

APPROVED
BY RESOLUTION # 2009-0035
BOARD OF SUPERVISORS

**COUNTY OF SACRAMENTO
CALIFORNIA**

24 30

JAN 27 2009
By Cyril Lee
Clerk of the Board

APPROVED
BY ORDINANCE SCC-1409
BOARD OF SUPERVISORS

For the Agenda of:
January 13, 2009
Timed: 10:45 a.m.

To: Board of Supervisors
From: Department of Transportation

JAN 27 2009
By Cyril Lee
Clerk of the Board

Subject: Approval Of Agreement On Operating Protocols Relating To Implementation Of The Sacramento County Transportation Mitigation Fee Program, And Introduction Of An Ordinance Establishing Chapter 16.91 Of The Sacramento County Code

Supervisory
Districts: All

Contact: Dan Shoeman, Chief, Planning Division, (916) 874-6222

Overview

The Sacramento Transportation Authority has approved an Agreement on Operating Protocols related to the implementation of the New Measure A Sacramento County Transportation Mitigation Fee Program (SCTMFP). The County and other Measure A jurisdictions must execute this Agreement and implement the Fee Program as a condition of receiving New Measure A allocations for road maintenance. An Ordinance Establishing Chapter 16.91 of the Sacramento County Code has been prepared to implement the Fee Program as of April 1, 2009.

Recommendations:

1. Approve the attached Resolution approving the Agreement on Operating Protocols with the Sacramento Transportation Authority, relating to the implementation of the SCTMFP, and authorizing execution of the Agreement by the Director of Transportation.
2. Introduce the Ordinance Establishing Chapter 16.91 of the Sacramento County Code, waive full reading and continue the item to January 27, 2009 for adoption.

Measures/Evaluation

Measures or an evaluation are not applicable to this agenda item.

Fiscal Impact

Implementation of the SCTMFP is required in order for the County to receive New Measure A sales tax allocations for roadway maintenance. Approval of this item will ensure that the fee will go into effect as of April 1, 2009, and avoid any interruption in the County's Measure A allocations for maintenance and other transportation programs. The recommended actions will not impact the Fiscal Year 2008-2009 Department of Transportation Adopted Final Budget.

This request is consistent with applicable elements of the 11-Point Budget Plan.

BACKGROUND

In 2004 Sacramento County voters approved the extension of the Measure A Transportation Sales Tax for 30 years, from its current expiration in 2009 to 2039. In approving the extension of Measure A, voters adopted Sacramento Transportation Authority (STA) Ordinance STA 04-01 which sets forth provisions for the imposition, administration, and expenditure of the Transportation Sales Tax. Ordinance STA 04-01 also requires the implementation of the SCTMFP, which is a development impact fee that will be used to partially fund the Capital Improvement Projects in the New Measure A Expenditure Plan. The Fee Program will begin April 1, 2009, and remain in effect through March 31, 2039. The voter-adopted Ordinance established an initial fee amount of \$1,000 for each new single family home. The fees for other land uses are based on the proportion of their trip generation rates relative to the trip generation rate of a single family unit. Ordinance STA 04-01 further provides that the County and Cities implement the SCTMFP in their jurisdiction by April 1, 2009, as a condition of receiving New Measure A Revenues for roadway maintenance.

In 2005, the STA initiated a Nexus Study that would form the basis for the implementation of the SCTMFP. The Nexus Study was intended to comply with provisions of the California Government Code which requires that an implementing public agency identify the additional public infrastructure (future facilities) required by new development and determine the suitable level of fees that may be imposed. Since voters effectively set the fee rates when they approved the New Measure A Ordinance, the study's objective was to validate the rates relative to the approved Measure A Capital Program and anticipated development.

On June 7, 2006, the STA Governing Board approved a resolution (No. STA-06-0006) adopting the SCTMFP Nexus Study and fee rates to be effective April 1, 2009. In approving the Nexus Study, the STA Board determined that the Study demonstrates a reasonable and rational relationship between the proposed SCTMFP fees, the New Measure A Capital Program, and the forecasted development on which the fees will be imposed. The STA Board also directed that contracts between the STA and local jurisdictions be prepared to establish protocols related to SCTMFP Fee implementation.

On September 26, 2006, the Board of Supervisors adopted Resolution No. 2006-1119 which resolves that the County shall, prior to April 1, 2009, implement the 30-year SCTMFP Fee in conformity with STA Resolution No. STA-06-0006 and such other guidelines as may be adopted by the STA Governing Board.

DISCUSSION

Agreement on Operating Protocols

The STA Governing Board has approved the attached Agreement on Operating Protocols for the SCTMFP. The Agreement is to be executed by all Measure A jurisdictions, and sets forth the initial protocols related to SCTMFP Fee implementation issues. The Agreement restates the adopted SCTMFP fee schedule and the requirement that the fee rates be adjusted annually consistent with the McGraw-Hill *Engineering News Record* (ENR) 20-City Construction Cost

Index. It also clarifies that local jurisdictions are to collect the fees upon issuance of a final building permit on or after April 1, 2009. The following types of development would be exempt from the fee requirement:

- Low and very low income housing
- Residential remodeling that does not create an additional dwelling unit
- Non-residential rehabilitation in which there is no net increase in square footage
- Development project subject to a local development agreement executed prior to April 1, 2009 that exempts it from future fees or fee increases
- Development project for which a vesting tentative map application was completed prior to April 1, 2009

Local jurisdictions will remit cumulative fee revenues to the STA semi-annually, along with a report of building permits issued during the reporting period by use and square footage (nonresidential), exemptions granted, and other pertinent information. The STA will separately account for each jurisdiction's fee revenues as part of an aggregated SCTMFP account. The entities' semi-annual reports will be compiled for presentation to the New Measure A Independent Taxpayer Oversight Committee (ITOC) and the STA Board. Revenues derived from the SCTMFP will be distributed by the STA to the local jurisdictions for expenditure in accordance with Ordinance STA 04-01, a five-year SCTMFP capital improvement program annually updated and approved by the STA Governing Board, applicable resolutions of the STA, adopted Measure A allocation plans and expenditure contracts, and applicable state statutes.

The adopted basic fee rates, effective April 1, 2009, are as follows:

Single-family residential:	\$1,000 per unit
Multi-family residential:	\$700 per unit
Commercial retail:	\$3,705 per thousand square feet
Commercial office:	\$1,200 per thousand square feet
Industrial:	\$800 per thousand square feet

The attached Agreement on Operating Protocols includes an expanded fee schedule to accommodate specified types of land development that do not neatly fit into the above rates. These include hotels/motels, golf courses, movie theaters, churches, hospitals, service stations, supermarkets and warehouse/self storage. The objective is to fully incorporate these land uses into the SCTMFP to ensure that the associated fee rates appropriately reflect their relative trip generation potential. The associated fee rates reflect trip generation calculations published by the Institute of Transportation Engineers (ITE), and have been developed in consultation with County and City staffs.

Ordinance Establishing Chapter 16.91 of the Sacramento County Code

County Counsel has prepared the attached Ordinance establishing Chapter 16.91 of the Sacramento County Code to implement the SCTMFP and enable the collection of the fees from land development proposed within unincorporated Sacramento County. The Ordinance is

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consistent with STA Ordinance STA-04-01 and with the Agreement on Operating Protocols. With the Board's adoption of the Ordinance on January 27, 2009, the fee will go into effect as of April 1, 2009.

On December 9, 2008, the Board approved a comprehensive update to the existing Sacramento County Transportation Development Fee Program including revisions to the fee schedule, fee district boundaries and the capital improvement program. On December 16, 2008, the Board adopted an Ordinance amending Chapter 16.87 of the County Code to implement the fee update. The County Development Fee update is separate from the SCTMFP and the fees from each program will be independently assessed and collected. However, the County Development Fee update has been closely coordinated with the SCTMFP to ensure that the fees assessed to new development from both programs do not overlap or result in double-charging of fees. During the stakeholder meetings and Board hearings for the County Development Fee update, the upcoming implementation of the SCTMFP was discussed including issues concerning the overall burden of multiple fee programs. In these meetings and hearings, representatives of the development community have expressed an understanding of the requirement that the County implement the SCTMFP as a condition of receiving Measure A sales tax allocations for road maintenance.

MEASURES/EVALUATION

Measures or an evaluation are not applicable to this agenda item.

71-J ANALYSIS

Section 71-J of the County of Sacramento Charter is not applicable to this agenda item.

FINANCIAL ANALYSIS

Implementation of the SCTMFP is required in order for the County to receive New Measure A sales tax allocations for roadway maintenance. Approval of this item will ensure that the fee will go into effect as of April 1, 2009, and avoid any interruption in the County's Measure A allocations for maintenance and other transportation programs.

LEGAL ANALYSIS

County Counsel has reviewed and approved the attached Agreement on Operating Protocols, and the Ordinance establishing Chapter 16.91 of the Sacramento County Code.

Respectfully submitted,

APPROVED:
TERRY SCHUTTEN
County Executive

MICHAEL J. PENROSE, Director
Department of Transportation

By: _____
PAUL J. HAHN, Administrator
Municipal Services Agency

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DS:ds

Attachment 1 – Resolution

Attachment 2 – Agreement on Operating Protocols

Attachment 3 - Ordinance Establishing Chapter 16.91 of the Sacramento County Code

CC: Mike Penrose, Director, Department of Transportation
Dave Franke, Chief, Design Services
Reza Moghissi, Chief, Operations and Maintenance
Karen Stoyanowski, Chief Financial and Administrative Officer
Bob Davison, Chief, DSSD
Brian Williams, Executive Director, STA

RESOLUTION NO. 2009-0035

**NEW MEASURE A
SACRAMENTO COUNTYWIDE TRANSPORTATION
MITIGATION FEE PROGRAM
AGREEMENT ON OPERATING PROTOCOLS**

WHEREAS, on July 29, 2004, the Sacramento Transportation Authority (STA) adopted Ordinance No. STA 04-01 (“the Ordinance”), including the Sacramento County Transportation Expenditure Plan 2009-2039 (“the Expenditure Plan”); and

WHEREAS, The Ordinance was subsequently approved by the Board of Supervisors of the County of Sacramento and the City Councils of all of the Cities within the County of Sacramento; and

WHEREAS, on November 2, 2004, the Ordinance was approved by a public vote of the County electorate; and

WHEREAS, the Ordinance imposes a one-half of one percent retail transactions and use tax that is statutorily dedicated for transportation planning, design, construction, operation and maintenance only in Sacramento County and cannot be used for other governmental purposes or programs; and

WHEREAS, the Ordinance establishes the 30-year Sacramento Countywide Transportation Mitigation Fee Program (SCTMFP), to be implemented by each of the local jurisdictions during the period April 1, 2009 through March 31, 2039; and

WHEREAS, the Ordinance provides that each local jurisdiction must, as a condition of receiving its allocation of local road maintenance formula funds from the retail transactions and use tax revenues, adopt a 30-year SCTMFP Fee (“the Fee”) for the period April 1, 2009 through March 31, 2039 in accordance with guidelines adopted by the STA Governing Board; and

WHEREAS, each local jurisdiction shall implement the SCTMFP Fee no later than April 1, 2009, and remit the SCTMFP Fee revenues to the STA; and

WHEREAS, the Ordinance requires the STA to develop, in coordination with all local jurisdictions, a professional engineering and planning based process for charging new development with a portion of the cost of traffic impacts caused by each development during the period April 1, 2009, through March 31, 2039; and

WHEREAS, on June 7, 2006, the STA Governing Board approved STA Resolution No. STA 06-0006 adopting the SCTMFP Fee Study; and

WHEREAS, consistent with the Ordinance, the Fee Study requires that the SCTMFP Fee be set at One Thousand Dollars (\$1,000.00) per new single family unit effective April 1, 2009; and

WHEREAS, the Ordinance requires that the SCTMFP Fee for new multi-family units, retail building space, office space, and industrial or warehousing space, be proportionate to the trip generation rate of the affected land use relative to the trip generation rate of a single family unit; and

WHEREAS, the Ordinance requires that the SCTMFP Fee be adjusted annually by action of the STA Governing Board to reflect changes in construction costs based on the McGraw-Hill Engineering News Record (ENR) 20-City Construction Cost Index; and

WHEREAS, on September 26, 2006, the Board of Supervisors adopted Resolution No. 2006-1119 which resolves that the County shall, prior to April 1, 2009, implement the 30-year SCTMFP Fee in conformity with STA Resolution No. STA 06-0006 and such other guidelines as may be adopted by the STA Governing Board; and

WHEREAS, STA Resolution No. STA 06-0006 requires that protocols related to SCTMFP implementation issues shall be established by future resolution of the STA and contracts between the STA and the local jurisdictions; and

WHEREAS, the STA has coordinated with the local jurisdictions to prepare an *Agreement on Operating Protocols* into which each local jurisdiction will be required to separately enter with the STA; and

WHEREAS, on August 28, 2008, the STA Governing Board approved the *Agreement on Operating Protocols*, and on December 11, 2008, approved a technical amendment to the Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereby approves the SCTMFP Agreement on Operating Protocols with the Sacramento Transportation Authority, in the form hereto attached, and authorizes the Director of the Department of Transportation to execute the Agreement on behalf of the County.

ON A MOTION by Supervisor MacGlashan, and seconded by Supervisor Yee, the foregoing resolution was passed and adopted by the Board of Supervisors, County of Sacramento, State of California, this 27th day of January, 2009, by the following vote, to wit:

AYES: Supervisors MacGlashan, Yee, Peters
NOES: Supervisors None
ABSENT: Supervisors Dickinson, Nottoli
ABSTAIN: Supervisors None



Suzann Pitts
Chair of the Board of Supervisors
County of Sacramento

In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on 1/27/09

ATTEST: Cyndi Lee
Clerk of the Board of Supervisors of
Sacramento County, California

By V. Boden
Deputy Clerk, Board of Supervisors

FILED
BOARD OF SUPERVISORS

JAN 27 2009
BY Cyndi Lee
CLERK OF THE BOARD

NEW MEASURE A
SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION FEE PROGRAM
AGREEMENT ON OPERATING PROTOCOLS
December 2008

This Agreement on Operating Protocols for the Sacramento Countywide Transportation Mitigation Fee Program (Agreement) is made by and between the Sacramento Transportation Authority ("STA") and the County of Sacramento (County).

RECITALS

- A. Sacramento Transportation Authority Ordinance No. STA-04-01 (Ordinance) imposes a one-half of one percent retail transactions and use tax that is statutorily dedicated for transportation planning, design, construction, operation and maintenance in Sacramento County.
- B. The Ordinance establishes the 30-year Sacramento Countywide Transportation Mitigation Fee Program ("SCTMFP"), to be implemented by the County and each incorporated city during the period April 1, 2009 through March 31, 2039.
- C. The Ordinance provides that the County and each incorporated city must, as a condition of receiving its allocation of local street and road maintenance formula funds from the retail transactions and use tax revenues, adopt the 30-year SCTMFP Fee (Fee) for the period April 1, 2009 through March 31, 2039 in accordance with guidelines adopted by the Sacramento Transportation Authority (STA) Governing Board.
- D. The SCTMFP Fee schedule shall be uniform throughout the unincorporated and incorporated areas of the County.
- E. The Sacramento County Board of Supervisors has adopted Resolution No. 2006-1119 acknowledging its obligations imposed by the SCTMFP.
- F. The County shall implement the SCTMFP Fee no later than April 1, 2009, and remit the SCTMFP Fee revenues to the STA within 60 days of the end of each six-month period ending June 30 and December 31 of each year.
- G. The STA shall reallocate the SCTMFP Fee revenues to local jurisdictions to be expended on Measure A capital projects in the impacted areas where the fees were generated in accordance with the SCTMFP and the New Measure A Plan of Finance.
- H. STA Resolution STA-06-006 adopting the Sacramento Countywide Transportation Mitigation Fee Program (SCTMFP) Nexus Study and

Setting SCTMFP Fee Rates Effective April 1, 2009 provides that protocols related to SCTMFP Fee implementation issues, including but not limited to, required dates of Fee remittances to STA and documentation to be submitted by each participating agency, shall be established by future resolution of the STA and contracts between the STA and the participating agencies.

- I. This Agreement, when approved by resolution of the STA and executed by the County, shall constitute the initial protocols related to SCTMFP Fee implementation issues.
- J. This Agreement is uniform among the County and all incorporated cities.

NOW, THEREFORE, the parties agree as follows:

1.0 DEFINITIONS

- 1.1 "AB 1600" means the Mitigation Fee Act set forth in Government Code Sections 66001 – 60025.
- 1.2 "Development Project" or "Project" shall have the same meaning as provided in Government Code Section 66000(a), as such section may be amended from time to time. .
- 1.3 "Executive Director" means the Executive Director of the Sacramento Transportation Authority.
- 1.4 "Expenditure Plan" means the Sacramento County Measure A Transportation Expenditure Plan 2009-2039 that was adopted as part of the Ordinance.
- 1.5 "Governing Board" means the Governing Board of the Sacramento Transportation Authority.
- 1.6 "Independent Taxpayer Oversight Committee" means a committee appointed by the STA Governing Board as required by the Ordinance to supervise **New** Measure A fiscal and performance audits regarding the use of all sales tax funds and to provide independent review to ensure that all **New** Measure A funds are spent in accordance with the provisions of the Ordinance.
- 1.7 "Industrial Use" means any Development Project that involves manufacturing, transportation, logistics, or similar uses.

- 1.8 "Measure A" or "the Ordinance" means Sacramento Transportation Authority Ordinance No. STA-04-01.
- 1.9 "Multi-family Residential Use" means any Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments.
- 1.10 "Office Use" means any Development Project that involves business activities, associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal services, or similar uses. "Office Use" also includes any other commercial use not specifically listed in Section 2.1 that is not a retail or industrial use.
- 1.11 "Participating Agencies" means the County of Sacramento, the City of Citrus Heights, the City of Elk Grove, the City of Folsom, the City of Galt, the City of Isleton, the City of Rancho Cordova, and the City of Sacramento. Each may be referred to individually as "Participating Agency."
- 1.12 "Retail Use" means any Development Project that involves retailing of merchandise, generally without transformation, retail food services, and rendering services incidental to the sale of merchandise at a fixed point of sale.
- 1.13 "Sacramento Countywide Transportation Mitigation Fee Program" or "SCTMFP" means the 30-year transportation mitigation fee program established by the Ordinance.
- 1.14 "SCTMFP Fee" or "Fee" means the fee imposed pursuant to the SCTMFP.
- 1.15 "Senior Residential Use" means any Development Project that qualifies as housing for older persons pursuant to Government Code Section 12955.9.
- 1.16 "Single Family Residential Use" means any Development Project that uses a single parcel for only one residential dwelling unit. "Single Family Residential Use" also includes any Development Project that involves one primary dwelling and one accessory dwelling on a single lot.

2.0 UNIFORM FEE

- 2.1 Uniform Fee. Effective April 1, 2009, the County shall collect the applicable uniform SCTMFP Fee for each Development Project occurring within the County's jurisdiction. The applicable Fee for each use is as follows:

Single Family Residential:	\$1,000 per unit
Senior:	\$ 800 per unit
Multi Family Residential:	\$ 700 per unit
Senior:	\$ 600 per unit
Office Use:	\$1,200 per 1,000 square feet
Retail Use:	\$3,705 per 1,000 square feet
Industrial Use:	\$ 800 per 1,000 square feet
Hotel/motel	\$ 580 per sleeping room
Golf course	\$ 833 per acre
Movie theater	\$1,904 per screen
Religious center	\$ 932 per 1,000 square feet
Hospital	\$1,678 per 1,000 square feet
Service station	\$1,300 per fueling pump
Supermarket	\$2,110 per 1,000 square feet
Warehouse/self storage	\$ 250 per 1,000 square feet

- 2.2 Annual Adjustment. Beginning in 2010, the STA shall annually adjust the SCTMFP Fee schedule to reflect change in construction costs based on the McGraw-Hill Engineering News Record (ENR) 20-City Construction Cost Index. The adjustment will take effect July 1, and STA shall notify participating agencies of the required annual adjustment at least 60 days in advance of the effective date.
- 2.3 Calculation of Fee for Non-Residential Projects. For non-residential projects, the amount of the fee imposed on the entire Development Project shall be determined based upon (1) gross building square footage and (2) the predominant use (80% or more) of the building or structure as identified in the building permit. Where no one use comprises 80% or more of the building or structure, the amount of the fee imposed shall be proportionally determined based on those uses that constitute 25% or more of the building or structure.
- 2.4 Calculation of Fee for Mixed Residential/Non-Residential Projects. For Projects that include both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the fees associated with the various residential and non-residential uses.

3.0 PARTICIPATING AGENCY OBLIGATIONS PRIOR TO APRIL 1, 2009.

Prior to April 1, 2009, the County shall take all necessary steps required by applicable law, including but not limited to AB 1600, to enable implementation of the SCTMFP Fee no later than April 1, 2009. Failure to meet such legal requirements shall not exempt the County from the requirement that SCTMFP Fees be collected as a prerequisite to

the County's receipt of **New Measure A** local street and road maintenance formula funds.

4.0 COLLECTION OF SCTMFP FEES

4.1 Collection of Fees.

- a. The County shall collect SCTMFP Fees at the time of issuance of a final building permit for a Development Project, or as otherwise required or permitted pursuant to Government Code Section 66007.
- b. The amount of the SCTMFP Fees shall reflect the Fee schedule in effect at the time of payment.
- c. SCTMFP Fees shall not be waived.

4.2 Payment by all Development Projects. Except as otherwise expressly provided by this Agreement, the SCTMFP Fee shall be payable by all Development Projects within the jurisdiction of the County for which building permits are issued on or after April 1, 2009.

4.3 Exemptions from the SCTMFP Fees. The following Development Projects shall not be subject to the SCTMFP Fee:

- a. The rehabilitation or reconstruction of any lawful residential structure, including an expansion of an existing dwelling unit, that does not create an additional dwelling unit.
- b. The rehabilitation or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.
- c. New low income housing as defined in Health and Safety Code Section 50079.5 and very low income housing as defined in Health and Safety Code Section 50105.
- d. Any development project that is the subject of a valid development agreement entered into pursuant to Government Code Section 65864 prior to April 1, 2009, that includes a provision exempting it from future fees or fee increases; provided, however, that if the term of such a development agreement is extended after April 1, 2009, the SCTMFP shall be imposed.
- e. Any development project for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete prior to April 1, 2009.

5.0 REMITTANCE OF FEES

The County shall remit SCTMFP Fees collected to the Authority on a semi-annual basis, within 60 days after June 30 and December 31 of each calendar year. The first remittance shall be due on or before August 31, 2009, for the period ending June 30, 2009. Each remittance shall be accompanied by a report specifying the fee generating activity for the reporting period within the County's jurisdiction, including information as to all permits issued by use, square footage for non-residential projects, any exemptions granted, and such other information as may be deemed appropriate by the Executive Director. The Executive Director shall separately account for the County's SCTMFP Fees as part of the aggregate SCTMFP account and will prepare semi-annual reports for presentation to the Independent Taxpayer Oversight Committee and the STA Governing Board

6.0 AUDIT OF SCTMFP REVENUES

The Executive Director, in coordination with the Independent Taxpayer Oversight Committee, shall establish a program to audit the County's implementation of the SCTMFP Fees and STA's expenditure of the SCTMFP Fees.

7.0 EXPENDITURE OF FEES

STA shall distribute SCTMFP Fees received, and any proceeds of Fee-based financing(s), to local jurisdictions for expenditure in accordance with the Ordinance, a 5-Year SCTMFP program annually updated and approved by the STA Governing Board, applicable resolutions of the STA, Measure A allocation and expenditure contracts between the STA and local jurisdictions, and AB 1600.

8.0 ADMINISTRATION COSTS

The STA and County each shall absorb their administrative costs associated with implementation and administration of the SCTMFP Fee and this Agreement. The County, at its discretion, may impose an additional fee on affected development to pay for administrative costs of implementing the SCTMFP.

9.0 ANNUAL REPORTS

STA shall prepare the annual reports required by Government Code Sections 66000 et seq. relating to the SCTMFP Fees. County shall provide any necessary assistance.

10.0 MISCELLANEOUS

- 10.1 Effective Date. This Agreement shall be effective on April 1, 2009.
- 10.2 If any one or more of the terms or provisions of this Agreement shall be adjudged invalid, unenforceable, void or voidable by a court of competent jurisdiction, each and all of the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 10.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

SACRAMENTO TRANSPORTATION AUTHORITY

By 

Brian A. Williams
Executive Director

Dated: December 11, 2008

COUNTY OF SACRAMENTO

By: _____
Michael J. Penrose
Director, Department of Transportation

Dated: _____

Approved as to Form:

Deputy County Counsel

AN ORDINANCE RELATING TO THE NEW MEASURE A SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION FEE PROGRAM

The Board of Supervisors of the County of Sacramento, State of California, ordains as follows:

SECTION 1. Chapter 16.91, Sections 16.91.010 through 16.91.100, is added to Title 16 to the Sacramento County Code, as follows:

SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION FEE PROGRAM (SCTMFP)

16.91.010 Purpose.

A. The Sacramento Transportation Authority Ordinance No. STA-04-01 ("STA Ordinance"), approved by Sacramento County voters in 2004, imposes a one-half of one percent retail transactions and use tax that is statutorily dedicated to transportation planning, design, construction, operation and maintenance in Sacramento County.

B. The STA Ordinance further establishes a 30-year Sacramento Countywide Transportation Mitigation Fee Program ("SCTMFP") to be implemented by the County during the period April 1, 2009 through March 31, 2039.

C. The STA Ordinance further requires that, as a condition of receiving its allocation of local street and road maintenance formula funds from retail transaction and use tax revenues, the County and each incorporated city must adopt the 30-year SCTMFP fee.

D. The purpose of this Chapter is to implement the STA Ordinance and to adopt the SCTMFP, effective April 1, 2009 through March 31, 2029.

16.91.020 Definitions.

A. "AB 1600" means the Mitigation Fee Act set forth in Government Code Sections 66001 – 60025.

B. "Administrative Fees" means the share of the SCTMFP fee that is allocated to fund the cost of the SCTMFP administration.

C. "Department" means the County of Sacramento Department of Transportation.

D. "Director" means the Director of the Sacramento County Department of Transportation.

E. "Development Project" or "Project" shall have the same meaning as provided in Government Code Section 66000(a), as such section may be amended from time to time.

F. "Executive Director" means the Executive Director of the Sacramento Transportation Authority.

G. "Expenditure Plan" means the Sacramento County Measure A Transportation Expenditure Plan 2009-2039 that was adopted as part of the STA Ordinance.

H. "Governing Board" means the Governing Board of the Sacramento Transportation Authority.

I. "Independent Taxpayer Oversight Committee" means a committee appointed by the STA Governing Board as required by the Ordinance to supervise New Measure A fiscal and performance audits regarding the use of all sales tax funds and to provide independent review to ensure that all New Measure A funds are spent in accordance with the provisions of the Ordinance.

J. "Industrial Use" means any Development Project that involves manufacturing, transportation, logistics, or similar uses.

K. "Measure A" or "the STA Ordinance" means Sacramento Transportation Authority Ordinance No. STA-04-01.

L. "Multi-family Residential Use" means any Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments.

M. "Office Use" means any Development Project that involves business activities, associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal services, or similar uses. "Office Use" also includes any other commercial use not specifically listed in Section 16.91.040(b) that is neither retail, nor industrial use.

N. "Participating Agencies" means the County of Sacramento, the City of Citrus Heights, the City of Elk Grove, the City of Folsom, the City of Galt, the City of Isleton, the City of Rancho Cordova, and the City of Sacramento. Each may be referred to individually as "Participating Agency."

O. "Retail Use" means any Development Project that involves retailing of merchandise, generally without transformation, retail food services, and rendering services incidental to the sale of merchandise at a fixed point of sale.

P. "Sacramento Countywide Transportation Mitigation Fee Program" or "SCTMFP" means the 30-year transportation mitigation fee program established by the Ordinance.

Q. "SCTMFP Fee" or "Fee" means the fee imposed pursuant to the SCTMFP.

R. "Senior Residential Use" means any Development Project that qualifies as housing for older persons pursuant to Government Code section 12955.9.

S. "Single Family Residential Use" means any Development Project that uses a single parcel for only one residential dwelling unit. "Single Family Residential Use" also includes any Development Project that involves one primary dwelling and one accessory dwelling on a single lot.

16.91.030 Establishment and Administration of SCTMFP Administrative Fund.

A. There is hereby established by the Department of Finance in the County Treasury a special interest-bearing trust fund entitled the SCTMFP fund or other appropriate accounting mechanism.

B. Administrative Fees revenues from SCTMFP revenues collected pursuant to this Chapter shall be deposited in the SCTMFP administrative fund, and shall be expended by the Department or its successor Department solely to pay the costs associated with the administration of the SCTMFP.

C. The SCTMFP Administrative Fund shall be administered by the Director.

16.91.040 Establishment of Sacramento Countywide Transportation Mitigation Fee.

A. The Sacramento Countywide Transportation Mitigation Fee (SCTMF) is hereby established to fund transportation, design, construction, operation and maintenance in Sacramento County. The SCTMF is hereby implemented as a condition of receiving the County's allocation of local street and road maintenance funds statutorily dedicated pursuant to STA Ordinance No. STA-04-01.

B. Uniform Fee. Effective April 1, 2009, the County shall collect the applicable uniform SCTMFP Fee for each Development Project occurring within the County's jurisdiction. The applicable Fee for each use is as follows:

Single Family Residential:	\$1,000 per unit
Senior:	\$ 800 per unit
Multi Family Residential:	\$ 700 per unit
Senior:	\$ 600 per unit
Office Use:	\$1,200 per 1,000 square feet
Retail Use:	\$3,705 per 1,000 square feet
Industrial Use:	\$ 800 per 1,000 square feet
Hotel/motel	\$ 580 per sleeping room
Golf course	\$ 833 per acre
Movie theater	\$1,904 per screen
Religious center	\$ 932 per 1,000 square feet
Hospital	\$1,678 per 1,000 square feet
Service station	\$1,300 per fueling pump
Supermarket	\$2,110 per 1,000 square feet
Warehouse/self storage	\$ 250 per 1,000 square feet

C. Annual Adjustment. Beginning in 2010, the Sacramento Transportation Authority ("STA") shall annually adjust the SCTMFP fee schedule to reflect change in construction costs based on the McGraw-Hill Engineering News Record (ENR) 20-City Construction Cost Index. The adjustment will take effect July 1, and STA shall notify participating agencies of the required annual adjustment at least 60 days in advance of the effective date.

D. Calculation of Fee for Non-Residential Projects. For non-residential projects, the amount of the fee imposed on the entire Development Project shall be determined based upon (1) gross building square footage and (2) the predominant use (80% or more) of the building or structure as identified in the building permit. Where no one use comprises 80% or more of the building or structure, the amount of the fee imposed shall be proportionally determined based on those uses that constitute 25% or more of the building or structure.

E. Calculation of Fee for Mixed Residential/Non-Residential Projects. For Projects that include both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the fees associated with the various residential and non-residential uses.

16.91.050 Imposition of Sacramento County Transportation Mitigation Fee.

A. No building permit shall be approved for a Development Project within the unincorporated area unless the SCTMFP for that property is paid as required by this Chapter.

B. The amount of the SCTMFP Fees shall reflect the Fee schedule in effect at the time of payment.

C. SCTMFP Fees shall not be waived.

16.91.060 Payment of Sacramento County Transportation Development SCTMFP Fee.

The SCTMFP imposed pursuant to this Chapter shall apply to all Development Projects within the jurisdiction of the County for which building permits are issued on or after April 1, 2009, unless an exemption applies pursuant to Section 16.91.100.

16.91.070 Remittance of SCTMFP Fees.

The County shall remit SCTMFP Fees collected to the Authority on a semi-annual basis, within 60 days after June 30 and December 31 of each calendar year. The first remittance shall be due on or before August 31, 2009, for the period ending June 30, 2009. Each remittance shall be accompanied by a report specifying the fee generating activity for the reporting period within the County's jurisdiction, including information as to all permits issued by use, square footage for non-residential projects, any exemptions granted, and such other information as may be deemed appropriate by the Executive Director. The Executive Director shall separately account for the County's SCTMFP Fees as part of the aggregate SCTMFP account and will prepare semi-annual reports for presentation to the Independent Taxpayer Oversight Committee and the STA Governing Board.

16.91.080 Audit of SCTMFP Fee Revenues.

The Executive Director, in coordination with the Independent Taxpayer Oversight Committee, shall establish a program to audit the County's implementation of the SCTMFP Fees and STA's expenditure of the SCTMFP Fees.

16.91.090 Expenditure of SCTMFP Fees.

STA shall distribute SCTMFP Fees received, and any proceeds of fee-based financing(s), to local jurisdictions for expenditure in accordance with the STA Ordinance, a 5-Year SCTMFP program annually updated and approved by the STA Governing Board, applicable resolutions of the STA, Measure A allocation and expenditure contracts between the STA and local jurisdictions, and AB 1600.

16.91.100 Exemptions from the SCTMFP Fees.

The following Development Projects shall not be subject to the SCTMFP Fee:

A. The rehabilitation or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.

B. New low income housing as defined in Health and Safety Code Section 50079.5 and very low income housing as defined in Health and Safety Code Section 50105.

C. Any development project that is the subject of a valid development agreement entered into pursuant to Government Code Section 65864 prior to April 1, 2009, that includes a provision exempting it from future fees or fee increases; provided, however, that if the term of such a development agreement is extended after April 1, 2009, the SCTMFP shall be imposed.

D. Any development project for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete prior to April 1, 2009.

SECTION 3. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on January 13, 2009 and on January 13, 2009 further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after sixty (60) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor MacGlashan, seconded by Supervisor Yee, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 27th day of January 2009, by the following vote:

- AYES: Supervisors, MacGlashan, Yee, Peters
- NOES: Supervisors, None
- ABSENT: Supervisors, Dickinson, Nottoli
- ABSTAIN: Supervisors, None



Susan Peters
Chair of the Board of Supervisors
of Sacramento County, California

In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on 1/27/09
By V. Lodge
Deputy Clerk, Board of Supervisors

ATTEST: Cyril Lee
Clerk, Board of Supervisors

FILED
BOARD OF SUPERVISORS
JAN 27 2009
BY Cyril Lee
CLERK OF THE ...

CONTINUED MEMO

MEETING DATE: JANUARY 13, 2009

DEPARTMENT: TRANSPORTATION

SUBJECT ORDINANCE APPROVING NEW MEASURE A
SACRAMENTO COUNTYWIDE TRANSPORTATION
MITIGATION FEE

BOARD ACTION INTRODUCED ORDINANCE, WAIVED FULL
READING AND CONTINUED TO JANUARY 27,
2009 FOR ADOPTION

MATERIAL FORWARDED

New Order

Your Order is sent.

Customer Information

Customer Name	SAC. CO BD OF SUPERVISORS	Master Id	44150
Address	700 H STREET, STE 2450	Phone	9168748167
City	SACRAMENTO	Fax	9168747593
State - Zip	CA - 95814		

Product Information

Legal	GOVERNMENT - ORDINANCE PUBLICATION
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Order Information

Attention Name	Vicky Rodgers	Billing Reference No.	MA00021336
Ad Description	SCC-1409 - 1-27-09 - #24	Sale/Hrg/Bid Date	-

Special Instructions**Orders Created**

Order No.	Newspaper Name	Publishing Dates	Ad	Price	Ad Status
1517005	THE DAILY RECORDER, CA	02/02/2009	Depth : 30.60" Lines : 377	\$214.20	Sent
Order No.	Newspaper	View			
1517005	THE DAILY RECORDER	View Ad In PDF			

SCC NO. 1409**AN ORDINANCE RELATING TO THE NEW MEASURE A SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION FEE PROGRAM**

The Board of Supervisors of the County of Sacramento, State of California, ordains as follows:

SECTION 1. Chapter 16.91, Sections 16.91.010 through 16.91.100, is added to Title 16 to the Sacramento County Code, as follows:

SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION FEE PROGRAM (SCTMFP)**16.91.010 Purpose.**

A. The Sacramento Transportation Authority Ordinance No. STA-04-01 ("STA Ordinance"), approved by Sacramento County voters in 2004, imposes a one-half of one percent retail transactions and use tax that is statutorily dedicated to transportation planning, design, construction, operation and maintenance in Sacramento County.

B. The STA Ordinance further establishes a 30-year Sacramento Countywide Transportation Mitigation Fee Program ("SCTMFP") to be implemented by the County during the period April 1, 2009 through March 31, 2039.

C. The STA Ordinance further requires that, as a condition of receiving its allocation of local street and road maintenance formula funds from retail transaction and use tax revenues, the County and each incorporated city must adopt the 30-year SCTMFP fee.

D. The purpose of this Chapter is to implement the STA Ordinance and to adopt the SCTMFP, effective April 1, 2009 through March 31, 2039.

16.91.020 Definitions.

A. "AB 1600" means the Mitigation Fee Act set forth in Government Code Sections 66001 - 60025.

B. "Administrative Fees" means the share of the SCTMFP fee that is allocated to fund the cost of the SCTMFP administration.

C. "Department" means the County of Sacramento Department of Transportation.

D. "Director" means the Director of the Sacramento County Department of Transportation.

E. "Development Project" or "Project" shall have the same meaning as provided in Government Code Section 66000(a), as such section may be amended from

time to time.

F. "Executive Director" means the Executive Director of the Sacramento Transportation Authority.

G. "Expenditure Plan" means the Sacramento County Measure A Transportation Expenditure Plan 2009-2039 that was adopted as part of the STA Ordinance.

H. "Governing Board" means the Governing Board of the Sacramento Transportation Authority.

I. "Independent Taxpayer Oversight Committee" means a committee appointed by the STA Governing Board as required by the Ordinance to supervise New Measure A fiscal and performance audits regarding the use of all sales tax funds and to provide independent review to ensure that all New Measure A funds are spent in accordance with the provisions of the Ordinance.

J. "Industrial Use" means any Development Project that involves manufacturing, transportation, logistics, or similar uses.

K. "Measure A" or "the STA Ordinance" means Sacramento Transportation Authority Ordinance No. STA-04-01.

L. "Multi-family Residential Use" means any Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments.

M. "Office Use" means any Development Project that involves business activities, associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal services, or similar uses. "Office Use" also includes any other commercial use not specifically listed in Section 16.91.040(b) that is neither retail, nor industrial use.

N. "Participating Agencies" means the County of Sacramento, the City of Citrus Heights, the City of Elk Grove, the City of Folsom, the City of Galt, the City of Isleton, the City of Rancho Cordova, and the City of Sacramento. Each may be referred to individually as "Participating Agency."

O. "Retail Use" means any Development Project that involves retailing of merchandise, generally without transformation, retail food services, and rendering services incidental to the sale of merchandise at a fixed point of sale.

P. "Sacramento Countywide Transportation Mitigation Fee Program" or "SCTMFP" means the 30-year transportation mitigation fee program established by the Ordinance.

Q. "SCTMFP Fee" or "Fee" means the fee imposed pursuant to the SCTMFP.

R. "Senior Residential Use" means any Development Project that qualifies as housing for older persons pursuant to Government Code section 12955.9.

S. "Single Family Residential Use" means any Development Project that uses a single parcel for only one residential dwelling unit. "Single Family Residential Use" also includes any Development Project that involves one primary dwelling and one accessory dwelling on a single lot.

16.91.030 Establishment and Administration of SCTMFP Administrative Fund.

A. There is hereby established by the Department of Finance in the County Treasury a special interest-bearing trust fund entitled the SCTMFP administrative fund or other appropriate accounting mechanism.

B. Administrative Fees revenues from SCTMFP revenues collected pursuant to this Chapter shall be deposited in the SCTMFP administrative fund, and shall be expended by the Department or its successor Department solely to pay the costs associated with the administration of the SCTMFP.

C. The SCTMFP Administrative Fund shall be administered by the Director.

16.91.040 Establishment of Sacramento Countywide Transportation Mitigation Fee.

A. The Sacramento Countywide Transportation Mitigation Fee (SCTMF) is hereby established to fund transportation, design, construction, operation and maintenance in Sacramento County. The SCTMF is hereby implemented as a condition of receiving the County's allocation of local street and road maintenance funds statutorily dedicated pursuant to STA Ordinance No. STA-04-01.

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SECTION 3. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on January 13, 2009 and on January 13, 2009 further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after sixty (60) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor MacGlashan, seconded by Supervisor Yee, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 27th day of January 2009, by the following vote:

AYES: Supervisors, MacGlashan, Yee, Peters

NOES: Supervisors, None

ABSENT: Supervisors, Dickinson, Nottoli

ABSTAIN: Supervisors, None

AFFIDAVIT OF POSTING

I, V. Rodgers, am now and at all times mentioned herein, have been employed by the County of Sacramento and assigned to the Office of the Clerk of the Board of Supervisors.

On January 27, 2009, I posted a true and correct copy of **Resolution SCC-1409** in the Directory in the lobby of the County Administration Building at 700 H Street, Sacramento, California, 95814.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 27, 2009 in the City of Sacramento, County of Sacramento, State of California.



Deputy Clerk