



Contra  
Costa  
County

To: Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: April 16, 2019

Subject: Consider adopting Ordinance No. 2019-10 and Resolution No. 2019/123

### **RECOMMENDATION(S):**

1. OPEN the public hearing to consider adopting Ordinance No. 2019-10, to adjust transportation mitigation fees for West Contra Costa Transportation Advisory Committee's (WCCTAC) Subregional Transportation Mitigation Program within the WCCTAC area of benefit (WCCTAC AOB); RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing.
2. DETERMINE that the County did not receive protests from owners of more than one half of the area of the property within the proposed boundaries of WCCTAC AOB, and therefore a majority protest does not exist.
3. ADOPT Ordinance No. 2019-10 to adjust the fees within the WCCTAC AOB, and to reestablish the boundaries of the WCCTAC AOB.
4. ADOPT Resolution No. 2019/123, to adopt the Development Program Report (DPR) and Nexus Study attached thereto.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **04/16/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

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.

ATTESTED: April 16, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Mary Halle,  
925.313.2327

cc:

RECOMMENDATION(S): (CONT'D)

5. APPROVE, and authorize the Chair, Board of Supervisors to execute on behalf of the County, the Master Cooperative Agreement by and among Contra Costa County and the cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, and West Contra Costa Transportation Advisory Committee (WCCTAC).
6. APPROVE the STMP Fee Administrative Guidelines for collection of the fees imposed under Ordinance No. 2019-10 and administration of the STMP.
7. DETERMINE that the adoption of Ordinance No. 2019-10 and Resolution No. 2019/123, and the other actions taken, are exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines.
8. DIRECT the Conservation and Development Director to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Public Works Director to arrange for payment of the \$25.00 handling fee to the County Clerk-Recorder for the filing of the Notice of Exemption.
9. DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2019-10 and Resolution No. 2019/123 in the Official Records of the Contra Costa County Clerk-Recorder.
10. DIRECT that, on July 1, 2020, and on each July 1 thereafter that the Ordinance No. 2019-10 remains in effect, the Public Works Director adjust the WCCTAC transportation mitigation fees for the effects of inflation or deflation, in accordance with Section 5(a)(3) of the ordinance.
11. REDESIGNATE Trust Fund No. 8286 as the fund into which all WCCTAC transportation mitigation fee revenue will be deposited, DIRECT all WCCTAC revenue to be deposited into that fund, and DIRECT the County Treasurer-Tax Collector to remit fee revenues to the WCCTAC Treasurer on a quarterly basis.
12. DIRECT that all funds previously deposited in Trust Fund No. 8292 must be transferred to WCCTAC, Trust Fund No 8286.
13. AUTHORIZE the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable WCCTAC STMP Fee.
14. DIRECT the Conservation and Development Director to monitor future amendments to the currently adopted General Plan and their impact on traffic within the WCCTAC boundary and to report those amendments to the Public Works Director as necessary to facilitate updating of the STMP Fee.

FISCAL IMPACT:

Adoption of Ordinance No. 2019-10 will result in the collection of transportation mitigation fees from new development in amounts calculated to reflect new development's proportional share of the actual or estimated costs of transportation improvements that are necessary to mitigate transportation impacts within the WCCTAC fee area, as specified in the Development Program Report and the Nexus Study.

## **BACKGROUND:**

### **INTRODUCTION:**

The West Contra Costa Transportation Advisory Committee (WCCTAC) is a joint exercise of powers agency comprised of, but separate from, the following member agencies: Contra Costa County, the cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, the Alameda-Contra Costa Transit District, the San Francisco Bay Area Rapid Transit District, and the Western Contra Costa Transit Authority. WCCTAC administers the Subregional Transportation Mitigation Program (STMP), which uses development fees imposed and collected by member agencies to fund regional transportation improvements within WCCTAC's jurisdictions. WCCTAC's STMP is consistent with the objectives of the County General Plan, which include connecting new development directly to the provision of community facilities necessary to serve that development. In other words, development cannot be allowed to occur unless a mechanism is in place to provide the funding for the infrastructure necessary to serve that development. Fees imposed on new development under WCCTAC's STMP is a means of raising revenue to construct regional transportation improvements needed to mitigate the impacts of new developments. Requiring that all new development pay a transportation mitigation fee ensures that new development pays its proportional share of the transportation improvements that need to be constructed to address traffic impacts attributable to that development.

### **HISTORY AND PURPOSE OF WCCTAC AOB:**

The STMP was first adopted by the WCCTAC 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. 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. The STMP was last updated in 2006. Since the last STMP update, the following projects were partially funded: Richmond Intermodal Station, I-80/San Pablo Dam Road, I-80/Central Avenue, SR 4/ Willow Avenue Interchange Improvements, Capitol Corridor Improvements (Hercules Passenger Rail Station), BART Access and/or Parking Improvements (El Cerrito Plaza, El Cerrito Del Norte, and/or Richmond BART Stations), Bay Trail Gap Closure.

### **PROPOSED CHANGES TO THE WCCTAC AOB FEE PROGRAM:**

In recent years, the development potential and traffic circulation needs have changed within West County. Based upon historic growth from 2010 to 2015 in West Contra

Costa, it is anticipated that future growth to 2040 will increase the service population by approximately 19%, resulting in a net increase in dwelling unit equivalents (DUE) of 10,578. These changes have prompted an update to the STMP in the WCCTAC fee area, resulting in an amended project list. A list of projects needed to accommodate future traffic was prepared by the WCCTAC. Twenty projects are proposed to be included on the updated list. In general, because most projects mitigate both existing and future deficiencies, the amount of STMP funding varies from 12% to 19% of the project cost.

### 1. New Project List

WCCTAC staff and consultants have identified transportation projects that are needed to serve development within the WCCTAC AOB through March 31, 2040. These projects have been included on a new project list, attached as Exhibit C to the April 2019 Development Program Report (“DPR”). The projects on the new project list are:

1. San Pablo Avenue Complete Streets Project
2. Apian Way Complete Street Project
3. San Pablo Dam Road Improvements in Downtown El Sobrante
4. Bay Trail Gap Closure
5. Ohlone Greenway Improvements
6. I-580/Harbour Way Interchange Pedestrian & Bicycle Access Improvements
7. I-580/Marina Bay Parkway Interchange Pedestrian & Bicycle Access Improvements
8. Richmond Ferry to Bridge Bicycle Network Improvements
9. I-80 Express Bus Service (capital improvements)
10. Hercules Regional Intermodal Transportation Center
11. BART extension from Richmond Station
12. San Pablo Avenue Transit Corridor Improvements
13. 23<sup>rd</sup> Street Transit Corridor Improvements
14. West County BART Station Access, Parking & Capacity Improvements
15. Del Norte Area TOD Public Infrastructure Improvements
16. San Pablo Avenue Intersection Realignment at 23<sup>rd</sup> Street and Road 20
17. I-80/San Pablo Dam Road Interchange Improvements (Phase 2)
18. I-80/Central Avenue Interchange Improvements (Phase 2)
19. I-80/Pinole Valley Road Interchange Improvements
20. Future Nexus Study Updates.

As described in the DPR and the 2019 Nexus Study attached thereto (“Nexus Study”), the total estimated cost of the updated list of projects is \$855,002,000, of which \$161,781,000 is attributable to new development within the WCCTAC boundary. The cost of the projects attributable to new development will be paid with revenue from transportation mitigation fees imposed on new development within the WCCTAC area. The remaining cost of the projects, attributable to existing development, will be paid from other revenue sources, including but not limited to State or Federal Highway Safety Improvement grant funds, Local Measure J funds, gas tax revenue, and various other grant programs that may become available in the future.

### 2. Revised Fee Rates

Based on the analysis in the DPR and the Nexus Study, transportation mitigation fees were calculated to charge new development for its proportional share of the cost of the projects on the project list in the DPR. The maximum transportation mitigation fee rates supported by the Nexus Study are set forth in Table 1, below, along with the recommended rates to be adopted by Ordinance 2019-10. The WCCTAC Board, at their September 28, 2018 meeting, approved proposed fee rates at 75% of the maximum allowable rates supported by the Nexus Study. The recommended reduction was determined by the WCCTAC Board which is composed of elected officials from each of the partner agencies. On July 1, 2020, and on each July 1<sup>st</sup> thereafter, each of the fees in Table 1 will automatically increase or decrease 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 February of the current calendar year.

**Table 1: WCCTAC STMP Fee Rates**

<b>Land Use Category</b>	<b>Maximum Fees Supported by Nexus Study</b>	<b>Fees to be Adopted</b>
Single-Family	\$7,252 / du	\$5,439 / du
Multi-Family	\$3,572 / du	\$2,679 / du
Retail/Service	\$8.79 / sf	\$6.59 / sf
Office	\$11.63 / sf	\$8.72 / sf
Industrial	\$7.41/ sf	\$5.56 / sf
Senior Housing	\$1,958/du	\$1,469/du
Hotel	\$4,641/room	\$3,481/room
Storage Facility	\$1.02/sf	\$0.76/sf
Other	\$9,800/AMPHT	\$7,350/AMPHT

Note: du = dwelling unit; sf = square foot; AMPHT = AM peak hour trip

The total fees required to be paid by a new development project applicant will be calculated based on the number of dwelling units (single-family and multi-family residential, and senior housing), square feet (retail/service, office, industrial, storage facility), rooms (hotel), or A.M. peak hour trips (other) attributable to that development multiplied by the applicable fee rate in Table 1. The fee for the expansion of an existing development will be calculated by determining the number of dwelling units, square feet, rooms, or A.M. peak hour trips attributable only to the expansion.

The fees to be paid by each new development will be collected at the time a building

permit is issued for the development, in accordance with Ordinance Code Chapter 913-4. Fee revenue will be deposited in the fund for the WCCTAC STMP – Fund No. 8286– and used only for the transportation improvements identified in the DPR. Fee revenue will be transferred to WCCTAC on a quarterly basis. The existing WCCTAC fund has been fully expended on projects on the current project list, so there is no carry-over balance.

**RESOLUTION NO. 2019/123:** Pursuant to Government Code sections 66484 subdivision (a)(3), and 66484.7, subdivision (a)(3), a resolution must be adopted by the Board that incorporates a description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing.

The DPR sets forth the boundaries of the WCCTAC area of benefit, the list of projects and their estimated costs, the method of fee apportionment, and nexus findings. Approval of Resolution No. 2019/123 is required to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the DPR and the Nexus Study attached to the report.

**ORDINANCE NO. 2019-10:**

To adjust the WCCTAC fees to generate revenue to fund the transportation improvements described herein, an ordinance must be adopted that includes the “nexus” findings required by Government Code section 66001. The ordinance also must include the specific information required by Government Code sections 66484 and 66484.7. Ordinance No. 2019-10 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2019-10 will repeal Ordinance Nos. 2006-61 and 2006-62 and impose new transportation mitigation fees on new development within the unincorporated areas of WCCTAC’s jurisdiction. The ordinance includes provisions for fee reductions for affordable and inclusionary housing, senior housing, accessory dwelling units that are internal conversions and congregate care facilities. Revenue from the fees will fund the transportation projects necessary to serve transportation demands within WCCTAC’s jurisdiction through March 31, 2040. Staff recommends that the Board adopt Ordinance No. 2019-10. Notice of this hearing was given in accordance with Government Code sections 6061, 65091, 54986, 66484, and Ordinance Code Section 913-6.014.

**ADMINISTRATIVE FEE:**

In addition to the transportation mitigation fee imposed on a new development project, the County will assess an administrative fee equal to 2% of that transportation mitigation fee. This additional fee will be used to cover staff time for fee collection, accounting, technical support to the community groups, traffic advisory committees and other administrative tasks.

**CEQA FINDINGS:**

These actions are covered by the general rule that the California Environmental Quality

Act (CEQA) applies only to activities that have the potential to cause a significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The implementation and imposition of fees has no associated environmental impacts. Therefore, this activity is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. The future implementation of the transportation improvement projects to be funded with transportation mitigation fee revenue, however, may have associated project-specific impacts, and such impacts will be evaluated under CEQA as each project is planned and implemented.

For the reasons specified above, Public Works Department staff and Department of Conservation and Development staff recommend that the Board take each of the recommended actions listed in this board order, to adjust the transportation mitigation fees that are imposed on new development within the WCCTAC AOB

#### CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2019-10 to adjust fees in the WCCTAC Area of Benefit, reestablish the boundaries, and update the proposed project list of the STMP will result in new development not paying its proportional share of the transportation improvements needed to serve development in West County through March 31, 2040, and projects needed to satisfy transportation demands within the boundary could not be funded under the existing AOB program.

#### ATTACHMENTS

Resolution No. 2019/123

Draft WCCTAC Fee Ordinance

WCCTAC Development Program Report

Master Cooperative Agreement

Administrative Guidelines

CEQA Exemption