the Board, and shall be levied and collected pursuant to the above authorities:

West Contra Costa Subregional Transportation Mitigation Fees:

<u>Land Use Type</u>	<u>Fee Amount</u>
Single family residential	\$2,595 per dwelling unit
Multi family residential	\$1,648 per dwelling unit
Senior housing	\$701 per dwelling unit
Hotel	\$1,964 per room
Retail/Commercial	\$1.82 per square foot
Office	\$3.51 per square foot
Industrial	\$2.45 per square foot
Storage facility	\$0.53 per square foot

Ordinance No. 2006-20

Church	\$1.58 per square foot
Hospital	\$4.21 per square foot
Other*	\$3,507 per AM peak hour trip generated

* Fees for other uses shall be determined by the County according to information generated by traffic studies, if required by the County, or in accordance with the Institute of Transportation Engineers (ITE) Manual.

- B. No development shall be exempt from the fee; provided, that any development which, as of the date of this Ordinance, (i) has perfected an exemption pursuant to the vesting tentative map law or (ii) has entered into a development agreement with the County which expressly excludes assessment of additional fees, shall not be subject to the fees required to be imposed hereby.
- C. A project that replaces an existing structure or development is subject to the fee only to the extent that it would generate more peak hour vehicle trips than the existing development.
- D. The fees specified herein shall be made a condition of approval of all tentative and final subdivision maps. Except as provided above in subsection B, the fees shall be collected prior to the issuance of any building permit.
- E. The fees specified herein shall be collected for all projects in the area described in Section VII below.
- F. Fees paid pursuant to this ordinance shall be remitted on a quarterly basis to the City of San Pablo Finance Department, to be placed in a fund to be used solely for the purposes described in this ordinance. Any interest accumulated on such funds shall also be used only for the purposes specified in this ordinance.

SECTION VI. FEE REDUCTION AND CREDIT.

- A. A developer may request a reduction in fees through the County if it is determined that the project will generate a lower number of trips than data provided by the ITE Manual that was used as the basis for the Report. Any such fee reduction would be based on a traffic study which determines that the traffic impacts of the proposed development would generate fees that are less than the fees that are set forth in Section V.A. above. The methodology for conducting the study shall be developed and approved by WCCTAC. The County shall determine the appropriate fee reduction based upon the proportionate reduction in trips demonstrated in the traffic study.
- B. A developer may receive credit against fees for the dedication of land for right-of-way and/or construction of any portion of the Projects, where such right-of-way or construction is beyond that which would otherwise be required for approval of the

proposed development. The calculation of the amount of credit against fees for such dedications or improvements shall be based on a determination by the County that such credits are, in fact, exclusive of the dedications, setbacks, improvements, and/or traffic mitigation measures which are required by local ordinance, standards, or other practice. In addition, the credit shall be calculated based upon the actual cost of construction of improvements or, in the case of land dedication, on an independent appraisal approved by the County.

SECTION VII. FEE AREA. The fees set forth in this ordinance shall apply to all property within the West Contra Costa Subregional Transportation Mitigation Fee Area, as described in Exhibit A attached hereto.

SECTION VIII. PURPOSE AND USE OF FEES; FINDINGS.

- A. The purpose of the fees described in this ordinance is to generate funds to finance certain transportation improvements in the West Contra Costa Subregional Transportation Mitigation Fee Area. The fees will be used to finance the Projects listed in the Report. As discussed in more detail in said Report, there is a reasonable relationship between the fees and the types of development projects that are subject to the fees in that the development projects will generate additional traffic in the West County area, thus creating a need to expand, extend or improve existing transportation facilities and a need to construct new transportation facilities to mitigate adverse traffic and infrastructure impacts that would otherwise result from such development projects.
- B. The fees will be used to pay for the administration, planning, environmental documentation, design, right-of-way acquisition, and construction of the Projects described in the Report.
- C. The nexus findings, in conformance with Government Code Section 66000 et seq., contained in the Report, are incorporated herein by reference.
- D. The Board determines that the adoption of this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273(a)(4) of the CEQA Guidelines because the fees collected from this action will be used for regional transportation infrastructure necessary to maintain an acceptable level of service within existing service areas.
- E. There is an urgent need for interim fees as the inadequacy of the transportation infrastructure within the West Contra Costa Mitigation Fee Area has caused significant congestion, delay, and economic loss to the entire West County region. The resulting stressful driving conditions and reduction in air quality are adverse factors affecting the public health, safety, and welfare.

Residential, commercial, and other construction activity is increasing in the West County area and is expected to remain strong in the near future. The corresponding increase in traffic will further reduce the quality of travel throughout the entire West County area.

Failure to adopt the interim fees at this time will result in loss of potential revenues as residential and commercial projects are built without having to contribute their fair share to the Projects. The ability to finance construction of necessary transportation improvements within the West County area is detrimental to the public health, safety, and welfare.

The County's existing regional transportation fee is insufficient to achieve the transportation improvements necessary to address the impacts generated by new development, as identified in the Report. For example, the County's existing regional transportation mitigation fee for single-family residences is \$828, while the Report indicates that it actually would cost \$2,595 per single-family residence and additional funding to cover the cost of providing the necessary improvements. This critical funding shortfall presents a current and immediate threat to public health, welfare, and safety because with every approval of a new residence or commercial structure under the old fee, the construction of critical roadway, safety, and accessibility improvements will be delayed unless and until a substantial supplemental funding source is made available to the County.

All eleven Projects were identified by the Report as among those whose justification is related to existing conditions and deficiencies as well as needs caused by future growth. The County has a current and immediate need to construct improvements on the list of Projects in order to handle or divert traffic from existing congested roads, enhance road safety, reduce idling time and delay, and reduce emissions generated by vehicles.

The congested condition of some of the County's existing roads will be significantly exacerbated by new development, creating a condition dangerous to public health and safety through increased vehicle emissions, unless increased funding for regional transportation improvements is promptly made available. Maximizing emission reductions is necessary to help protect the health and safety of County residents.

The congested condition of some of the County's existing roads will be significantly exacerbated by new development, creating a condition dangerous to public health and safety by delaying law enforcement, fire, and paramedic emergency response times, unless increased funding for regional transportation improvements is promptly made available.

The congested condition of some of the County's existing roads will be significantly exacerbated by new development, compromising public welfare by forcing motorists to endure long, costly delays while commuting to and from school, work, local services, and other destinations, unless increased funding for regional transportation improvements is

promptly made available. In 2002, the average motorist spent 73 additional hours traveling due to congestion at a cost of \$1,516 per traveler (delay cost of \$21/hour), according to the "2005 Urban Mobility Report" published by the Texas Transportation Institute (May 2005).

Construction of additional BART access and parking improvements will improve public health and safety by reducing the frequency of automobile accidents and maximizing emission reductions as some new residents and employees elect to commute using mass transit, which experiences fewer commuter vehicle accidents and produces less air emissions per rider than single-occupant automobiles. Prompt, additional funding is necessary to allow construction at the earliest time.

Revenues received from regional transportation fees imposed by other Parties and transmitted to WCCTAC also are not sufficient at the current rates to meet the funding needs for the 11 Projects.

A number of new residential developments are currently in the planning stage. If development is allowed to occur without promptly increasing the fee intended to fund infrastructure needs to mitigate regional transportation impacts from new development, the circulation system will further degrade without a source of critical funding to implement those improvements.

The adoption of the fee on an interim basis is necessary to protect the public health, welfare, and safety, by assuring the earliest practical construction of the Projects.

SECTION IX. REPORTING REQUIREMENTS

- A. Within 180 days after the last day of each fiscal year, the Public Works Director or his designee shall make available to the public a report regarding the account or fund established for receipt of deposits of the fees collected by the County pursuant to this ordinance. The report shall be reviewed by the Board at a regularly scheduled meeting in accordance with Government Code section 66006. The report shall contain the following information for the fiscal year:
- (1) A brief description of the type of fee in the account or fund.
 - (2) The amount of the fee.
 - (3) The beginning and ending balance of the account or fund.
 - (4) The amount of the fees collected and the interest earned.
 - (5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
 - (6) An identification of an approximate date by which the construction of the public improvement will commence if the Board determines that sufficient funds have been collected to complete financing on an incomplete public improvement, and the public improvement remains incomplete.

- (7) A description of each interfund transfer or loan from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
 - (8) The amount of refunds made pursuant to Government Code section 66001(e) and any allocations pursuant to Government Code section 66001(f).
- B. For the fifth fiscal year following the first deposit into the fund established for receipt of deposits of the fees collected pursuant to this ordinance, and every five years thereafter, the Board shall make all of the following findings with respect to that portion of the or fund remaining unexpended, whether committed or uncommitted, pursuant to Government Code section 66001:
- (1) Identify the purpose to which the fee is to be put.
 - (2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
 - (3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in the Report.
 - (4) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.

SECTION X. SEVERABILITY. If any fee or provision of this ordinance is held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining fees or provisions, and the Board declares that it would have adopted each part of this ordinance irrespective of the validity of any other part.

SECTION XI. JUDICIAL REVIEW. Any judicial action or proceeding to attack, review, set aside, void, or annul the fees established by this ordinance shall be commenced within one hundred twenty (120) days of the effective date of this ordinance.

SECTION XII. DECLARATION OF URGENCY. This ordinance is hereby declared to be an urgency ordinance for the immediate preservation of the public safety, health, and welfare of the County, and it shall take effect immediately upon its adoption. The facts constituting the urgency of this ordinance's adoption are set forth in Section VIII.

SECTION XIII. EFFECTIVE AND TERMINATION DATES.


- A. This ordinance shall take effect immediately upon passage by four-fifths vote of the Board and shall continue in effect for a period of 30 days, pursuant to Government Code section 66017, subdivision (b), but shall not become operative until the Public Works Department files a statement with the Clerk of the Board certifying that similar fees have been adopted by the Cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo.

B. Within 15 days of passage, this ordinance shall be published once, with the names of the supervisors voting for and against it, in the Contra Costa Times, a newspaper of general circulation published in this County.

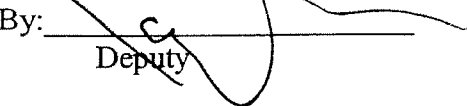
PASSED and ADOPTED on 07/18, 2006, by the following vote:

AYES: UILKEMA, PIEPHO DeSAULNIER, GLOVER, and GIOIA
NOES: *None*
ABSENT: *None*
ABSTAIN: *None*

ATTEST: JOHN CULLEN, Clerk of the
Board of Supervisors and County Administrator



Board Chair

By: 

Deputy

Publication Date: 08/02/06

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EXHIBIT "A"
LEGAL DESCRIPTION
OF
WEST CONTRA COSTA SUBREGIONAL
TRANSPORTATION MITIGATION FEE AREA

EXHIBIT "A"

Real property in Contra Costa County, California described as follows:

Beginning at the most south easterly corner of the 18.04 acre parcel of land shown on the Record of Survey filed December 22, 1931 in Book 2 of Licensed Surveyor Maps at page 5; thence from said Point of Beginning south $66^{\circ}11'00''$ west 125.15 feet to the northeasterly line of the Southern Pacific Railroad right of way; thence southerly to the southwesterly line of said railroad right of way to an 1/2" iron pipe and tags L.S. 3489 as shown on the Record of Survey filed April 10, 1990 in Book 93 of Licensed Surveyors Maps at page 32; thence south $43^{\circ}26'43''$ west 341 feet more or less to the westerly right of way line of Carquinez Scenic Drive (formerly Pomona Avenue); thence along said right of way line in a general southerly direction 555 feet more or less to the easterly boundary of the parcel of land granted to Hook Recorded December 19, 1993 in Book 18288 of Official Records at page 889; thence along said boundary in a general southerly and southeasterly direction 1771 feet more or less to the southeasterly corner of said Hook parcel (18288 OR 889); thence along the south line of said parcel and its westerly prolongation, west 4050 feet more or less to the easterly right of way line of McEwen Road; thence westerly 50 feet more or less to the westerly right of way line; thence continuing westerly 4250 feet more or less to the northwest corner of the parcel of land granted to Brenkle Enterprises recorded December 13, 1990 in Book 16298 of Official Records at page 223; said point is on the easterly right of way line of Cummings Skyway; thence along said easterly right of way, southerly and southeasterly 3301 feet more or less to the northerly right of way line of the John Muir Parkway (Highway 4); thence in a general southerly direction 1070 feet more or less to the northerly boundary of the parcel of land shown on the Record of Survey lot line Adjustment 64-88 filed February 15, 1989 in Book 90 of Licensed Surveyors Maps at page 16; thence along said northerly line and its northwesterly prolongation north $78^{\circ}31'05''$ west 800 feet more or less to the southeasterly right of way line of Franklin Canyon Road; thence along said right of way line in a southwesterly direction 5200 feet to the westerly corner of parcel "B" as shown on the Minor Subdivision MS 98-70 filed October 9, 1970 in Book 14 of Parcel Maps at page 24, said point is on the easterly right of way line of the Atchison Topeka and Santa Fe Railroad right of way; thence southwesterly to the westerly right of way line of said railroad; thence along said westerly right of way line in a general southerly direction 5400 feet more or less; thence leaving said westerly right of way line south 45° east 2300 feet; thence along the westerly boundary of the 137.40 acre and 98.59 acre parcels south $0^{\circ}20'20''$ east 2621.20 feet to the southwest corner of the 98.59 acre parcel as shown on the Record of Survey filed May 29, 1953 in Book 15 of Licensed Surveyors Maps at page 44; thence along the southerly boundary (15 LSM 44) line south $87^{\circ}50'20''$ east 2680.05 feet to the southeasterly corner of said 98.59 acre parcel (15 LSM 44); thence along the west boundary Part F Rancho El Pinole south $0^{\circ}54''$ west 1837 feet as shown on the Record of Survey filed October 20, 1937 in Book 4 of Licensed Surveyors Maps at page 26; thence continuing southerly along said west boundary 1600 feet more or less to point PR 26 on the boundary of that parcel of land granted to Soehngen recorded February 22, 1980 in Book 9741 of Official Records at page 584; thence along said boundary easterly 600 feet to the westerly right of way line of Fermdale Road; thence along said right of way

line southeasterly 1150 feet more or less to the northeasterly boundary of Parcel "A" of minor subdivision MS 81-78 filed July 11, 1979 in Book 78 of Parcel Maps at page 45; thence south 75°58'05" west 1071.26 feet; thence south 30°19" west 282.28 feet; thence south 24°21'06" east 1165.5 feet to the southwesterly corner of Parcel B (78 PM 45); thence leaving Parcel B (78 PM 45) southwesterly 6687.79 feet along the general southeasterly boundary of Parcel B to its most southerly corner as shown on minor subdivision MS 8-87 filed June 25, 1993 in Book 162 of Parcel Maps at page 25; thence southwesterly 1719.2 feet more or less along the northwesterly boundary of Parcel "A" to the most westerly corner of parcel A as shown on minor subdivision MS 18-91 filed December 29, 1992 in Book 160 of Parcel Maps at page 33; thence along the boundary of minor subdivision MS 244-77 filed September 11, 1979 in Book 80 of Parcel Maps at page 35 the following courses (1) south 1°26'29" west 1058.16 feet, (2) south 87°18'30" west 2133.27 feet (3) north 89°21'12" west 4888 feet more or less to the southwesterly corner of Parcel "A" (80 PM 35); thence southerly, southwesterly, southeasterly 10454 feet more or less along the boundary of Tract No. 27 as shown on the map of the Rancho El Sobrante to the most easterly point of Tract No. 26 (Rancho El Sobrante); thence southwesterly along the southeasterly line of said Tract No. 26 and its southwesterly prolongation to the northeasterly right of way line of San Pablo Dam Road; thence southeasterly along said right of way line to the southeasterly boundary of Specific Tract D (Rancho El Sobrante); thence south 47°50' west to the southerly corner of said Specific Tract D; thence along the southwest boundary line of Specific Tract D north 42°39' west 2253.9 feet and north 30°00' west 1511.4 feet more or less to the northerly corner of Lot 62 (Rancho El Sobrante); thence south 44°58' west along the northwesterly line of said Lot 62 to the Alameda/Contra Costa County boundary line; thence along the Contra Costa County boundary line in a general westerly, northwesterly, northerly, northeasterly and easterly direction to a point on the County boundary line which is perpendicular to the Point of Beginning; thence along said perpendicular line to the Point of Beginning.

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April 1, 1997

ORDINANCE NO. 2006-21

**(Adoption of Revised West Contra Costa Subregional
Transportation Mitigation Fees)**

The Board of Supervisors of Contra Costa County ordains as follows:

SECTION I. SUMMARY. This ordinance provides for the adoption of revised transportation mitigation fees for subregional transportation improvements within the West Contra Costa Subregional Transportation Mitigation Fee Area. This ordinance is enacted as part of the Subregional Transportation Mitigation Program (“STMP”) approved by the West Contra Costa Transportation Advisory Committee (“WCCTAC”) and its member agencies (Cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo; Contra Costa County; AC Transit; and BART) pursuant to Measure C, the Contra Costa County half-cent sales tax measure adopted in 1988.

SECTION II. AUTHORITY. This ordinance is enacted, in part, pursuant to the Mitigation Fee Act (Gov. Code, § 66000 et seq.) and Article 11, Section 7 of the California Constitution.

SECTION III. NOTICE AND HEARING. This ordinance was adopted pursuant to the procedure set forth in Government Code sections 54986 and 66017-18, and all required notices have been properly given and public hearing held.

SECTION IV. FEE ADOPTION AND COLLECTION.

A. The following fees are hereby adopted to fund the eleven improvement projects (“Projects”) described in the 2005 Update of the Subregional Transportation Mitigation Program (“Report”) prepared by TJKM Transportation Consultants, on file with the Clerk of the Board, and shall be levied and collected pursuant to the above authorities:

West Contra Costa Subregional Transportation Mitigation Fees:

<u>Land Use Type</u>	<u>Fee Amount</u>
Single family residential	\$2,595 per dwelling unit
Multi family residential	\$1,648 per dwelling unit
Senior housing	\$701 per dwelling unit
Hotel	\$1,964 per room
Retail/Commercial	\$1.82 per square foot
Office	\$3.51 per square foot
Industrial	\$2.45 per square foot
Storage facility	\$0.53 per square foot
Church	\$1.58 per square foot
Hospital	\$4.21 per square foot
Other*	\$3,507 per AM peak hour trip generated

Ordinance No. 2006-21

* Fees for other uses shall be determined by the County according to information generated by traffic studies, if required by the County, or in accordance with the Institute of Transportation Engineers (ITE) Manual.

- B. No development shall be exempt from the fee; provided, that any development which, as of the date of this Ordinance, (i) has perfected an exemption pursuant to the vesting tentative map law or (ii) has entered into a development agreement with the County which expressly excludes assessment of additional fees, shall not be subject to the fees required to be imposed hereby.
- C. A project that replaces an existing structure or development is subject to the fee only to the extent that it would generate more peak hour vehicle trips than the existing development.
- D. The fees specified herein shall be made a condition of approval of all tentative and final subdivision maps. Except as provided above in subsection B, the fees shall be collected prior to the issuance of any building permit.
- E. The fees specified herein shall be collected for all projects in the area described in Section VI below.
- F. Fees paid pursuant to this ordinance shall be remitted on a quarterly basis to the City of San Pablo Finance Department, to be placed in a fund to be used solely for the purposes described in this ordinance. Any interest accumulated on such funds shall also be used only for the purposes specified in this ordinance.

SECTION V. FEE REDUCTION AND CREDIT.

- A. A developer may request a reduction in fees through the County if it is determined that the project will generate a lower number of trips than data provided by the ITE Manual that was used as the basis for the Report. Any such fee reduction would be based on a traffic study which determines that the traffic impacts of the proposed development would generate fees that are less than the fees that are set forth in Section IV.A. above. The methodology for conducting the study shall be developed and approved by WCCTAC. The County shall determine the appropriate fee reduction based upon the proportionate reduction in trips demonstrated in the traffic study.
- B. A developer may receive credit against fees for the dedication of land for right-of-way and/or construction of any portion of the Projects, where such right-of-way or construction is beyond that which would otherwise be required for approval of the proposed development. The calculation of the amount of credit against fees for such dedications or improvements shall be based on a determination by the County that such credits are, in fact, exclusive of the dedications, setbacks, improvements, and/or traffic mitigation measures which are required by local ordinance, standards, or other practice.

In addition, the credit shall be calculated based upon the actual cost of construction of improvements or, in the case of land dedication, on an independent appraisal approved by the County.

SECTION VI. FEE AREA. The fees set forth in this ordinance shall apply to all property within the West Contra Costa Subregional Transportation Mitigation Fee Area, as described in Exhibit A attached hereto.

SECTION VII. PURPOSE AND USE OF FEES; FINDINGS.

- A. The purpose of the fees described in this ordinance is to generate funds to finance certain transportation improvements in the West Contra Costa Subregional Transportation Mitigation Fee Area. The fees will be used to finance the Projects listed in the Report. As discussed in more detail in said Report, there is a reasonable relationship between the fees and the types of development projects that are subject to the fees in that the development projects will generate additional traffic in the West County area, thus creating a need to expand, extend or improve existing transportation facilities and a need to construct new transportation facilities to mitigate adverse traffic and infrastructure impacts that would otherwise result from such development projects.
- B. The fees will be used to pay for the administration, planning, environmental documentation, design, right-of-way acquisition, and construction of the Projects described in the Report.
- C. The nexus findings, in conformance with Government Code Section 66000 et seq., contained in the Report, are incorporated herein by reference.
- D. The Board determines that the adoption of this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273(a)(4) of the CEQA Guidelines because the fees collected from this action will be used for regional transportation infrastructure necessary to maintain an acceptable level of service within existing service areas. The Board further finds that the adoption of the automatic change in the STMP fees annually in accordance with changes in the Engineering News Record Index is also statutorily exempt under Section 15273(a)(4) of the California Environmental Quality Act because the amount of any increase is precisely determinable based on the published change of the Index and relates solely to the increase of construction costs for the previously identified Projects.

SECTION VIII. REPORTING REQUIREMENTS

- A. Within 180 days after the last day of each fiscal year, the Public Works Director or his designee shall make available to the public a report regarding the account or fund established for receipt of deposits of the fees collected by the County pursuant to this

ordinance. The report shall be reviewed by the Board at a regularly scheduled meeting in accordance with Government Code section 66006. The report shall contain the following information for the fiscal year:

- (1) A brief description of the type of fee in the account or fund.
 - (2) The amount of the fee.
 - (3) The beginning and ending balance of the account or fund.
 - (4) The amount of the fees collected and the interest earned.
 - (5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
 - (6) An identification of an approximate date by which the construction of the public improvement will commence if the Board determines that sufficient funds have been collected to complete financing on an incomplete public improvement, and the public improvement remains incomplete.
 - (7) A description of each interfund transfer or loan from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
 - (8) The amount of refunds made pursuant to Government Code section 66001(e) and any allocations pursuant to Government Code section 66001(f).
- B. For the fifth fiscal year following the first deposit into the fund established for receipt of deposits of the fees collected pursuant to this ordinance, and every five years thereafter, the Board shall make all of the following findings with respect to that portion of the or fund remaining unexpended, whether committed or uncommitted, pursuant to Government Code section 66001:
- (1) Identify the purpose to which the fee is to be put.
 - (2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
 - (3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in the Report.
 - (4) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.

SECTION IX. ANNUAL FEE ADJUSTMENT. On July 1, 2007, and on July 1 of each year thereafter, the amount of the fees set forth in Section IV.A shall be increased or decreased based on the percentage change in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the 12-month period ending with the June index of the same calendar year.

SECTION X. JUDICIAL REVIEW. Any judicial action or proceeding to attack, review, set aside, void, or annul the fees established by this ordinance shall be commenced within one hundred twenty (120) days of the effective date of this ordinance. Any action to

attack an increase adopted pursuant to Section IX shall be commenced within one hundred twenty (120) days of the effective date of the increase.

SECTION XI. SEVERABILITY. If any fee or provision of this ordinance is held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining fees or provisions, and the Board declares that it would have adopted each part of this ordinance irrespective of the validity of any other part.

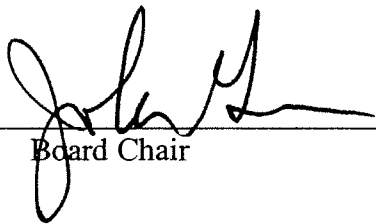
SECTION XII. EFFECTIVE AND TERMINATION DATES.

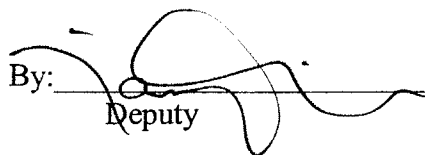
- A. This ordinance shall take effect 60 days after passage but shall not become operative until the Public Works Department files a statement with the Clerk of the Board certifying that similar fees have been adopted by the Cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo.
- B. Within 15 days of passage, this ordinance shall be published once, with the names of the Supervisors voting for and against it, in the Contra Costa Times, a newspaper of general circulation published in this County.
- C. This ordinance shall terminate on December 31, 2036, unless subsequently extended by the Board of Supervisors.

PASSED and ADOPTED on 07/18, 2006, by the following vote:

AYES: UILKEMA, PIEPHO DeSAULNIER, GLOVER, and GIOIA
NOES: *None*
ABSENT: *None*
ABSTAIN: *None*

ATTEST: JOHN CULLEN, Clerk of the
Board of Supervisors and County Administrator


Board Chair

By: 
Deputy

Publication Date: 08/07/06

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EXHIBIT "A"
LEGAL DESCRIPTION
OF
WEST CONTRA COSTA SUBREGIONAL
TRANSPORTATION MITIGATION FEE AREA

EXHIBIT "A"

Real property in Contra Costa County, California described as follows:

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April 1, 1997