

## ORDINANCE NO. 2024-18

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

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

**SECTION 1. Summary.** This ordinance amends Ordinance No. 2005-18, as previously amended by Ordinance No. 2021-03, to add eighteen new projects to the list of projects that will be funded with regional transportation development impact mitigation (“RTDIM”) fees imposed and collected by all member agencies of the East Contra Costa Regional Fee and Financing Authority (“ECCRFFA”). This ordinance does not modify any of the RTDIM fees last adopted by 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 66001 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 (together, “Member Agencies,” and each a “Member Agency”) – 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) In 2020, ECCRFFA identified an additional regional transportation project that was 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 Updated,” dated May 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. Subsequently, ECCRFFA’s member agencies approved the fourth amendment to the Agreement to add the Sand Creek Extension Project, with no changes to the RTDIM fees last approved in 2005.
- (e) In 2023, ECCRFFA began the process of preparing a comprehensive update to its fee program. ECCRFFA staff and its consultant, Fehr & Peers, worked with ECCRFFA member agencies’ staff to identify projects that could be added to the ECCRFFA project list to mitigate the regional transportation impacts of new development within ECCRFFA’s jurisdiction. Eighteen new projects were evaluated for inclusion in the ECCRFFA fee program. These projects are more particularly detailed in the Fehr & Peers “East Contra Costa Regional Fee and Financing Authority Fee Program Update,” dated May 2024 (“2024 Report”). On June 13, 2024, following a noticed public hearing held in accordance with Government Code section 66016.5, the ECCRFFA Board of Directors adopted the 2024 Report and recommended that each Member Agency adopt the 2024 Report and amend its fee ordinance or resolution to incorporate the projects included in the 2024 Report.
- (f) The 2024 Report was prepared to determine the amount of the RTDIM fees necessary to fund new development’s share of the estimated costs of the projects in the ECCRFFA fee program, including new development’s share of the estimated cost of these 18 new projects. The projects are consistent with the goals and policies of the circulation elements in the general plans of ECCRFFA’s member agencies.
- (f) The 2024 Report proposes a fair and equitable method for allocating a portion of each project’s cost to new development within ECCRFFA’s jurisdiction, as more particularly described in the 2024 Report. The cost of each project is reasonable. The total amount of revenue expected to be generated from RTDIM fees will not exceed the estimated cost of the projects attributable to new development within ECCRFFA’s jurisdiction. ECCRFFA and its member agencies will rely on sources other than RTDIM fee revenue to pay project costs not allocated to new development. The projects are necessary and desirable within ECCRFFA’s jurisdiction.
- (g) Because the projects are 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 each project’s costs.
- (h) Pursuant to the Mitigation Fee Act, California Government Code Section 66000, et seq., a local agency is authorized to charge a fee to development applicants in connection with approval of a development project for the purpose of defraying all or a portion of the costs of public facilities related to the development project. Under the ECCRFFA fee program, each Member Agency adopts and imposes ECCRFFA RTDIM fees within that member agency’s jurisdiction. The fee

revenue is then transmitted to ECCRFFFA. Therefore, pursuant to Government Code section 66001, the Board of Supervisors finds as follows:

- (1) As determined and described in the 2024 Report, the purpose of ECCRFFFA RTDIM fees is to fund new development's share of the estimated costs of regional transportation projects identified in the 2024 Report, which is expressed as a percentage of each project's cost, as more particularly described in the 2024 Report.
  - (2) As determined and described in the 2024 Report, ECCRFFFA RTDIM fee revenues will be used to fund new development's proportional share of the cost of each transportation project identified in the 2024 Report.
  - (3) As determined and described in the 2024 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.
  - (4) As determined and described in the 2024 Report, there is a reasonable relationship between the need for each of the transportation projects listed in the 2024 Report and the types of new development within ECCRFFFA's jurisdiction on which RTDIM fees shall be imposed.
  - (5) As determined and described in the 2024 Report, there is a reasonable relationship between the amount of the RTDIM fees imposed on each type of new development within ECCRFFFA's jurisdiction, and the cost of each of the transportation projects to be funded from RTDIM fee revenue.
- (i) The 2024 Report continues to recommend fees for single-family and multi-family housing development projects based on the number of dwelling units included in each development project. For the reasons more particularly described in the 2024 Report, pursuant to Government Code section 66016.5 the Board of Supervisors finds as follows:
- (1) Square footage is not an appropriate metric to calculate RTDIM fees imposed on single-family or multi-family residential projects within ECCRFFFA's jurisdiction.
  - (2) The alternative basis of calculating RTDIM fees based on the number of dwelling units in single-family and multi-family residential development projects bears a reasonable relationship between the amount of the RTDIM fee charged per dwelling unit and the burden (*i.e.*, transportation impacts) posed by or attributable to each dwelling unit within a single-family or multi-family residential development project.
  - (3) Other policies adopted by ECCRFFFA, including ECCRFFFA's accessory dwelling unit policy, support smaller developments, or otherwise ensure that smaller developments are not charged disproportionate fees. Additionally, the 2024 Program Update explains the basis for each of the fees and establishes that smaller developments are not charged disproportionate fees because the RTDIM fees for single-family and multi-family

residential units are proportional to the regional transportation impacts of each type of unit.

- (j) Pursuant to Government Code section 66016.5(a)(4), because the 2024 Report would support the increase of RTDIM fees, the Board of Supervisors has reviewed the assumptions of the 2005 and 2020 Reports supporting the current RTDIM fees and has evaluated the amount of fees collected, as more particularly described in Appendix A of the 2024 Report. However, although the 2024 Report would support a fee increase, an increase is not being approved.
- (k) The Board of Supervisors further finds as follows:
  - (1) Pursuant to Government Code sections 54986, 65091, 66016.5(a)(7), 66017, 66018, 66474.2(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 2024 Report and related materials were made available to the public at least ten (30) days before the hearing. Additionally, because a nexus study – the 2024 Report – is being adopted, notice of the hearing was published in the East Bay Times, posted, and mailed to persons requesting notices relating to impact studies at least 30 days in advance of the hearing date.
  - (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 projects in the 2024 Report 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.
- (l) The Board of Supervisors has received and considered all verbal and written comments and testimony made before the close of the public hearing, all presentations by County staff and consultants, and all materials before the Board.

**SECTION 4. Adoption of the 2024 Report.** The Board of Supervisors adopts and approves the 2024 Report.

**SECTION 5. Amendment of Ordinance No. 2005-18.** Ordinance No. 2005-18 is hereby amended, as follows:

- (a) In Ordinance No. 2005-18, as previously amended by Ordinance No. 2021-03, each reference to “Report” shall include the 2005 Report, the 2020 Report, and the 2024 Report, together.
- (b) In Ordinance No. 2005-18, as previously amended by Ordinance No. 2021-03, each reference to “Improvements,” or to projects that will be funded with RTDIM fee revenue, shall include the projects in the 2005 Report, the projects in the 2020 Report, and the projects in the 2024 Report, collectively.
- (c) Except as expressly modified by this ordinance, Ordinance No. 2005-18, as previously amended by Ordinance No. 2021-03, shall remain unchanged and in full force and effect.

**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, as previously amended by Ordinance No. 2021-03, 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

SMS