

EXHIBIT D

Ordinance No. 2009-29

ORDINANCE NO. 2009-29
(Uncodified)

(Adoption of Revised Tri-Valley Transportation Development Fee)

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. 2008-27, the re-adoption of Contra Costa Ordinance No. 98-35, as amended, and further amendments thereto, to revise transportation mitigation fees for bridges and major thoroughfare improvements within the Tri-Valley Transportation Development Fee Area of Benefit and include provision for fee waivers for affordable housing and inclusionary housing units. This ordinance is enacted as part of the Tri-Valley Transportation Development Fee Program.

SECTION II. **AUTHORITY.** This ordinance is enacted, pursuant to Government Code section 66484 and Division 913, Title 9, of the Contra Costa County Ordinance Code.

SECTION III. **NOTICE AND HEARING.** This ordinance was adopted pursuant to the procedure set forth in Government Code sections 54986, 65091, 66017 and 66484 and Division 913, Title 9, of the Contra Costa County Ordinance Code, and all required notices have been properly given and public hearing held.

SECTION IV. **REPEAL.** Contra Costa County Ordinance No. 2008-27 is repealed.

SECTION V. **READOPTION; AMENDMENT.** Contra Costa County Ordinance No. 98-35, as amended by Contra Costa County Ordinance No. 2003-21, is readopted, and amended to read as follows:

SECTION I. **SUMMARY.** This ordinance provides for the formation of the Tri-Valley Transportation Development Fee Area of Benefit and the adoption of fees to be collected from developments proposed within the fee area in unincorporated Contra Costa County, to fund road improvements.

SECTION II. **AUTHORITY.** This ordinance is enacted pursuant to Government Code Section 66484 and Division 913, Title 9, of the Contra Costa County Ordinance Code.

SECTION III. **NOTICE AND HEARING.** This ordinance was adopted pursuant to the procedure set forth in Government Code Sections 65091, 66017(a), and 66484, and Division 913, Title 9, of the Contra Costa County Ordinance Code, and all required notices have been properly given and public hearings held.

SECTION IV. FEE ADOPTION. The following revised fees to fund road improvements are adopted for the TVTD Fee Area as established by Resolution 98/427, dated August 11, 1998, and shall apply to all development as shown in the table below. Fees shall be collected when building permits are issued in accordance with 913-4.204 of Title 9 (Subdivisions) of the Contra Costa County Ordinance Code.

<u>Land Use</u>	<u>Fee</u>
Single Family Residential:	\$2,181 per dwelling unit
Multi-Family Residential:	\$1,387 per dwelling unit
Office:	\$3.91 per SF of gross floor area
Commercial/Retail:	\$1.46 per SF of gross floor area
Industrial:	\$2.65 per SF of gross floor area
Other:	\$2,181 per peak hour trip

Fees shall be collected when building permits are issued in accordance with Section 913-4.204 of Title 9 (Subdivisions) of the Contra Costa County Ordinance Code.

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.

SECTION V. FEE AREA. The revised fees described in this ordinance shall apply to all property within the Tri-Valley Transportation Development Fee Area of Benefit, as described in Exhibit "A" attached hereto.

SECTION VI. SENIOR HOUSING. Nothing in this Ordinance shall be construed to abridge or to modify the Board's discretion, upon proper application for senior housing or congregate care facilities pursuant to Government Code Section 65915, to adjust or to waive the fees provided for in this ordinance.

SECTION VII. FEE WAIVERS.

A. Waiver for Affordable Housing Units

1. Upon written request of the project applicant, the Public Works Director may waive the fees collected under this ordinance for dwelling units that the Public Works Director determines, in a written finding, fit into one of the following categories: (1) Rental units affordable to households earning less than 80% of the area median income; or (2) ownership units affordable to households earning less than 120% of the area median income.

2. As a condition of such waiver, the project applicant shall enter into a regulatory agreement with the County, guaranteeing the use, occupancy, affordability, and term of affordability of such dwelling units. Rental units for which a waiver is granted under this section shall be restricted to that use for a minimum of 55 years. Ownership units for which a waiver is granted under this section shall be restricted to that use for a minimum of 30 years.

B. Waiver for Inclusionary Housing Units. In lieu of the fee waiver for affordable housing units as set forth in Section VII.A, development projects that are subject to Chapter 822-4 of the County Ordinance Code shall be eligible for a waiver of the fees collected under this ordinance as follows:

1. Fees shall be waived for each rental unit to be developed and rented as an inclusionary unit under the terms and conditions of Section 822-4.410(a) of the County Ordinance Code.

2. Fees shall be waived for each for-sale unit to be developed and sold as an inclusionary unit under the terms and conditions of Section 822-4.410(b) of the County Ordinance Code.

3. If a fee is paid in lieu of constructing some or all inclusionary units in a development project, pursuant to Section 822-4.404 of the County Ordinance Code, the fees collected under this ordinance shall be waived for the number of inclusionary units for which the in-lieu fee is paid.

SECTION VIII. PURPOSE AND USE OF FEES. The purpose of the fees described in this ordinance is to generate funds to finance improvements to regional transportation projects which are designed to help mitigate the regional impacts of forecast development within the Tri-Valley Development Area. The fees will be used to finance the road improvements listed in the 2003 Development Program Report (With 2009 Update) for the Tri-Valley Transportation Development Fee Area of Benefit and Addendum I thereto, dated October 2009 (collectively the "Report"). As discussed in more detail in the 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 Tri-Valley area, thus creating a need to expand or improve existing facilities to mitigate adverse traffic and infrastructure impacts that would otherwise result from such development projects. The nexus findings contained in the Report are incorporated herein by reference.

SECTION IX. 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 X. REVIEW OF FEES. Project cost estimates shall be reviewed every year that this ordinance is in effect. On March 1 of each year, the amount of the fees then in effect shall be increased or decreased by the percentage change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31 of the preceding calendar year. Such adjustment shall not require further notice or public hearing.

SECTION XI. EFFECTIVE DATE. This ordinance shall become effective 60 days after passage, and within 15 days of passage, shall be published once with the names of the Supervisors voting for and against it in the San Ramon Valley Times, a newspaper of general circulation published in this County. Pursuant to Section 913-6.026 of the Contra Costa County Ordinance Code, the Clerk of the Board shall promptly file a certified copy of this ordinance with the County Recorder.

SECTION VI. EFFECTIVE DATE. This ordinance shall become effective 60 days after passage. 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. Pursuant to Section 913-6.026 of the Contra Costa County Ordinance Code, the Clerk of the Board shall promptly file a certified copy of this ordinance with the County Recorder.

PASSED and ADOPTED on _____, 2009, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST: David J. Twa, Clerk of the Board of Supervisors and County Administrator

Board Chair

By: _____
Deputy

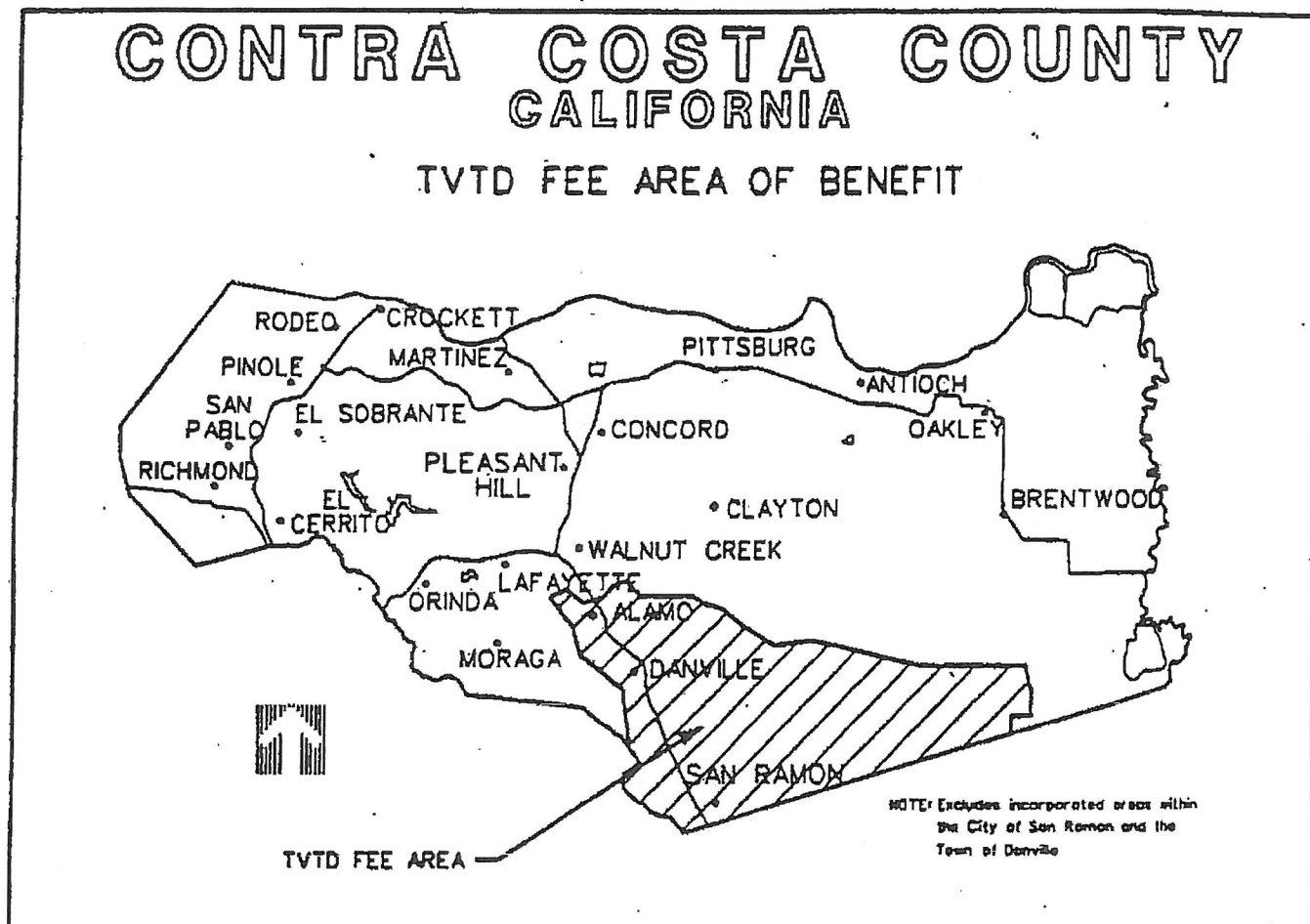
Publication Date: _____

LW/

Attachment: Exhibit A (Map and Legal Description)

Exhibit A

Map of Contra Costa County showing TVTD Fee Area



LOCATION MAP

Boundary Description
TVTD Area of Benefit

Real property in Southern Contra Costa County, California, bounded on the south by Alameda County, bounded on the north by the "South Walnut Creek Area of Benefit" adopted December 6, 1994, by Contra Costa County Board of Supervisors' Resolution 94/604, and bounded on the north and west by the "Central County Area of Benefit" adopted June 13, 1995, by Contra Costa County Board of Supervisors' Resolution 95/273 described as follows:

Beginning at the intersection of the west line of Section 23, Township 2 South, Range 1 East, Mount Diablo Meridian with the boundary common to Contra Costa and Alameda Counties; thence from the Point of Beginning, along said County boundary in a general westerly direction 101,550 feet, more or less, to Rancho corner P.C. No. 31 on the boundary of Rancho Laguna de los Palos Colorados; thence along said Rancho boundary, north $19^{\circ}28'45''$ east 3,547.16 feet to Rancho Corner P.C. No. 32 and north $1^{\circ}13'26''$ east 929.81 feet to the boundary of the Record of Survey filed June 20, 1980, in Book 67 of Licensed Surveyors' Maps at page 9; thence along the boundary of said Record of Survey as follows: 1) north $88^{\circ}52'39''$ east 513.17 feet, 2) north $0^{\circ}15'16''$ west 1,303.04 feet, 3) north $88^{\circ}43'10''$ east 1,290.34 feet, and 4) north $0^{\circ}27'37''$ west 1,306.53 feet to the northwest corner of Section 28, Township 1 South, Range 2 West, Mount Diablo Meridian; thence along the north lines of Sections 28, 27 and 26 (T1S, R2W), easterly 15,840 feet, more or less, to the west line of Section 25 (T1S, R2W); thence along said west line, southerly 2,640 feet, more or less, to the west quarter corner of said Section 25; thence south $88^{\circ}43'05''$ east 1,063.84 feet to the northwest corner of Subdivision MS 28-82 filed November 21, 1983, in Book 108 of Parcel Maps at page 11; thence along the north line of Subdivision MS 28-82, south $88^{\circ}47'23''$ east 1,062.06 feet to the northwest corner of Subdivision MS 53-81 filed March 28, 1985, in Book 115 of Parcel Maps at page 14; thence along the north line of Subdivision MS 53-81, south $88^{\circ}43'43''$ east 3,035.66 feet to the east line of said Section 25 (T1S, R2W); thence along said east line, northerly 2,640 feet, more or less, to the northeast corner of Section 25, said point lying on the southerly boundary of the parcel of land described as PARCEL FIVE in the deed to East Bay Regional Park District recorded April 4, 1974, in Book 7189 of Official Records at page 183; thence along said boundary, in a general northerly direction 2,325.7 feet to the east line of the Parcel of land described as PARCEL ONE in the deed to the United States of America recorded July 29, 1980, in Book 9930 of Official Records at page 913; thence along said east line, in a general northwesterly direction 192.27 feet to an angle point on the boundary of said East Bay Regional Park District PARCEL FIVE (7189 O.R. 183); thence along said boundary, in a general northwesterly direction 1207.59 feet to the northeast corner thereof, said point being the southeast corner of the parcel of land described as PARCEL TWO in said deed to the East Bay Regional Park District (7189 O.R. 183); thence along the northeast line of PARCEL TWO (7189 O.R. 183), said line also being the boundary of Rancho San Ramon, northwesterly 4,840 feet, more or less, to the most easterly corner of Subdivision MS 150-75 filed June 14, 1976, in Book 45 of Parcel Maps at page 41; thence along the boundary of said Subdivision MS 150-75 as follows: 1) south $63^{\circ}16'$ west 193.73 feet, 2) south $76^{\circ}18'50''$ west 481.39 feet, 3) north $84^{\circ}17'$ west 2,622.91 feet, and 4) north $0^{\circ}39'40''$ west 1,233.72 feet to the northwest corner of said Subdivision MS 150-75, said point lying on the south line of Subdivision 6419 filed July 28, 1988, in Book 323 of Maps at page 39; thence along said south line, north $84^{\circ}47'44''$ west 1,353.46 feet to the southwest corner of said

Subdivision 6419, said point lying on the centerline of Section 14, Township 1 South, Range 2 West, Mount Diablo Meridian; thence along said centerline of Section 14 and the centerline of Section 11 (T1S, R2W), northerly 6,663.66 feet to the southwest corner of the parcel of land described in the deed to David L. Gates, et ux, recorded April 9, 1981, in Book 10275 of Official Records at page 438; thence along the south line of said Gates parcel (10275 O.R. 438) easterly 300 feet to the most southeast corner thereof, said point lying on the boundary of Subdivision MS 58-75 recorded October 26, 1978, in Book 71 of Parcel Maps at page 23; thence along the boundary of said Subdivision MS 58-75 (71 PM 23) as follows: 1) north 87°05'11" east 274.17 feet, 2) in a general northerly direction 3,354.5 feet to the northeast corner thereof, 3) north 89°12'12" west 176.01 feet, and 4) south 0°36' west 41.92 feet to the southeast corner of Subdivision MS 133-72 filed September 7, 1972, in Book 24 of Parcel Maps at page 9; thence along the south line of Subdivision MS 133-72, south 89°12'36" west 259.78 feet to the Centerline of Castle Hill Ranch Road (a private road); thence along said centerline in a general northerly direction, 907 feet, more or less to the northeast corner of Lot "B" as shown on the Record of Survey filed May 13, 1984, in Book 74 of Licensed Surveyors' Maps at page 12, said point being the most southern corner of the said "South Walnut Creek Area of Benefit" (Res. 94/604); thence along the boundary of said "South Walnut Creek Area of Benefit," in a general northerly and easterly direction, 6,275 feet, more or less, to the most eastern corner thereof, said point being the intersection of the centerline of Crest Avenue with the extended west right of way line of South Main Street; thence along said extension and west right of way line in a general southerly direction 565 feet, more or less, to the southeast corner of Subdivision MS 114-75 filed October 20, 1976 in Book 49 of Parcel Maps at page 19; thence along the arc of a non-tangent curve concave to the northwest having a radius of 1,096 feet on the northwest line of the Southern Pacific Railroad right of way, northeasterly 52 feet, more or less, to the most western corner of Assessor Parcel Number (hereinafter referred to as APN) 183-093-031 described as PARCEL THIRTY-ONE in the deed to Contra Costa County recorded December 9, 1985 in Book 12652 of Official Records at page 570; thence non-tangent along the southwest line thereof, crossing Engineer's Station 603+65, southeasterly 110 feet, more or less, to the southeast line of said County parcel, being a non-tangent curve concave to the northwest having a radius of 1,196 feet and being concentric with said northwest line; thence along the arc of said curve, northeasterly 52 feet, more or less, to the southwest line of APN 183-093-023 described in the deed to East Bay Municipal Utility District (hereinafter referred to as EBMUD) recorded January 5, 1968 in Book 5530 of Official Records at page 93; thence along said southwest line, south 22°53'01" east 33.76 feet; thence crossing Rudgear Road, southeasterly 245 feet, more or less, to the northwest corner of APN 187-040-007 described as PARCEL 11 in the deed to Contra Costa County Flood Control and Water Conservation District recorded December 20, 1967 in Book 5520 of Official Records at page 451; thence along the boundary of PARCEL 11, in a general southeasterly direction 1,036.02 feet and north 64°16'18" east 239.55 feet, to the most eastern corner thereof on the west right of way line of Interstate Freeway 680; thence along said west line in a general southeasterly direction 836 feet, more or less, to the boundary of APN 187-050-011 and 012 described as Parcel 1 in the deed to Edward Johannessen and Juliet Johannessen 1987 Revocable Living Trust recorded March 22, 1988 in Book 14228 of Official Records at page 211; thence along said boundary as follows: 1) south 63°37'38" west 44.33 feet, 2) south 23°15'36" east 359.22 feet, 3) north 64°03'39" east 14.72 feet, 4) south 23°15'36" east 144.57 feet, 5) south 45°21'24" west 36.15 feet, 6) south 55°15'24" west 108.21 feet, 7) south 32°31'24" west 152.34 feet, 8) south 12°04'24" west 20.34 feet, 9) south 33°09'41" east 465.15 feet, 10) north 35°52'50" east 129.8 feet, 11) south 29°21'32" east 64.96 feet, and 12) south 69°09'52" east 54.67 feet, to the most southeastern corner thereof on the west right of way line of Interstate Freeway 680; thence along said west line in a general southeasterly direction 1,209.59 feet; thence crossing said freeway, north 53°47'20" east 290 feet, more or less, to the east right

of way line thereof; thence along said east line in a general southeasterly direction 2,259.08 feet to the west line of Subdivision 6468 recorded January 8, 1982 in Book 286 of Maps at page 41; thence along said west line in a general northerly direction 828.77 feet to the south line of APN 187-160-013 described as Parcel Three in the deed to the City of Walnut Creek recorded July 5, 1984 in Book 11867 of Official Records at page 965; thence along said south line and the south line of Subdivision 4810 filed September 23, 1976 in Book 189 of Maps at page 48, south $89^{\circ}43'18''$ east 944.73 feet, to the southwest corner of Subdivision 3037 recorded June 25, 1964 in Book 99 of Maps at page 30; thence along lot lines of Subdivision 3037, south $89^{\circ}43'18''$ east 933.43 feet, south $6^{\circ}19'31''$ east 712.51 feet and along the north right of way line of Livorna Road, north $72^{\circ}23'20''$ east 145.74 feet; thence crossing Trotter Way, north $72^{\circ}23'20''$ east 100 feet, more or less, to the south line of Lot 131 (99 M 30); thence continuing along lot lines of Subdivision 3037 as follows: 1) along the north right of way line of Livorna Road, north $72^{\circ}23'20''$ east 272.09 feet, 2) north $1^{\circ}36'23''$ east 275.72 feet, 3) south $88^{\circ}23'37''$ east 149.23 feet 4) south $1^{\circ}36'23''$ west 223.71 feet, and 5) along the north right of way line of Livorna Road in a general easterly direction 79.27 feet, to the east boundary of Subdivision 3037; thence along said boundary in a general northerly direction 1,532.28 feet to the northeast corner thereof, also being the southeast corner of Subdivision 3827 recorded June 11, 1969 in Book 126 of Maps at page 38; thence along the east line of Subdivision 3827, north $1^{\circ}31'55''$ east 942.5 feet, to the southwest corner of Subdivision 5366 recorded March 25, 1980 in Book 236 of Maps at page 7; thence along the boundary of Subdivision 5366 in a general easterly direction 400.83 feet to the southeast corner thereof on the boundary of Subdivision 5931 recorded June 29, 1983 in Book 271 of Maps at page 21; thence along the boundary of Subdivision 5931, in a general southeasterly direction 105.63 feet along Livorna Heights Road right of way line and south $55^{\circ}22'55''$ east 537 feet, to the southeast corner of Subdivision 5931 on the west line of Subdivision 4402 recorded December 27, 1974 in Book 175 of Maps at page 25; thence along said west line, south $1^{\circ}32'10''$ west 1063.35 feet to the northwest corner of Subdivision 3973 recorded August 18, 1972 in Book 149 of Maps at page 20; thence along the west line of Subdivision 3973 and its southern prolongation, south $1^{\circ}32'10''$ west 967.1 feet, to the centerline of Livorna Road; thence along said centerline in a general easterly direction 890.41 feet to the southern prolongation of the east line of Subdivision 3973; thence along said prolongation and east line, north $1^{\circ}44'25''$ east 1,057.06 feet, to the southeast corner of Subdivision 4402 (175 M 25); thence continuing north $1^{\circ}44'25''$ east 1,527.78 feet to the northeast corner of Subdivision 4402 on the boundary of Subdivision 4924 recorded May 18, 1977 in Book 196 of Maps at page 28; thence along said boundary in a general southeasterly direction 2,879.25 feet to the southeast corner thereof on the boundary of Subdivision 6743 filed June 9, 1987 in Book 313 of Maps at page 28; thence along said boundary, north $21^{\circ}53'15''$ west 3,423.26 feet, north $73^{\circ}16'01''$ east 4,566.44 feet, and south $13^{\circ}51'48''$ east 5,687.22 feet, to the most southern corner thereof on the south line of Rancho San Miguel and the Record of Survey filed August 27, 1970 in Book 53 of Licensed Surveyors' Maps at page 13; thence along said south line, south $76^{\circ}53'13''$ east 1,445.41 feet, to the most southern corner of said Record of Survey (53 LSM 13) on the boundary of that 787.58 acre parcel shown on the Record of Survey filed June 22, 1960, in Book 18 of Licensed Surveyors' Maps at page 38; thence along the boundary of said parcel (18 LSM 39), south $6^{\circ}08'40''$ east 2,389.28 feet and north $87^{\circ}52'06''$ east 9,881.20 feet to the southeast corner thereof on the northwest line of Lot D, Rancho San Miguel Robert Allen Tract; thence along said northwest line, northeasterly 3,100 feet, more or less, to the centerline of Mount Diablo Scenic Boulevard (North Gate Road); thence along said centerline in a general easterly direction 12,400 feet, more or less, to the centerline intersection of Summit Road; thence along the centerline of Mount Diablo Scenic Boulevard (South Gate Road) in a general southerly direction 6,700 feet, more or less, to the south line of Section 12 Township 1 South, Range 1 West, Mount Diablo Meridian; thence along said south line, easterly 4,400 feet, to the northwest corner of Section 18, Township

1 South, Range 1 East, Mount Diablo Meridian; thence along the west line of said Section 18 (T1S, R1E) southerly 5,280 feet, more or less, to the southwest corner thereof; thence along the south line of Sections 18, 17 and 16, Township 1 South, Range 1 East, Mount Diablo Meridian, easterly 15,840 feet, more or less, to the northwest corner of Section 22, Township 1 South, Range 1 East, Mount Diablo Meridian, thence along the west line of said Section 22 (T1S, R1E), southerly 5,280 feet, more or less, to the southwest corner thereof; thence along the south line of Sections 22 and 23 (T1S, R1E), easterly 10,560 feet, more or less, to the northeast corner of Section 26 (T1S, R1E); thence, along the east line of Sections 26 and 35 (T1S, R1E), southerly 10,560 feet, more or less to the northeast corner of Section 2, Township 2 South, Range 1 East, Mount Diablo Meridian; thence along the east line of Sections 2 and 11 (T2S, R1E), southerly 10,560 feet, more or less, to the northeast corner of Section 14, Township 2 South, Range 1 East, Mount Diablo Meridian; thence along the north line of said Section 14, (T2S, R1E), westerly 2,640 feet, more or less, to the northeast corner of Parcel "D" of Subdivision MS 80-85 filed May 14, 1987, in Book 127 of Parcel Maps at page 32; thence along the east line of said Parcel "D" and its southerly prolongation, southerly 6,250 feet, more or less, to a point on the said boundary common to Contra Costa and Alameda Counties; thence along said County boundary in a general westerly direction 2,800 feet, more or less, to the Point of Beginning.

JH:jlj

g:\clerical\exhibits\TVTDAob.exh

6/19/96