



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: September 13, 2022

Subject: HEARING to adopt Ordinance No. 2022-30 and Resolution No. 2022/311 adjusting the fees for the Tri-Valley Transportation Development Area of Benefit.

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**RECOMMENDATION(S):**

OPEN the public hearing to consider adopting Ordinance No. 2022-30 and Resolution No. 2022/311, to adjust the Tri-Valley Transportation Development (TVTD) Area of Benefit (AOB) fees; RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing. [DCD-CP#22-23] (Project No.: 0676-6P4032)

DETERMINE that the County did not receive protests from owners of more than one half of the area of the property within the boundaries of the TVTD AOB.

ADOPT Ordinance No. 2022-30 to adjust the fees within the TVTD AOB, and to reestablish the boundaries of the TVTD AOB.

ADOPT Resolution No. 2022/311, to adopt the 2022 Development Program Report and the 2020 Nexus Fee Update Study attached thereto.

DETERMINE that the adoption of Ordinance No. 2022-30 and Resolution No. 2022/311 are exempt from environmental review under the California Environmental Quality Act

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **09/13/2022** ☒ 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: September 13, 2022

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

By: June McHuen, Deputy

Contact: Jeff Valeros,  
925-313-2031

cc:

(CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines.

DIRECT the Conservation and Development Director, or designee, to file a Notice of Exemption with the County Clerk-Recorder.

AUTHORIZE the Public Works Director, or designee, to arrange for payment of a \$25 fee to the Department of Conservation and Development

RECOMMENDATION(S): (CONT'D)

for processing, and a \$50 fee to the County Clerk-Recorder for filing the Notice of Exemption.

DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2022-30 and Resolution No. 2021/311 in the Official Records of the Contra Costa County Clerk-Recorder.

REDESIGNATE Trust Fund No. 8288 as the fund into which all TVTD Area of Benefit fee revenue will be deposited, and DIRECT that all TVTD AOB Fees shall be deposited into that fund.

DIRECT that, on July 1, 2023, and on each July 1 thereafter that the Ordinance No. 2022-30 remains in effect, the Public Works Director adjust the TVTD AOB transportation mitigation fees, in accordance with and as more particularly described in Section 5(a)(2) of the ordinance.

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

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

FISCAL IMPACT:

Adoption of Ordinance No. 2022-30 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 TVTD AOB, as specified in the Development Program Report and Nexus Study. (100% Transportation Mitigation Fees)

BACKGROUND:

INTRODUCTION:

One of the objectives of the County General Plan is to connect 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. The TVTD Area of Benefit is a means of raising revenue to construct road improvements to serve new developments. Requiring that all new development pay a road improvement fee will help to ensure that they participate in the cost of improving the road transportation system.

Since 2008, the Tri Valley Transportation Council (TVTC) has worked closely amongst all the partner agencies to determine the future circulation needs and the expanded list of regional projects necessary to provide for future growth. The program update was not implemented back in 2008 due to the downturn in the economy; however, coordination between the TVTC and the Building Industry Association has resulted in a phasing plan for the fee update that the TVTC has determined is the correct balance between infrastructure funding needs and economic growth.

## **BACKGROUND AND PURPOSE OF THE TVTC AOB FEES**

In 1991, the County signed a Joint Powers Agreement (JPA) between Contra Costa County, Alameda County, the Town of Danville, the City of San Ramon, the City of Pleasanton, the City of Dublin, and the City of Livermore that established the TVTC. The purpose of the TVTC JPA was the joint preparation of the Tri-Valley Transportation Plan/Action Plan (Action Plan) for the Routes of Regional Significance and cost sharing of the recommended regional transportation improvements. The TVTC adopted the Action Plan in April 1995 and updated it in 2000. The Action Plan contained 11 specific regional transportation improvements to be given high priority for funding and implementation.

In 1997, the TVTC recommended to its member jurisdictions the adoption of a uniform development fee known as the Tri-Valley Transportation Development Fee (TVTD Fee). In August 1998 the Contra Costa County Board of Supervisors (Board) accepted a Joint Exercise of Powers Agreement (JEPA) pertaining to the collection of the TVTD Fee, accepted the Development Program Report (DPR), and passed Ordinance No. 98-35 to provide a mechanism for collection of the TVTD Fee. The fees charged were considerably lower than what would have been allowed by the Nexus Study.

In April 2003, the TVTC approved the fee reduction for multi-family residential and the increase for office and industrial land use categories to help eliminate project funding shortfalls. In September 2003 the Board passed Ordinance 2003-21 revising the TVTD Fee schedule. In 2008 there were efforts made to update the TVTC fee. The proposed increase lacked consensus between the JEPA parties, as there were concerns about the economic stability in the area due to an economic downturn. At that time, the CEQA process was initiated and a Notice of Exemption (NOE) was provided on 8/19/2008. In September 2008, the TVTC voted to adopt a fee update which was adopted per Ordinance No. 2008-27 by the Board to become effective July 2009. However, the updated fee program became void as one of the member agencies did not enact the fee program update within their jurisdiction, requesting that a Strategic Expenditure Plan (SEP) be prepared prior to the program revisions. According to the Joint Exercise of Powers Agreement, the action to update the fee by member agencies was null and void without unanimous decision. Ordinance No. 2009-29 repealed the ordinance passed in September 2008 (re-adopting the previous fee schedule per Ordinance No. 2003-21) and adopt an ordinance amendment which incorporated several administrative revisions

(affordable housing allowance, funding of program administration, etc.), as well as a correction to the “other” fee category.

In 2013, the TVTC executed a JEPA which changed the TVTC from a council of collaborative agencies to a separate stand-alone agency, to jointly coordinate transportation planning efforts within the Tri-Valley Area through collecting and administering the TVTD Fee to facilitate the implementation of transportation improvement projects identified in the TVTC SEP.

On January 26, 2015, the TVTC passed Resolution No. 2015-01 to identify the full list of projects and the proposed mitigation fee rates. Thereafter, on May 12, 2015, the Board of Supervisors adopted Ordinance No. 2015-11 and Resolution No. 2015/155, to adopt and implement the fees within the portion of the TVTC in unincorporated Contra Costa County. This update to the fee rate was phased in with an initial increase on July 1, 2015, that implements 25% of the maximum allowable fee calculated in the Nexus Study and a final step increase to 35% of the maximum allowable fee on July 1, 2016. On each July 1 thereafter, the fees automatically increased or decreased based on the percentage change according to the Engineering News-Record Construction Cost Index, San Francisco Bay Area, for the 12-month period ending April 30th of the year in which the adjustment will take effect. This increase is supported by the Building Industry Association (letter attached).

### INFORMATION ON THE PROGRAM UPDATE

On April 18, 2022, the TVTC passed Resolution No. 2022-07 to adopt new TVTD Fees, adopt a new SEP and Prioritization of Projects and Funding Plan, and adopt an Assembly Bill 602 Supplemental Analysis. The resolution also identified the purpose to which the fee is to be put, the use to which the fee is to be put, the reasonable relationship between the fee’s use and the type of development project upon which the fee is imposed, that there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed, and that there is a reasonable relationship between the amount of the fee and the cost of the public facilities or portion of the public facilities attributable to the development on which the fee is imposed. Each TVTC member agency is required to adopt ordinances and resolutions to implement the new TVTD Fees within their respective jurisdictions.

To implement the TVTD fee within the TVTD AOB, Public Works Department staff prepared a Development Program Report to serve as a basis for collection of the TVTD Fees. The TVTD Fees will provide funds to construct regional road improvements to serve new residential, office, commercial/retail, and industrial developments based on a new project list adopted by TVTC. Requiring that all new development pay this recalculated regional road improvement fee will ensure development’s participation in the cost of improving the regional road system. The increase in fees will be implemented uniformly across the tri-valley at a rate that is a fraction of the allowable fee per the Nexus Study. To make up the shortfall between what new development should be paying

as determined by the Nexus Study, and what new development actually will be paying under the fee program, TVTC and its member agencies will look for other federal, state, regional, and local funding sources.

#### RESOLUTION NO. 2022/311

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 AOB, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing.

The Development Program Report sets forth the boundaries of the TVTD AOB, the list of projects and their estimated costs, the method of fee apportionment, and nexus findings. Approval of Resolution No. 2022/311 is required to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the 2022 Development Program Report, and the Nexus Study attached to the report.

#### ORDINANCE NO. 2022-30

To adjust the TVTD 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 and 66484.7. Ordinance No. 2022-30 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2022-30 will repeal Ordinance No. 2015-11 and impose new transportation mitigation fees on new development within the TVTD 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 TVTD AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2022-30.

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, and 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 recommends 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 TVTD AOB.

#### CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2022-30 to adjust fees in the TVTD AOB, reestablish the boundaries, and update the proposed project list of the AOB will result in new development not paying its proportional share of the transportation improvements needed to serve development within the AOB through 2040, and projects needed to satisfy transportation demands within the AOB cannot be funded under the existing AOB program.

#### CLERK'S ADDENDUM

Speakers: No name given; Caller 6770.

#### ATTACHMENTS

Resolution No. 2022/311

Ordinance 2022-30

CEQA

Exhibit 1 - Development Program Report 2022-06

Exhibit D - 2020 Nexus Study