

RESOLUTION NO. 2009-054

Adopted by the Sacramento City Council

January 27, 2009

APPROVING THE AGREEMENT ON OPERATING PROTOCOLS FOR THE NEW MEASURE A SACRAMENTO COUNTYWIDE TRANSPORTATION MITIGATION DEVELOPMENT IMPACT FEE PROGRAM

BACKGROUND

- A. The New Measure A Transportation Sales Tax approved by the County voters in 2004, called for implementation of a Sacramento Countywide Transportation Mitigation Development Impact Fee Program so that new development paid its fair share of the costs of the transportation improvements included in the Measure A Expenditure Plan.
- B. The City of Sacramento is required to implement this Measure A Mitigation Fee Program as a condition of receiving New Measure A sales tax revenues, in accordance with the provisions of AB 1600, and the fees are to become effective by no later than April 1, 2009.
- C. Sacramento Transportation Authority (STA) staff in coordination with the City of Sacramento developed an Agreement on Operating Protocols to apply to the City and all other jurisdictions in the county, regarding the obligation to impose, collect, account, and remit the Measure A development impact fees to STA.
- D. STA's allocation of the Measure A development impact fee remitted by the City will be subject to independent audit and review by the Measure A Independent Taxpayer Oversight Committee (ITOC).
- E. On August 28, 2008, the STA Board adopted a resolution approving the Agreement on Operating Protocols, and the Agreement was amended by the STA Board on December 11, 2008 to add the fees for special land use categories.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. Approve the Agreement on Operating Protocols for the New Measure A Sacramento Countywide Transportation Mitigation Fee Development Impact Fee Program ("Protocols Agreement") with the Sacramento Transportation Authority, contingent on the City Council approving: (1) the Ordinance adding Chapter 18.48 to the Sacramento City Code to Establish Transportation Development Impact Fees for Citywide Benefit District; (2) Resolution Approving Nexus Study, Establishing the Amount of Fees and Providing for Other Matters Relative to Measure A Transportation Development Impact Fees.
- Section 2. Authorize the City Manager to execute the Protocols Agreement on behalf of the City of Sacramento.

Table of Contents:

Exhibit A - Agreement on Operating Protocols

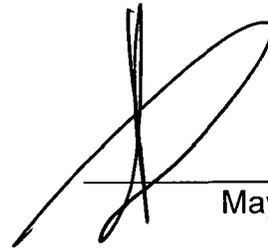
Adopted by the City of Sacramento City Council on January 27, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy,
Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Concolino, City Clerk

INSERT EXHIBIT A

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 City of Sacramento (City).

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 City Council has adopted Resolution No. 2006-706 acknowledging its obligations imposed by the SCTMFP.
- F. The City 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 City, 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 City shall collect the applicable uniform SCTMFP Fee for each Development Project occurring within the City’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 City 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 City from the requirement that SCTMFP Fees be collected as a prerequisite to the City'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 City 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 City 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 City 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 City'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 City'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 City'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 City each shall absorb their administrative costs associated with implementation and administration of the SCTMFP Fee and this Agreement. The City, 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. City 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

CITY OF SACRAMENTO

By: _____
(Authorized Officer)
(Title)

Dated: _____

Approved as to Form:

Attest:
