



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: June 8, 2021

Subject: HEARING on adoption of Ordinance No. 2021-12 and Resolution No. 2021/173 adjusting transportation mitigation fees for the Pacheco Area of Benefit.

RECOMMENDATION(S):

OPEN the public hearing to consider adopting Ordinance No. 2021-12, to update Pacheco Area of Benefit ("Pacheco AOB") fees; RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing.

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 the Pacheco AOB, and therefore a majority protest does not exist.

ADOPT Ordinance No. 2021-12 to update the project list and adjust the transportation mitigation fees within the Pacheco AOB, and to reestablish the boundaries of the Pacheco AOB.

ADOPT Resolution No. 2021/173 to adopt the Development Program Report (DPR) and Nexus Study attached thereto.

DETERMINE that the adoption of Ordinance No. 2021-12 and Resolution No. 2021/173 are

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **06/08/2021** ☒ 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: June 8, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jerry Fahy,
925.313.2276

cc:

exempt from environmental review

RECOMMENDATION(S): (CONT'D)

under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines.

DIRECT the Director of Department of Conservation and Development to file a Notice of Exemption with the County Clerk.

AUTHORIZE the Public Works Director or designee to arrange for payment of the \$25 fee to the Department of Conservation and Development for processing, and a \$50 fee to the County Clerk for filing the Notice of Exemption.

DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2021-12 and Resolution No. 2021/173 in the Official Records of the Contra Costa County Clerk-Recorder.

DIRECT that, on January 1, 2022, and on each January 1 thereafter that the Ordinance No. 2021-12 remains in effect, the Public Works Director adjust the Pacheco AOB transportation mitigation fees for the effects of inflation or deflation, in accordance with Section 5(a)(3) of the ordinance.

REDESIGNATE Trust Fund No. 1399 as the fund into which all Pacheco AOB transportation mitigation fee revenue will be deposited, DIRECT all Pacheco AOB transportation mitigation fee revenue must be deposited into that fund, and DIRECT the County Treasurer-Tax Collector to invest all monies in that fund, with interest to accrue and remain in the fund.

DIRECT that all funds previously deposited in Trust Fund No. 1399 must be used solely to pay new development's proportional share of the actual or estimated costs of constructing the transportation improvements specified in the Development Program Report and Nexus Study attached hereto, and to reimburse the County for payment of any such costs with money advanced by the County from its general fund, or from other County revenues.

AUTHORIZE the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable Pacheco AOB Fee.

DIRECT the Director of Department of Conservation and Development to monitor future amendments to the currently adopted General Plan and their impact on traffic within the Pacheco AOB, and to report those amendments to the Public Works Director as necessary to facilitate updating of the Pacheco AOB Fee.

FISCAL IMPACT:

Adoption of Ordinance No. 2021-12 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 Pacheco AOB, as specified in the Development Program Report and the Nexus Study.

BACKGROUND:

- A. INTRODUCTION: The purpose of the Pacheco Area of Benefit (AOB) Program is to help fund improvements to the County's roadway, transit, bicycle and pedestrian facilities needed to safely accommodate travel demand generated by new land development within the unincorporated portion of this AOB. This board order and ordinance are to provide an update to the existing 1986 ordinance, review the transportation needs in the area bound by the Pacheco AOB, and forecast the transportation needs as documented in the Nexus Report.
- B. PAST AND PURPOSE OF PACHECO AOB: On June 17, 1986, the Board of Supervisors passed an ordinance 86-52 forming the Pacheco-West Concord Area of Benefit (then known as the West Concord (Pacheco) Area of Benefit). At that time, there were many vacant parcels in the AOB with potential for residential development, and the existing transportation system was inadequate to handle the additional traffic generated from the projected development. Over the past 35 years, Area of Benefit fees have helped pay for ongoing improvements to Concord Avenue, Pacheco Boulevard, Center Avenue, and Marsh Drive.
- C. PROPOSED CHANGES TO FEE PROGRAM: The Pacheco AOB has experienced subtle changes in the area's circulation needs and development potential since 1986. Review of the travel demand and infrastructure prompted an investigation into the Pacheco AOB program and its existing project list and fee structure. New development within the Pacheco AOB is expected to generate approximately 269 residential units, 45,000 square feet of office space, 25,000 square feet of industrial, and 57,000 square feet of retail space by 2040. These changes in the AOB, along with population growth and new estimated potential growth, have prompted an update to the AOB program, resulting in an amended project list and fee schedule, and some administrative modifications, as discussed below.
 1. New Project List: County staff and consultants have identified transportation projects that are needed to serve development within the Pacheco AOB through 2040. These projects have been included on a new project list, attached as Exhibit C to the March 2021 Development Program Report ("2021 Development Program Report"). Each of the new projects includes adding road safety improvements, intersection operation improvements, and complete street improvements. Complete street improvements provide a completed network for all modes of transportation per the County's Complete Street Policy. These road segments include portions of Pacheco Boulevard, Center Avenue, Marsh Drive, and Concord Avenue.

The total estimated cost of the updated list of projects is \$23,218,000, of which \$6,808,789 is attributable to new development within the Pacheco AOB. The current Pacheco AOB fund balance will be applied to the portion of the estimated costs attributable to new development, resulting in a net \$6,362,789 needing to be paid by new development. (Detailed estimates of the cost of each of the projects on the project list are included in the March 2021 Nexus Study, Pacheco Area of Benefit (the “Nexus Study”), attached as Exhibit D to the March 2021 Development Program Report.) The cost of the projects attributable to new development will be paid with revenue from transportation mitigation fees imposed on new development within the Pacheco AOB. The remaining cost of the project is attributable to existing traffic, which shall 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 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 2021 Development Program Report. 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 2021-12. These fees will be imposed on new development within the Pacheco AOB on and after the effective date of Ordinance No. 2021-12. In addition, on January 1, 2022, and on each January 1st thereafter, each of the fee rates will increase or decrease based on 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 September 30th of the prior year.

Table 1: Proposed Fee Rates

Land Use Category	Calculated Nexus Fee Rate	Proposed Fee Rate to Implement
Single-Family	\$15,406 / du	\$6,162.40 / du
Multi-Family	\$9,398 / du	\$3,759.20 / du
Commercial/Retail	\$21.88 / sf	\$8.75 / sf
Office	\$17.72 / sf	\$7.09 / sf
Industrial	\$14.02 / sf	\$5.61 / sf
Other	\$15,406 / due	\$6,162.40

Note: du = dwelling unit; sf = square foot; due = dwelling unit equivalent

The total fees required to be paid by a new development project applicant will be calculated based on the number of dwelling units (residential), square feet (commercial, office, industrial), or dwelling-unit-equivalents (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, or dwelling-unit-equivalents 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 Pacheco AOB – Trust Fund No. 1399 – and used only for the transportation improvements identified in the 2021 Development Program Report.

3. Use of Existing Fee Revenues. There is currently an approximate balance of about \$440,000 in the account for the Pacheco AOB as of December 22, 2020. Those funds were collected to fund projects on the previous project list. There are limitations on how development impact fee revenues may be spent. By law, the existing revenue balance cannot be spent on any of the new projects on the new project list. Because of these restrictions, the existing fund balance of \$440,000 will be allocated to the Center Avenue and Marsh Drive Complete Street Projects, Marsh Drive Bicycle and Safety Improvements and the Marsh Drive Bridge Reconstruction, which are carry-over projects from the previous project list.

D. RESOLUTION NO. 2021/173: Pursuant to Government Code section 66484 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 2021 Development Program Report attached to the resolution sets forth the boundaries of the Pacheco AOB, the list of projects and their estimated costs, the method of fee apportionment, and the nexus findings. Approval of Resolution No. 2021/173 is recommended because it serves to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the 2021 Development Program Report, and the Nexus Study attached to the report.

E. ORDINANCE NO. 2021-12:

To adjust the Pacheco AOB 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 section 66484. Ordinance No. 2021-12 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2021-12 will repeal Ordinance No. 86-52, and impose new transportation mitigation fees on new development within the Pacheco AOB. The ordinance includes provisions for fee reductions for affordable and inclusionary housing, senior housing, and congregate care facilities. Revenue from the fees will fund the transportation projects necessary to serve transportation demands within the Pacheco AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2021-12.

F. 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 municipal advisory council, and other administrative tasks.

G. 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 Article 5, 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 for each project that is planned and implemented.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2021-12 to adjust fees in the Pacheco Area of Benefit (AOB), re-establish the boundaries, and update the proposed project list of the area of benefit will result in new development not paying its proportional share of the transportation improvements needed to serve development within the AOB through 2040.

ATTACHMENTS

Resolution No. 2021/173

Exhibit 1 - Development Program Report

Exhibit 1.D - Nexus Study

Ordinance 2021-12 (Final)