

ORDINANCE NO. 2015-11

(Uncodified)

(Tri-Valley Transportation Development Area of Benefit Fees)

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

SECTION 1. Summary and Purpose. This ordinance provides for the repeal of Contra Costa County Ordinance No. 2009-29, the reestablishment of the Tri-Valley Transportation Development Area of Benefit, and the adoption of revised transportation mitigation fees for transportation improvements needed to mitigate transportation impacts of new development in the area of benefit through 2030. This ordinance is enacted as part of the Tri-Valley Transportation Development Fee Program, a regional transportation mitigation fee program of the Tri-Valley Transportation Council (TVTC). The TVTC is a joint exercise of powers entity comprised of the counties of Contra Costa and Alameda and the cities of Danville, San Ramon, Dublin, Pleasanton, and Livermore.

SECTION 2. Authority. This ordinance is enacted pursuant to Government Code sections 66001, *et seq.*, and 66484, and Division 913 of the Contra Costa County Ordinance Code, and other applicable laws and ordinances.

SECTION 3. Recitals and Findings of Fact.

- (a) Under the Mitigation Fee Act, California Government Code section 66000, *et seq.*, the County is authorized to charge a development-project applicant, as a condition of project approval, a fee that is proportional to the cost of public improvements necessary to serve the development project or to alleviate impacts caused by the development project. Government Code section 66484 specifically authorizes the County to impose those fees to defray the actual or estimated costs of new or reconstructed bridges over waterways, railways, freeways, and major thoroughfares that serve new development within a specific area of benefit.
- (b) The County is a member agency of the Tri-Valley Transportation Council (TVTC), a joint exercise of powers agency that was created to provide for transportation planning and improvements within the Tri-Valley Transportation Development Area. That development area includes the unincorporated area of the County described and depicted in Exhibit A, attached hereto, which the County has established as the Tri-Valley Transportation Development Area of Benefit ("TVTD Area of Benefit"). Since 1998, the County has been collecting development fees ("TVTD Fees") from new development in the TVTD Area of Benefit. Those fees fund new development's proportional share of transportation improvements necessary to mitigate the traffic impacts caused by new development in the TVTD Area of Benefit through 2030.
- (c) In 2008, a nexus study ("Nexus Study") was prepared for a fee update to the TVTD Fees. Based on the Nexus Study and the TVTC's recommendation, the County adopted

Ordinance No. 2008-27, to update the TVTD Fees it collects from new development in the TVTD Area of Benefit. However, because of concerns regarding the economic downturn, the updated fees were not adopted by all member agencies of the TVTC. In 2009, the County adopted Ordinance No. 2009-29 to repeal Ordinance No. 2008-27. Now, the TVTC has recommended that member agencies adjust their TVTD Fees to charge 25% of the maximum fee justified in the Nexus Study in fiscal year 2015-2016, and 35% of the maximum fee justified in the Nexus Study in fiscal year 2016-2017.

- (d) The Nexus Study and the County's Development Program Report (Report) have been prepared to determine the amount of the fees necessary to fund new development's share of the estimated costs of new or reconstructed bridges over waterways, railways, freeways, and major thoroughfares (the "Transportation Improvements") that are necessary to meet traffic demands generated by new development within the TVTD Area of Benefit through 2030. The Transportation Improvements are more particularly described in the Nexus Study, the Report, and Section 5.6 (Roadway and Transit Network Plans) of Chapter 5 (Transportation and Circulation Element) of the County's 2005-2020 General Plan.
- (e) The Nexus Study proposes a fair and equitable method for allocating a portion of the costs of the Transportations Improvements to new development within the TVTD Area of Benefit. The cost of each of the Transportation Improvements in the Nexus Study is reasonable. The total amount of revenue expected to be generated from TVTD Fees charged and collected under this ordinance will not exceed the estimated cost of the Transportation Improvements attributable to new development within the TVTD Area of Benefit. The County will rely on sources other than transportation mitigation fee revenue to pay Transportation Improvement costs not allocated to new development.
- (f) Payment of the TVTD Fees shall not be required unless the major thoroughfares or planned bridge facilities are in addition to, or a reconstruction of, any existing major thoroughfares or planned bridge facilities serving the TVTD Area of Benefit at the time that the boundaries of that area of benefit are established by this ordinance. Because all of the Transportation Improvements are in addition to, or a reconstruction or expansion of, existing thoroughfares and bridge facilities, the TVTD Fees proposed under this ordinance may be imposed on new development projects within the TVTD Area of Benefit.
- (g) Pursuant to Government Code section 66001, the Board of Supervisors further finds:
 - (1) As determined in the Nexus Study, the purpose of the TVTD Fees adopted and collected pursuant to this ordinance is to fund new development's share of the estimated costs of the Transportation Improvements identified in the Nexus Study.
 - (2) As determined in the Nexus Study, there is a reasonable relationship between the use of revenue generated by the TVTD Fees and the type of new development projects on which those fees shall be imposed.

- (3) As determined in the Nexus Study, there is a reasonable relationship between the need for the Transportation Improvements that shall be funded by the TVTD Fee revenue, and the types of new development within the TVTD Area of Benefit on which those fees shall be imposed.
 - (4) As determined in the Nexus Study, there is a reasonable relationship between the amount of the TVTD Fee imposed on each type of new development within the TVTD Area of Benefit, and the cost of the Transportation Improvements to be funded by TVTD Fee revenue.
- (h) The Board of Supervisors further finds as follows:
- (1) Pursuant to Government Code sections 54986, 65091, 66017, 66018, 66474.2, subdivision (b), and 66484, and Division 913 of the Contra Costa County Ordinance Code, notice of a public hearing on this ordinance was given and published, and the public hearing was held. The Nexus Study and Report were made available to the public at least ten days before the hearing.
 - (2) If, within the time when protests may be filed under the provisions of this ordinance, there is a written protest, filed with the Clerk of the Board of Supervisors, by owners of more than one-half of the area of the property within the TVTD Area of Benefit, and sufficient protests are not withdrawn so as to reduce that area to less than one-half of the area of the property within the TVTD Area of Benefit, these proceedings shall be abandoned and this ordinance shall not be adopted. However, the Board of Supervisors has considered all written protests, and all written and oral testimony offered at the hearing, and finds that no majority protest exists.
 - (3) At the public hearing on this ordinance, the boundaries of the TVTD Area of Benefit, the estimated costs of the Transportation Improvements, and a fair method of allocation of those costs to new development projects within the East County Regional Area of Benefit were established.

SECTION 4. Definitions. For the purpose of this ordinance, the following terms have the following meanings:

- (a) "Development project" or "new development project," means either of the following located within the TVTD Area of Benefit:
 - (1) Any new construction, or any addition, extension, or enlargement of an existing structure or unit, which includes a dwelling unit for residential use or the floor area of commercial, office or industrial use, requiring a building permit from the County; or

- (2) Any conversion or change in use of an existing structure requiring a building permit from the County that would result in a change in the land use type.
- (b) "Peak-hour trip" has the same meaning as that term is used in the Nexus Study.
- (c) "Square foot" means a square foot of gross floor area within the interior walls of a building or portions thereof. "Square feet" means the total gross floor area within the interior walls of a building or portions thereof.

SECTION 5. Fee Adoption and Collection. TVTD Fees that apply to new development within the TVTD Area of Benefit are hereby adopted, and shall be charged and collected, as specified in this section.

(a) Amount of the Fees.

- (1) Fees Through June 30, 2016. The following schedule of TVTD Fees shall be effective on the later of July 1, 2015, or the effective date of this ordinance:

<u>Land Use Type</u>	<u>Fee</u>	<u>Per Unit</u>
Single-Family Residential	\$ 3,059.50	per dwelling unit
Multi-Family Residential	\$ 2,107.50	per dwelling unit
Commercial/Retail	\$ 3.41	per square foot
Office	\$ 5.20	per square foot
Industrial	\$ 3.03	per square foot
Other	\$ 3,399.50	per peak-hour trip

- (2) Fees Beginning July 1, 2016. The following schedule of TVTD Fees shall be effective beginning on July 1, 2016:

<u>Land Use Type</u>	<u>Fee</u>	<u>Per Unit</u>
Single-Family Residential	\$ 4,283.30	per dwelling unit
Multi-Family Residential	\$ 2,950.50	per dwelling unit
Commercial/Retail	\$ 3.41	per square foot
Office	\$ 7.28	per square foot
Industrial	\$ 4.24	per square foot
Other	\$ 4,759.30	per peak-hour trip

- (3) Adjustment of Fees Beginning July 1, 2017. On July 1, 2017, and on each July 1 thereafter, the amounts of the TVTD Fees set forth in Section 5(a)(2), above, shall be increased or decreased by a percentage equal to the percentage change, if any, in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the 12-month period ending April 30 of the prior year.
- (b) Calculation of the TVTD Fee. Unless otherwise specified in this ordinance, each new development project shall pay a TVTD Fee calculated as described in this Section 5(b).

(1) Calculation of TVTD Fee for New Development that Expands, Extends, or Replaces an Existing Development. If any new development project will replace an existing development, or if any new development project will expand or extend an existing development by increasing the number of dwelling units or square feet of floor area of, or the number of peak-hour trips generated by, the existing development, the TVTD Fee imposed on the new development project shall be calculated as follows:

(A) For residential land uses: The applicable transportation mitigation fee in Section 5(a) of this ordinance is multiplied by the difference of: (i) either the number of dwelling units attributable to the new development that replaces an existing development, or the number of dwelling units attributable to the development after the expansion or extension of the existing development; minus (ii) the number of dwelling units attributable to the existing development. That calculation is expressed as follows:

[Applicable TVTD Fee per-dwelling unit] x [(number of dwelling units after replacement or expansion/extension) – (number of dwelling units before replacement or expansion/extension)]

(B) For office, industrial, and commercial/retail land uses: The applicable TVTD Fee in Section 5(a) of this ordinance is multiplied by the difference of: (i) either the number of square feet of the new development that will replace an existing development, or the number of square feet of the development after expansion or extension of the existing development; minus (ii) the number of square feet of the existing development. That calculation is expressed as follows:

[Applicable TVTD Fee per square foot] x [(number of square feet after replacement or expansion/extension) – (number of square feet before replacement or expansion/extension)]

(C) For other land uses: The applicable TVTD Fee in Section 5(a) of this ordinance is multiplied by the difference of: (i) either the number of peak-hour trips attributable to the new development that will replace an existing development, or the number of peak-hour trips attributable to the development after expansion or extension of the existing development; minus (ii) the number of peak-hour trips attributable to the existing development. That calculation is expressed as follows:

[Applicable TVTD Fee per peak-hour trip] x [(number of peak-hour trips generated after replacement or expansion/extension) – (number of peak-hour trips generated before replacement or expansion/extension)]

The County will determine the number of peak-hour trips that will be generated by the new development project based on: information

generated by project-specific traffic studies prepared by a professional engineer; the standards set forth in the then-current edition of the Institute of Transportation Engineers Trip Generation Manual (“ITE Manual”); and other information provided by the new development project applicant that the County deems relevant.

(D) Notwithstanding any other provision of this ordinance, if the result of the calculation required by this Section 5(b)(1) is zero or a negative number, then no TVTD Fee shall be imposed on the new development project.

(2) Calculation of the TVTD Fee for Other New Development. For any new development project that does not expand, extend, or replace an existing development, the TVTD Fee imposed on the new development project shall be calculated as follows:

(A) For residential land uses: The applicable TVTD Fee in Section 5(a) of this ordinance is multiplied by the number of dwelling units attributable to the new development. That calculation is expressed as follows:

(Applicable TVTD Fee per dwelling unit) x (number of dwelling units)

(B) For office, industrial, and commercial/retail land uses: The applicable TVTD Fee in Section 5(a) of this ordinance is multiplied by the number of square feet of the new development. That calculation is expressed as follows:

(Applicable TVTD Fee per square foot) x (number of square feet of floor area)

(C) For “other” land uses: The applicable TVTD Fee in Section 5(a) of this ordinance is multiplied by the number of peak-hour trips attributable to the new development. That calculation is expressed as follows:

(Applicable TVTD Fee per peak-hour trip) x (number of peak-hour trips that will be generated)

The County will determine the number of peak-hour trips that will be generated by the new development project based on: information generated by project-specific traffic studies prepared by a professional engineer; the standards set forth in the then-current edition of the Institute of Transportation Engineers Trip Generation Manual; and other information provided by the new development project applicant that the County deems relevant.

(c) Applicability and Establishment of TVTD Area of Benefit Boundaries. The transportation mitigation fees specified in this ordinance shall apply to all new

development within the TVTD Area of Benefit, unless otherwise specified in this ordinance. The boundaries of the TVTD Area of Benefit are more particularly described in the legal description and depicted on the map attached hereto together as Exhibit A and incorporated herein by reference. The boundaries of the TVTD Area of Benefit are hereby readopted and reestablished in accordance with Government Code section 66484.

- (d) Time of Collection. The TVTD Fee attributable to each new development project shall be paid before the County issues a building permit for the new development project. Payment of the fee shall be a condition of building permit issuance, as specified in Chapter 913-4 of the County Ordinance Code.
- (e) Exemptions. No new development project is exempt from payment of a TVTD Fee under this ordinance, unless, as of the date of the notice published pursuant to Government Code Section 66474.2, subdivision (b), either of the following apply:
 - (1) The new development project has perfected an exemption from the TVTD Fee under the vesting tentative map law; or
 - (2) The new development project has entered into a development agreement with the County that expressly excludes assessment of additional TVTD Fees on that project.
- (f) Fee Reductions and Credits.
 - (1) A project applicant 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. A requested fee reduction must be based on a traffic study that determines that the traffic impacts of the proposed development would generate fees that are less than the fees set forth in Section 5, above. The methodology for conducting the study shall be developed and approved by the County. The County shall determine the appropriate fee reduction based upon the proportionate reduction in trips demonstrated in the traffic study.
 - (2) A project applicant may receive credit against fees for the dedication of land for right-of-way and/or construction of any portion of the Transportation Improvements to be funded with the fees collected pursuant to this ordinance, where the 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 these dedications or improvements shall be based on a determination by the County that the credits are exclusive of the dedications, setbacks, improvements, and/or traffic mitigation measures that are required by ordinance or local standards. 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. All TVTD Fee credits and reimbursements for dedications in lieu of payment of any

transportation mitigation fee, or portion thereof, required to be paid by this ordinance shall be subject to an agreement executed in accordance with the Traffic Fee Credit and Reimbursement Policy, approved by the Board of Supervisors on June 5, 2007, which is made a part hereof and incorporated herein by reference.

(g) Fee Waivers.

- (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.

(h) Fee Waiver for Inclusionary Housing Units. In lieu of the fee waiver for affordable housing units as set forth in Section 5(g), 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.

(i) Senior Housing and Congregate Care. Nothing in this ordinance shall be construed to abridge or modify the Board's discretion, upon proper application for a senior housing or congregate care facility, to adjust or to waive the TVTD Fees required to be paid under this ordinance, pursuant to Government Code Section 65915.

- (j) Deposit of TVTD Fee Revenue. Revenue from TVTD Fees paid pursuant to this ordinance shall be deposited into a fund covering the Transportation Improvements identified in the Nexus Study, and shall be separately accounted for. The funds shall not be commingled with other funds, except where the funds are temporarily invested pursuant to Government Code section 66006. TVTD Fee revenues deposited in the fund shall be expended solely for the purposes described in this ordinance. Any interest earned on deposits in the fund also shall be deposited in that fund and used for those purposes.
- (k) Limitations. No TVTD Fees collected pursuant to this ordinance may be used to reimburse the construction costs of bridge or thoroughfare facilities serving the TVTD Area of Benefit on the effective date of this ordinance. However, TVTD Fee revenues may be used to reimburse any general fund monies, or other County revenues, advanced to pay for any planned bridge or thoroughfare improvements.

SECTION 6. Reporting and Accounting Requirements.

- (a) Annual Reporting. Within 180 days after the last day of each fiscal year, the Public Works Director, or designee, shall make available to the public a report regarding the fund established for receipt of deposits of the TVTD Fees collected by the County pursuant to this ordinance. The report shall be reviewed by the Board of Supervisors at a regularly scheduled meeting that will be held, and notice of which will be provided, 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 TVTD Fees.
 - (3) The beginning and ending balance of the account or fund.
 - (4) The amount of the TVTD Fees collected and the interest earned.
 - (5) An identification of each public improvement on which TVTD 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 those 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, subdivision (e), and any allocations pursuant to Government Code section 66001, subdivision (f).
- (b) Periodic Review by the Board. In the fifth fiscal year following the first deposit into the fund established for receipt of deposits of the TVTD Fees collected pursuant to this ordinance, and at least once every five years thereafter, the Board of Supervisors shall make all of the following findings with respect to that portion of the TVTD Area of Benefit fund remaining unexpended, whether committed or uncommitted, pursuant to Government Code Section 66001:
- (1) Identify the purpose to which the TVTD Fees are to be put.
 - (2) Demonstrate a reasonable relationship between the TVTD Fees and the purpose for which they are charged.
 - (3) Identify all sources and amounts of funding anticipated to complete financing of incomplete transportation improvements identified in the Nexus Study and Report.
 - (4) Designate the approximate dates on which the funding referred to in Section 6(b)(3), above, is expected to be deposited into the appropriate account or fund.

SECTION 7. Repeal of Existing Fees. Except as specified in this Section 7 and Section 9, below, Contra Costa County Ordinance No. 2009-29 is hereby repealed and superseded by this ordinance, as of the effective date of this ordinance. However, this repeal shall not affect any TVTD Fees that were imposed on any development project pursuant to Ordinance No. 2009-29 prior to the effective date of this ordinance, which fees shall be paid and collected under the provisions of that prior ordinance.

SECTION 8. Judicial Review. Any judicial action or proceeding to attack, review, set aside, void, or annul the TVTD Fees established by this ordinance shall be commenced within one hundred twenty (120) days after the effective date of this ordinance. Any action to attack any adjustment to the schedule of TVTD Fees pursuant to Section 5(a)(3) of this ordinance shall be commenced within one hundred twenty (120) days after the effective date of that adjustment.

SECTION 9. Severability. Notwithstanding any other provision of this ordinance to the contrary, if a court of competent jurisdiction determines any TVTD Fee set forth in Section 5 of this ordinance is invalid or unenforceable, the comparable fee adopted by Ordinance No. 2009-29, shall be deemed not to have been repealed and shall remain in effect and subject to the remaining provisions of this ordinance. Notwithstanding any other provision of this ordinance to the contrary, if a court of competent jurisdiction determines this ordinance is invalid or

unenforceable, Ordinance No. 2009-29 shall be deemed not to have been repealed and shall remain in full force and effect.

SECTION 10. Effective Date. This ordinance shall become effective 60 days after passage, and, 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 _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Board Chair

ATTEST:
DAVID J. TWA, Clerk of the Board
of Supervisors and County Administrator

By _____
Deputy

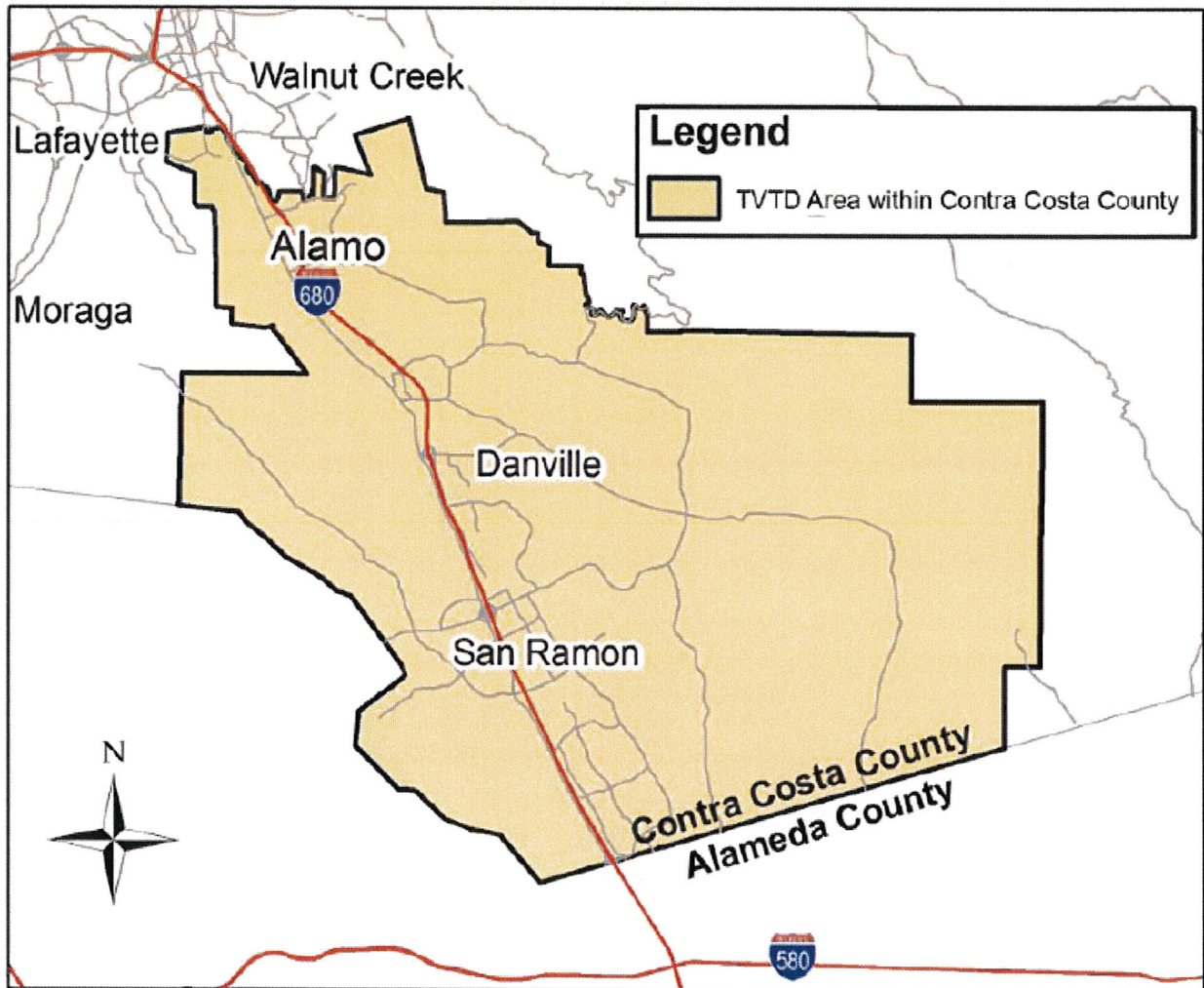
Attachments: Exhibit A (Map and Legal Description of TVTD Area of
Benefit boundaries)

SMS:
H:\Client Matters\Public Works\AOB Fees\TVTC\ORDINANCE - TVTC FEES (FINAL).doc

EXHIBIT A

**Tri-Valley Transportation Development Fee Area of Benefit
(showing adjacent communities and cities)**

**TRI-VALLEY TRANSPORTATION DEVELOPMENT
(TVTD) FEE AREA**



*Note: County Ordinance applies to unincorporated County areas within TVTC boundary.

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 $87^{\circ}05'11''$ east 274.17 feet, 2) in a general northerly direction 3,354.5 feet to the northeast corner thereof, 3) north $89^{\circ}12'12''$ west 176.01 feet, and 4) south $0^{\circ}36'$ 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 $89^{\circ}12'36''$ 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 $22^{\circ}53'01''$ 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 $64^{\circ}16'18''$ 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 $63^{\circ}37'38''$ west 44.33 feet, 2) south $23^{\circ}15'36''$ east 359.22 feet, 3) north $64^{\circ}03'39''$ east 14.72 feet, 4) south $23^{\circ}15'36''$ east 144.57 feet, 5) south $45^{\circ}21'24''$ west 36.15 feet, 6) south $55^{\circ}15'24''$ west 108.21 feet, 7) south $32^{\circ}31'24''$ west 152.34 feet, 8) south $12^{\circ}04'24''$ west 20.34 feet, 9) south $33^{\circ}09'41''$ east 465.15 feet, 10) north $35^{\circ}52'50''$ east 129.8 feet, 11) south $29^{\circ}21'32''$ east 64.96 feet, and 12) south $69^{\circ}09'52''$ 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 $53^{\circ}47'20''$ 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 6488 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°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°43'18" east 933.43 feet, south 6°19'31" east 712.51 feet and along the north right of way line of Livorna Road, north 72°23'20" east 145.74 feet; thence crossing Trotter Way, north 72°23'20" east 100 feet, more or less, to the south line of Lot 131 (89 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°23'20" east 272.09 feet, 2) north 1°36'23" east 275.72 feet, 3) south 88°23'37" east 149.23 feet 4) south 1°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°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°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°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°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°44'25" east 1,057.08 feet, to the southeast corner of Subdivision 4402 (175 M 25); thence continuing north 1°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°53'15" west 3,423.26 feet, north 73°16'01" east 4,566.44 feet, and south 13°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°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 39; thence along the boundary of said parcel (18 LSM 39), south 6°08'40" east 2,389.26 feet and north 87°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:jlg

g:\clerical\exhibits\TVTDaob.exh

6/19/96