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October 9, 2008

Via Email to tboren@fresnocog.org

Mr. Tony Boren
Executive Director
Fresno County Council of Governments
2035 Tulare Street, Suite 201
Fresno, CA 93721

Via Email to ron_fcta@sbcglobal.net

Mr. Ron Peterson
Executive Director
Fresno County Transportation Authority
2220 Tulare Street, Suite 411
Fresno, CA 93721

Dear Sirs:

On behalf of the Central California Development Council Inc., I am writing to confirm that our organization supports the most recent proposal submitted by the Building Industry Association to adopt the Option 2 Regional Transportation Mitigation Fee proposal in accordance with a phase-in program.

We also ask wish to confirm our ongoing interests in being involved in helping to evaluate the prioritization of the Tier 1 Regional Transportation projects. We believe that the community's industrial and commercial developers provide important perspectives in those prioritization efforts. We believe those perspectives are well aligned with the economic well-being of our community.

We are pleased with the fact that the draft Model Ordinance confirms the per square foot nature of the fee for commercial and industrial uses. Our support for the proposed fee amount is very much linked to a countywide uniform fee program that uses the per square foot approaches.

We wish to also confirm our understanding that the proposed fee is tied solely to new building development activities. Specifically, it is our understanding that the PB Report did not assume any new fee impositions related to tenant improvement reconstructions for existing buildings. We believe it important that all implementing ordinances very clearly confirm that matter.

We understand the Building Industry Association has expressed interests in continuing the current consultations with PB Americas. We have the same interest as we have still not fully resolved an understanding of the trip generation methodologies that were used to determine the per square foot fee calculations. We look forward to the ongoing opportunity to work with PB Americas over the next several weeks to improve that understanding.



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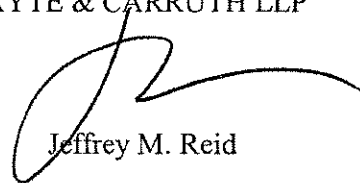
Mr. Tony Boren
Mr. Ron Peterson
October 9, 2008
Page 2

We also believe that it is important to continue to evaluate the cost estimates that were the basis for the current fee proposal. Our industry is experiencing some reductions in certain construction items, particularly asphalt. The fee should be updated sooner rather than later to take these current economic circumstances into account.

Please include this letter in the record of proceedings regarding the fee adoption by the COG and FCTA Boards.

Thank you for your consideration of the above matters.

Sincerely,
McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP



Jeffrey M. Reid

BEFORE THE
COUNCIL OF FRESNO COUNTY GOVERNMENTS
RESOLUTION NO. 2008-46

In the Matter of:)
)
MEASURE "C" REGIONAL)
TRANSPORTATION)
MITIGATION FEE)

RESOLUTION APPROVING THE
MEASURE "C" REGIONAL
TRANSPORTATION MITIGATION
FEE

WHEREAS, the Council of Fresno County Governments (Fresno COG) is the state designated Regional Transportation Planning Agency for the Fresno County region, and

WHEREAS, in its role as the Regional Transportation Planning Agency, the Council of Fresno County Governments is statutorily responsible for developing the Expenditure Plan for revenues raised by Measure "C", Fresno County' ½ cent sales tax collected for transportation purposes, and;

WHEREAS, the Regional Transportation Program component of the Measure "C" Expenditure Plan requires that a (RTMF) Regional Transportation Mitigation Fee Program be developed and approved by the Council of Fresno County Governments, and;

WHEREAS, said Regional Transportation Mitigation Fee once approved by the Council of Fresno County Governments Policy Board must be forwarded to the Fresno County Transportation Authority Policy Board for their approval, and ;

WHEREAS, once the said Regional Transportation Mitigation Fee is approved by the Council of Fresno County Governments and the Fresno County Transportation Authority Policy Boards it is required to be adopted via a local ordinance by all fifteen incorporated cities within Fresno County and the County of Fresno;

WHEREAS, the \$1,727 per single family unit Regional Transportation Mitigation Fee will be implemented with a three step phase-in as follows: the initial mitigation fee for 2009 will be \$1,200, the mitigation fee for 2010 will be \$1,450, and the mitigation fee for 2011 will be \$1,727. In addition to the "phasing in" process, the FCTA will direct the consultant, PB Americas, to work with the Building Industry Association to resolve issues related to assumptions and cost differences, and with the understanding that the Regional Transportation Mitigation Fee will be revisited every two years at the same time the Measure "C" Expenditure Plan is updated;

WHEREAS, the Regional Transportation Mitigation Fee identified for commercial and industrial development is to be administered on a per square foot basis and based on the allocation of land use types detailed in Table 27 of the PB Americas Regional Transportation Mitigation Fee Final Report and the attached Exhibit A. It is also understood that commercial and industrial development will be granted the same phase-in approach as residential development.

NOW, THEREFORE, BE IT RESOLVED, that the Council of Fresno County Governments hereby approves Option 2 with a three year phase-in as described above, for the Regional Transportation Mitigation Fee Program as identified in the Fresno Regional Transportation Mitigation Fee Final Report.

THE FOREGOING RESOLUTION was passed and adopted by the Council of Fresno County Governments this 9th day of October, 2008.

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Signed: _____
Trinidad M. Rodriguez, Chairman

I hereby certify that the foregoing is a true copy of a resolution of the Council of Fresno County Governments duly adopted at a regular meeting thereof held on the 9th day of October, 2008.

Signed: _____
Tony Boren, Executive Director

Exhibit "A"

Land Use Category	2009	2010	2011 and thereafter
Residential Developments (\$/dwelling unit)			
Single-Family Dwelling (market-rate)	\$1,200	\$1,450	\$1,727
Single-Family Dwelling (affordable)	\$600	\$725	\$864
Multi-Family Dwelling (market-rate)	\$843	\$1,018	\$1,212
Multi-Family Dwelling (affordable)	\$421	\$509	\$606
Non-Residential Developments (\$/sq.ft.)			
Education	exempt	exempt	exempt
Government	exempt	exempt	exempt
Commercial/Retail	\$1.36	\$1.65	\$1.96
Commercial/Office/Service	\$0.85	\$1.03	\$1.23
Light Industrial	\$0.34	\$0.41	\$0.49
Heavy Industrial	\$0.07	\$0.085	\$0.10
Other Non-Residential	\$0.29	\$0.35	\$0.42



MEMORANDUM

TO: Council of Fresno County Governments Policy Board
Fresno County Transportation Authority Policy Board

FROM: Tony Boren, Executive Director, Council of Fresno County Governments
Ron Peterson, Executive Director, Fresno County Transportation Authority

DATE: October 9, 2008

SUBJECT: Supplemental Information - Fresno Regional Transportation Mitigation Fee Study Final Report.

RECOMMENDATION: Staff recommends that the Council of Fresno County Governments and the Fresno County Transportation Authority Boards consider the supplemental information provided in this updated staff report during review of Fresno Regional Transportation Mitigation Fee options.

DISCUSSION: After the September 29th workshop, described in the previously transmitted staff report for this meeting, the BIA Board of Directors held a meeting to analyze the outcome of the workshop and review their position of support for Option 5 of the referenced fee study. The result of that review was received in a letter from the BIA which is attached for your information. The major points contained in the letter are:

1. The BIA has offered to accept the fee level proposed in Option 2 of the Study with a modified phase-in that would yield \$1,200 per unit for single family housing developments the first year, \$1,450 the second and the full \$1,727 the third year and thereafter.
2. The BIA still has concerns regarding costs and assumptions used in the fee calculations and requests that analysis and dialogue amongst all interested parties (including consultants) continue with any resulting modifications to the fee structure pursued as soon as possible
3. The BIA requests that a full review of the fee calculations and project priority rankings be undertaken within 2 years; and
4. The BIA request that both the COG and Authority Board attempt to achieve uniformity in the 16 different fee ordinances that will be considered by the local jurisdictions.

Upon receipt of this letter staff requested that our consultant, PB Americas, analyze the impact of BIA's revised position. Although the letter did not address any development types other than single family dwelling units, staff assumed that the "phase in" offer was proposed for all developments types and asked that the consultant include all developments in their analysis of impacts. This assumption was later confirmed by the BIA.

PB Americas responded with the results of the analysis on October 8th. The review estimated a reduction in anticipated revenue over the entire life of the fee program of 2.3 % or \$6 million. COG staff then reviewed this revenue reduction impact on the proposed Tier 1 construction program and found that no changes from the analysis provided for Option 2 at the September 10th Authority Board meeting were needed to accommodate the reduced revenue estimate. The only projects from the Tier 1 Urban and Rural project lists that are at risk of remaining unfunded, given current planning assumptions, under this revised proposal are the 180 West Extension to I5 and the SR 99 – North/Cedar Interchange improvements.

With respect to other points addressed in the BIA letter:

- Item 2 - negotiations with PB Americas are already underway for a contract amendment that would provide for COG and Authority participation in the ongoing dialogue and analysis.
- Item 3 which is a request for periodic review of fee calculations has been a staff recommended feature in all prior discussions of the RTMF Program, and
- Item 4 which is an attempt to achieve consistency in fee ordinances will be addressed in an implementation and model ordinance package that will be prepared for all local agencies. This package is already in its planning stages and will be presented to all local jurisdictions by staff and PB Americas when those agencies are requested to implement the COG and Authority's approved fee option.

The September 29th workshop also resulted in a letter from Mr. Jeffrey Reid, writing on behalf of the Central California Development Council in which he raises two concerns regarding the proposed RTMF program. These concerns are:

1. A request for clarification that the proposed fee for commercial and industrial uses is to be applied uniformly on a per square foot basis, and
2. A request for clarification the proposed fee is intended to be restricted to the commercial and industrial uses identified in Table 27 of the Fee Study Final Report.

Fresno's RTMF Study has always assumed that commercial/industrial fees would be on a per square foot basis. Some confusion was created by an example model ordinance and workbook

that were circulated to interested parties for comment in preparation for a final model ordinance for the Fresno plan. The example ordinance and workbook used a different fee calculation basis which resulted in the confusion. The Fresno plan has always been based on a per square foot application of fees and this discussion should clarify that point.

The language of the original ballot Measure encouraged an abbreviated list of commercial/industrial land uses. PB Americas used that language as the basis for the Fee Study as shown on Table 27 and reproduced below. While neither the COG nor the Authority have the power to dictate the content of individual fee ordinances to be considered by local jurisdictions, every attempt will be made to achieve the desired uniformity and abbreviated land use table through the implementation packages discussed above and orientation sessions to be held with local jurisdictions during the implementation phase.

In summary, the minimal impact to projected fee revenues coupled with the greatly reduced threat of litigation result in a very attractive compromise offer as presented by the BIA. Staff recommends favorable consideration of this revised fee structure through approval of the fee rates shown in the table below.

Land Use Category	2009	2010	2011 and thereafter
Residential Developments (\$/dwelling unit)			
Single-Family Dwelling (market-rate)	\$1,200	\$1,450	\$1,727
Single-Family Dwelling (affordable)	\$600	\$725	\$864
Multi-Family Dwelling (market-rate)	\$843	\$1,018	\$1,212
Multi-Family Dwelling (affordable)	\$421	\$509	\$606

Land Use Category	2009	2010	2011 and thereafter
Non-Residential Developments (\$/sq.ft.)			
Education	exempt	exempt	exempt
Government	exempt	exempt	exempt
Commercial/Retail	\$1.36	\$1.65	\$1.96
Commercial/Office/Service	\$0.85	\$1.03	\$1.23
Light Industrial	\$0.34	\$0.41	\$0.49
Heavy Industrial	\$0.07	\$0.085	\$0.10
Other Non-Residential	\$0.29	\$0.35	\$0.42



Building Industry Association
of Fresno/Madera Counties, Inc.

October 7, 2008

Via Email to tboren@fresnocog.org
Tony Boren, Executive Director
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2035 Tulare Street, Suite 201
Fresno, CA 93721

Via Email to ron_fcta@sbcbglobal.net
Ron Peterson, Executive Director
Fresno County Transportation Authority
2220 Tulare Street, Suite 411
Fresno, CA 93721

RE: Regional Transportation Mitigation Fee

Dear Sirs:

The Building Industry Association of Fresno/Madera Counties (BIA) Board of Directors agreed to support the higher Regional Transportation Mitigation Fee proposed by the Fresno County Transportation Authority (FCTA), but in a phased implementation process. Recognizing all projects necessary for a successful local transportation program must be funded, the industry decided they were willing to accept a phased-in fee that tops out at \$1,727 per unit, rather than the \$621 per unit based on the original \$102 million stipulated when Measure C Extension was approved.

By no means is it an easy decision in this economy to see new homeowner fees raised. As I indicated to Tony in an email last week, this was not a unanimous decision by our Board of Directors.

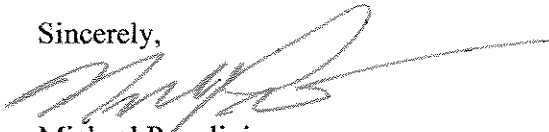
The primary concern of BIA to date has been the data used by the FCTA's consultant in the calculation of the fee. We believe many of the transportation models and costs used in the fee calculations are too high. Despite our concerns, the BIA Board is willing to support a three-step phase-in of the Fresno Regional Transportation Mitigation Fee. The BIA supports an option that phases in the fee with \$1,200 in year one, \$1,450 in year two and \$1,727 in year three.

We appreciate the Authority's willingness to have our consultant work with their advisors in recent weeks to review the data. Recognizing that a fee must be implemented within the next few months, we are requesting, as part of our acceptance of the higher fee, that analysis of the data provided by the FCTA consultant, and dialogue amongst all parties, be continued so we can resolve concerns about the accuracy of assumptions and calculations used to determine the mitigation fee. In addition, we are requesting the fee calculation be reviewed in two years when the project priority list is reviewed.

In addition to the amount of the fee, the BIA remains concerned about the process for implementation by which each city and the County of Fresno will have to adopt its own ordinance to levy the RTMF. Because of the different development approval processes for these agencies it is possible there will be 16 different approaches to implementation. The BIA supports a single approach that treats all projects equally, regardless of the jurisdiction where the projects are built.

If you have any questions or need additional information please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Prandini', with a long horizontal flourish extending to the right.

Michael Prandini
President and CEO



**MCCORMICK
BARSTOW LLP**
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October 3, 2008

Via Email to tboren@fresnocog.org

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2035 Tulare Street, Suite 201
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Via Email to ron_fcta@sbcglobal.net

Mr. Ron Peterson
Executive Director
Fresno County Transportation Authority
2220 Tulare Street, Suite 411
Fresno, CA 93721

Dear Sirs:

On behalf of the Central California Development Council Inc., I am writing to follow-up on some of the dialogues and requests conducted at the meeting held on Monday, September 29th.

At the meeting we again advised that a key issue to the commercial and industrial development community is to know what their fee will be. We understand that the Mitigation Fee Final Report prepared by PB Americas (the "PB Report") has proposed a per square foot fee for a complement of different land use types, as detailed in its Table 27 (a copy of which is enclosed for reference). So long as there are appropriate appeal mechanisms to address substantial outliers (such as high-cube warehouse facilities), we support that approach.

However, we feel it very important that both the COG and the FCTA, in establishing the RTMF Program, specifically state in the resolution of the governing boards that the proposed commercial and industrial fees are to be administered on a per square foot basis and based on the allocation of land use types detailed in Table 27.

We are disappointed that the proposed text of an actual implementing ordinance is not going to be available for public review and comment when the FCTA acts to adopt the fee. However, a policy statement of the per square foot basis for the fee (and its apportionment amongst specified classes of land use designations) must be included in the adoption resolution if effective notice of the RTMF Program requirements are to be provided to the public and to the local governments charged with their further implementation.

This matter is particularly concerning because, at Monday's meeting Mr. Peterson suggested that it would be up to the 16 local governments in our County to each implement the commercial and industrial component of the fee in whatever fashion that they determined most advisable.

Mr. Tony Boren
Mr. Ron Peterson
Re: RTMF Program
October 3, 2008
Page 2

We understand the potential legal issues that have been raised which causes Mr. Peterson to feel the need to reconfirm the discretionary legislative authorities of each local government. However, we nevertheless believe that the RTMF program, as recommended to the local governments by the FCTA, should clearly, by a policy statement of the governing board, expressly ratify the policy approaches that are implicit in the PB Report's nexus evaluations, as illustrated on Table 27.

We are concerned that some agencies will apply a pure ITE manual approach to certain commercial and industrial uses. That approach does not take into account the averaging that the PB Report relies upon. We are also worried that some agencies may rely on the PB Report's per square foot fee for certain uses (the lower side of the averages), but apply an ITE or traffic study mandate for other uses (to capture higher rates of fees for those uses that are on the high side of the average). Either approach would be inconsistent with the PB Report, and add unnecessary and undue complications in what should be an attempt to establish a largely uniform RTMF Program.

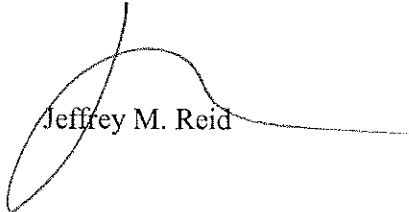
We understand that there are some unavoidable complexities in the administration of the RTMF fee for the commercial and industrial users. That is because local governments will need to overlay the zone classifications in Table 27 of the PB Report upon their local zoning designations. This unavoidable complexity creates even greater impetus to resolve, at this time, the avoidable ambiguities and the unnecessary complexities.

Please therefore provide to your Governing Boards a resolution that includes a simple explicit statement that the industrial and commercial fees will be implemented on a per square foot basis and that it is to be apportioned amongst the zoning classifications consistent with Table 27.

Please include this letter in the record of proceedings regarding the fee adoption by the COG and FCTA Boards, and make it available to your Board members well in advance of the upcoming Joint Meeting on the RTMF.

Thank you for your consideration of the above matters.

Sincerely,
McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP


Jeffrey M. Reid

enc. Parsons Report Table 27
c: Mr. Kevin Briggs, Esq.

Table 27: RTM Fee Levels under Different Options			
Land Use Category	Options 1 & 4	Options 2 & 3	Option 5
Residential Developments (\$/dwelling unit)			
Single-Family Dwelling (market-rate)	\$2,781	\$1,727	\$621
Single-Family Dwelling (affordable)	\$1,390	\$863	\$310
Multi-Family Dwelling (market-rate)	\$1,953	\$1,212	\$436
Multi-Family Dwelling (affordable)	\$976	\$606	\$218
Non-Residential Developments (\$/sq.ft.)			
Education	Exempt ²¹	Exempt	Exempt
Government	Exempt	Exempt	Exempt
Commercial/Retail	\$3.16	\$1.96	\$0.71
Commercial/Office/Service	\$1.98	\$1.23	\$0.44
Light Industrial	\$0.79	\$0.49	\$0.18
Heavy Industrial	\$0.17	\$0.10	\$0.04
Other Non-Residential	\$0.67	\$0.42	\$0.15

Source: Parsons Brinckerhoff

²¹ The effect of the exemptions is that the RTMF program foregoes fees that would have been paid by the exempt land uses. The fees collected from other types of development were not adjusted upwards to cover the cost of the revenues foregone due to the exemptions.

