

ORDINANCE NO. 2021-03

(East Contra Costa Regional Fee and Financing Authority Fees and Project List)

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

SECTION 1. Summary. This ordinance amends Ordinance No. 2005-18 to add one project – the Sand Creek Road Extension from SR4 to Deer Valley Road project – to the list of projects that will be funded with regional transportation development impact mitigation (“RTDIM”) fees. These fees are collected by all member agencies of the East Contra Costa Regional Fee and Financing Authority (“ECCRFFA”), which is a joint exercise of powers agency that funds regional transportation improvements. This ordinance does not modify any of the RTDIM fees in Ordinance No. 2005-18, and it also does not modify the area within which RTDIM fees are imposed.

SECTION 2. Authority. This ordinance is enacted pursuant to the applicable requirements of Government Code sections 66016 through 66018 and 66484, and Division 913 of the County Ordinance Code.

SECTION 3. Recitals and Findings.

- (a) The “East Contra Costa Regional Fee and Financing Authority Joint Exercise of Powers Agreement,” as amended, (the “Agreement”) among ECCRFFA’s member agencies – the County and the Cities of Antioch, Brentwood, Pittsburg, and Oakley – established ECCRFFA to fund regional transportation improvements in east Contra Costa County using RTDIM fees collected by member agencies. Since the original Agreement was approved, ECCRFFA has amended the Agreement, including to prioritize projects to be funded with RTDIM fee revenues.
- (b) ECCRFFA’s RTDIM fees were last increased in 2005. In 2005, ECCRFFA member agencies adopted ECCRFFA RTDIM fees to fund transportation projects on a project list, as more particularly described in the Fehr & Peers “East Contra Costa Regional Fee Program Update,” dated June 2005 (“2005 Report”). On July 19, 2005, the Board of Supervisors adopted Ordinance No. 2005-18 to approve the RTDIM fees, and to allow the County to impose the fees on new development within unincorporated areas of ECCRFFA’s jurisdiction, to fund the projects identified in the 2005 Report. Many of the projects identified in the 2005 Report have been completed, including the State Route 4 (SR 4) Bypass, and the widening of SR 4 through Antioch and Pittsburg.
- (c) ECCRFFA has identified an additional regional transportation project that is eligible for funding from RTDIM fees – the Sand Creek Road Extension from SR4 to Deer Valley Road project (“Sand Creek Extension Project”). The Sand Creek Extension Project is more particularly detailed the Fehr & Peers “East Contra Costa Regional Fee and Financing Authority Fee Program Update,” dated October 2020 (the “2020 Report”).

- (d) On October 8, 2020, the ECCRFFA Board of Directors adopted Resolution No. 2020/01 to: make required findings; approve the 2020 Report; approve a fourth amendment to the Agreement to add the Sand Creek Extension Project to the ECCRFFA project list; and recommend that ECCRFFA member agencies consider approving the fourth amendment to the Agreement and amending their fee ordinances and resolutions to add the Sand Creek Extension Project, with no change to the RTDIM fees last approved in 2005.
- (e) The 2020 Report was prepared to determine the amount of the RTDIM fees necessary to fund new development's share of the estimated costs of the Sand Creek Extension Project. The Sand Creek Extension Project is more particularly described in the 2020 Report, and the project is consistent with the goals and policies of the circulation elements in the general plans of the City of Antioch and City of Brentwood.
- (f) The 2020 Report proposes a fair and equitable method for allocating a portion of the costs of the Sand Creek Extension Project to new development within ECCRFFA's jurisdiction, as more particularly described in the 2020 Report. The cost of the Sand Creek Extension Project, as calculated in the 2020 Report, is reasonable. The total amount of revenue expected to be generated from RTDIM fees will not exceed the estimated cost of the Sand Creek Extension Project attributable to new development within ECCRFFA's jurisdiction. ECCRFFA and its member agencies will rely on sources other than RTDIM fee revenue to pay Sand Creek Extension Project costs not allocated to new development. The Sand Creek Extension Project is necessary and desirable within ECCRFFA's jurisdiction.
- (g) Because all of the Sand Creek Extension Project is in addition to, or a reconstruction or expansion of, existing thoroughfares and bridge facilities, RTDIM fees may be imposed on new development projects within ECCRFFA's jurisdiction to fund new development's propositional share of the project costs.
- (h) Pursuant to Government Code section 66001, the Board of Supervisors further finds:
 - (1) As determined in the 2005 Report and the 2020 Report, the purpose of ECCRFFA RTDIM fees is to fund new development's share of the estimated costs of the Sand Creek Extension Project identified in the 2020 Report.
 - (2) As determined in the 2005 Report and the 2020 Report, there is a reasonable relationship between the use of revenue generated by the RTDIM fees and the type of new development projects on which those fees shall be imposed.
 - (3) As determined in the 2005 Report and the 2020 Report, there is a reasonable relationship between the need Sand Creek Extension Project and the types of new development within ECCRFFA's jurisdiction on which RTDIM fees shall be imposed.

- (4) As determined in the 2005 Report and the 2020 Report, there is a reasonable relationship between the amount of the RTDIM fees imposed on each type of new development within ECCRFFA's jurisdiction, and the cost of the Sand Creek Extension Project to be funded by RTDIM fee revenue.
- (i) The Board of Supervisors further finds as follows:
 - (1) Pursuant to Government Code sections 54986, 65091, 66017, 66018, 66474.2, subdivision (b), 66484, and 66484.7, 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 2020 Report and related materials were made available to the public at least ten (10) days before the hearing.
 - (2) If, within the time when protests may be filed under the provisions of Ordinance Code section 913-6.016, there are written protests, filed with the Clerk of the Board of Supervisors, by owners of more than one-half of the area of the property within unincorporated Contra Costa County in ECCRFFA's jurisdiction, 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 unincorporated area of ECCRFFA's jurisdiction, these proceedings shall be abandoned and this ordinance shall not be adopted. However, the Board of Supervisors has considered any written protests, and all written and oral testimony offered at the hearing, and it finds that no majority protest exists.
 - (3) At the public hearing on this ordinance, the estimated costs of the Sand Creek Extension Project, and a fair method of allocation of those costs to new development projects within ECCRFFA's jurisdiction were established. There are no changes to the boundaries of ECCRFFA's jurisdiction since they were last established.

SECTION 4. Approval of the 2020 Report. The Board of Supervisors approves the 2020 Report.

SECTION 5. Amendment of Ordinance No. 2005-18.

- (a) Each reference in Ordinance No. 2005-18 to "Report" shall include both the 2005 Report and the 2020 Report.
- (b) Each reference in Ordinance No. 2005-18 to "Improvements" or projects that will be funded with RTDIM fee revenue shall include the Sand Creek Extension Project, as further described in the 2020 Report.
- (c) Section VIII(C) in Ordinance No. 2005-18 is deleted in its entirety and replaced with new Section VIII(C), to read:

“C. The RTDIM Fees collected pursuant to this ordinance shall be used exclusively for the projects listed in the Report.”

(d) Except as expressly modified by this ordinance, Ordinance No. 2005-18 shall remain unchanged.

SECTION 6. Severability. 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. 2005-18 shall remain unchanged and in full force and effect.

SECTION 7. 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 East Bay 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:
MONICA NINO, Clerk of the Board
of Supervisors and County Administrator

By _____
Deputy

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