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Metropolitan Transportation Authority

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**PLANNING AND PROGRAMMING COMMITTEE  
MAY 15, 2013**

**SUBJECT: CONGESTION MANAGEMENT PROGRAM - CONGESTION  
MITIGATION FEE STUDY**

**ACTION: ADOPT CONGESTION MITIGATION FEE PROGRAM**

**RECOMMENDATION**

- A. Adopt the Congestion Mitigation Fee Program as the Countywide Deficiency Plan of the Los Angeles County Congestion Management Program;
- B. Adopt a \$200 fee-per-trip as the countywide minimum fee-per-trip level for local compliance with the CMP Deficiency Plan;
- C. Approve Resolution adopting the Congestion Mitigation Fee Program as the Countywide Congestion Management Program Deficiency Plan (Attachment A);
- D. Authorize staff to work with local jurisdictions and the business community to prepare for local implementation of the Congestion Mitigation Fee Program within the next two years. Staff will continue dialogue with business community to address business community concerns, including through legislative change if necessary; and
- E. Receive and File Congestion Mitigation Fee Study –Pilot Nexus Study Reports for the eight pilot nexus studies and Congestion Mitigation Fee Study Nexus Analysis Methodology.

**ISSUE**

We have completed a 10-year effort of working with local jurisdictions, their subregions, and the business and development community to explore how to best meet state mandated Congestion Management Program (CMP) Deficiency Plan requirements for local jurisdictions to mitigate the impact of new development. After exploring a wide range of alternatives, the Board directed staff in 2003 to explore the feasibility of a Congestion Mitigation Fee to meet this requirement.

Over 300 meetings with subregions, local jurisdictions and the business community in a variety of forums have been conducted. We completed an extensive Congestion Mitigation Fee Program development work plan, including various technical documents,

describing how the fee would work. The fee concept has been tested “on the ground” by working with each of eight Los Angeles County subregions in developing the subregional nexus pilot studies. As a result of this extensive effort, we found that the Congestion Mitigation Fee Program is feasible, provides effective mitigation and a new source of funding with local control, and complies with statutory requirements of the CMP and the California Mitigation Fee Act. Board approval of the Program is needed as well as authorization to assist cities in preparing for fee program implementation within the next two years.

## **DISCUSSION**

### **Legislative Background**

In 1990, state voters approved Proposition 111, which increased the State gas tax from 9 cents a gallon to 18 cents a gallon. The CMP (Government Code 65089 et. al.) was enacted as companion legislation to Proposition 111 to link local/regional transportation, land use and air quality decisions. A Congestion Management Agency for each county was designated by local jurisdictions and has statutory oversight authority over CMP development, adoption, and local implementation. If local jurisdictions are not in compliance with their CMP implementation responsibilities, the 9 cent gas tax increase provided by Proposition 111 can be withheld. In Los Angeles County, local jurisdictions receive approximately \$83 million a year in Proposition 111 revenues (also known as Section 2105 revenues).

A significant CMP statutory requirement is the local jurisdiction’s responsibility to develop a Deficiency Plan when level of service standards on the CMP highway system drop below level of service E or worsen at level of service F. A Deficiency Plan must either (1) fully mitigate the level of service degradation or (2) “measurably improve” mobility and air quality. The definition of “measurable improvement” is the responsibility of the Congestion Management Agency.

The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) first created a parallel federal Congestion Management System requirement, which has been continued in subsequent federal reauthorization legislation. Since that time, MTA has used its CMP to assist the Southern California Association of Governments (SCAG) in meeting federal congestion management requirements. Our CMP is reviewed by the Federal Highway Administration (FHWA) as a component of SCAG’s triennial planning certification process. Over the last several years, FHWA has made congestion management a federal priority for regional agencies nationwide.

### **Initial Deficiency Plan Development**

In Los Angeles County, MTA was unanimously designated as the Congestion Management Agency in 1990 by all local jurisdictions. The initial CMP was developed in monthly consultation with a Policy Advisory Committee (PAC) representing local jurisdictions, regional agencies, and the environmental and business community. The tradition of broad consultation with all interested stakeholders continues to this day.

Given the significant level of congestion experienced on our highways and roadways (i.e., Caltrans designates four levels of Level of Service F), the Deficiency Plan was a focal point of our CMP development. Given the complex travel patterns both between cities and across the county, a countywide Deficiency Plan approach was necessary. This avoided the impossibility of a local jurisdiction needing to prepare local Deficiency Plans and negotiating mitigation projects with all other jurisdictions across the county.

**Debit-Credit Deficiency Plan.** The initial Countywide Deficiency Plan approach developed for the County of Los Angeles CMP was the “Debit-Credit” approach. MTA, in consultation with the CMP PAC, developed guidelines for local jurisdictions to quantify the impacts of new development across different land uses (debits) and to quantify the mobility benefit of a menu of transportation mitigation strategies (credits). Eligible projects were similar to the current Call for Projects categories (arterials, system management, transit, TDM, etc.), and could be implemented either on or off the designated CMP highway system. Local jurisdictions annually submitted their Deficiency Plan (known as a Local Implementation Report), and remained in compliance with the CMP by maintaining a positive credit-debit balance.

**Debit-Credit Reconsidered.** After a decade, a number of jurisdictions began to express concerns with the effectiveness and fairness of the Debit-Credit approach. In fact, we found that about 25% of Los Angeles jurisdictions were at risk of not being able to maintain a positive credit balance over the next several years, which would result in non-compliance and the loss of State gas tax funds. This raised an equity issue, as small, built out cities were the most at-risk of non-compliance and had less opportunity to generate credits than larger, high growth cities. Given that the Debit-Credit approach did not generate new project revenue, many cities also considered the approach a paper exercise that did not lead to meaningful mitigation.

After reconvening the CMP PAC and considering 14 Deficiency Plan alternatives, the Board directed staff through the 2003 Short Range Transportation Plan to conduct a study to evaluate the feasibility of implementing a countywide Congestion Mitigation Fee program as a replacement to the Debit-Credit approach. The Board also directed the suspension of Deficiency Plan requirements for local jurisdictions to maintain a positive credit balance while the Congestion Mitigation Fee Study was underway.

The decision to study the fee was bolstered by the fact that countywide and local transportation mitigation fees were not new. Throughout the State, 14 counties (more than 25% of counties Statewide) have transportation fee programs in place. This includes five adjacent counties: Western Riverside, San Bernardino, Orange, Kern, and San Diego. Within Los Angeles County, there are 22 jurisdictions that have their own local transportation mitigation fees (approximately 25% of Los Angeles County jurisdictions).

## **Congestion Mitigation Fee Program Proposal**

The Congestion Mitigation Fee is proposed as a one-time fee generally applied to all new development across all land uses and is paid at the time a local jurisdiction issues a building permit. The proposed fee program establishes a countywide minimum fee-per-trip based on trip generation rates for different land uses. Each local jurisdiction may then determine its specific fee-per-trip by developing its transportation project list that addresses expected growth and then determine the amount of the transportation project cost that must be funded with its mitigation fee revenue. This process provides a fee amount at or above the countywide minimum sufficient to generate revenues needed to fund the portion of the local jurisdiction's project costs. Each of the subregional nexus analyses also determines a maximum fee amount for all jurisdictions within each subregion. A local jurisdiction may opt to go above the countywide minimum as long as it does not exceed its respective subregional maximum. Once each local jurisdiction has determined its unique fee-per-trip, it would apply that amount to trip generation rates for new land use developments and develop a fee schedule by land use type.

At the core of the proposed Congestion Mitigation Fee Program is local control. Local jurisdictions would be responsible for collecting the mitigation fee, selecting the projects, and building them. Eligible projects are local projects with a regional benefit, similar to our Call for Projects (see Attachment B). At the present time, 22 jurisdictions have an existing mitigation fee program, and they would receive credit against the minimum Congestion Mitigation Fee for eligible projects. If the credits that jurisdictions receive meet or exceed the minimum Congestion Mitigation Fee level, those jurisdictions will have met their Congestion Mitigation Fee responsibility through their local fee program. For the remaining 66 local jurisdictions, the Congestion Mitigation Fee program would not only create a new source of revenue for capital funding of new transportation capacity, this new source of local funds would provide leverage for regional, state, and federal matching funds.

None of the Congestion Mitigation Fee revenue collected by a jurisdiction would go to the MTA. The proposed Congestion Mitigation Fee Program also honors the Guiding Principles that the Board adopted in April 2007 to address the relationship between local jurisdictions and MTA (See Attachment C). Key among these principles is that MTA will not reduce other regional funds it provides to jurisdictions (i.e., the Call for Projects) if the Congestion Mitigation Fee Program is adopted.

In order for local jurisdictions to implement the proposed fee program, the Board, acting as the Congestion Management Agency, would adopt the Congestion Mitigation Fee Program as the CMP Deficiency Plan and local jurisdictions would adopt their local ordinance. Upon Board adoption, we will work with jurisdictions and the business community to prepare technical implementation guidelines. Jurisdictions will also review and finalize their fee transportation project list and we will update the subregional nexus studies. We will work with local jurisdictions to develop and adopt fee ordinances within the next two years. Jurisdictions can begin implementing their fee program as soon as their local ordinance is adopted.

## **Subregional Pilot Nexus Studies**

**Statutory Requirement for Mitigation Fees.** Nexus studies are required for mitigation fee programs by the California Mitigation Fee Act (AB 1600) to demonstrate that there is a reasonable relationship between the proposed fee, the cost of the public transportation facilities, the intended use of the fee revenue, and congestion reduction. The eight Subregional Pilot Nexus Studies evaluated how the Congestion Mitigation Fee pays for transportation improvements that relate to the impact of new development on the transportation system. Also, state law prohibits mitigation fees to be used to mitigate existing deficiencies on the transportation network. As a result, the Congestion Mitigation Fee was structured to mitigate only the impacts of new development.

**Subregional Pilot Nexus Study Development.** During the last three years, we have worked with local jurisdictions and their respective Councils of Governments (COGs) and subregional agencies on eight Subregional Pilot Nexus Studies, which are now complete. Additionally, at the request of jurisdictions and the business community, economic analysis studies were completed for each nexus study to determine the economic impact of the fee program.

In preparation for the Pilot Nexus Studies, the consultant team developed a mitigation fee computer analytical tool to graphically plot proposed projects and calculate mobility benefits, costs, and mitigation fee-per-trip amounts. At the request of the Gateway Cities COG, this tool was modified to also calculate greenhouse gas reductions. This was to inform local jurisdictions that they could implement various Congestion Mitigation Fee projects that also have a benefit in meeting greenhouse gas reductions required by SB 375.

More than 300 meetings were carried out with individual jurisdictions, COGs, MTA Technical Advisory Committee, and the business and development community to obtain their input in conducting the subregional nexus studies. This process offered jurisdictions, COGs, and other stakeholders the opportunity to explore the feasibility of a Congestion Mitigation Fee program and to determine its effectiveness of mitigating the impact of new growth on the transportation network, both for individual jurisdictions and subregions. In addition, the work done in each subregion provided the opportunity for jurisdictions to collaborate their planning efforts across jurisdictional boundaries.

It is important to note that the business community has been involved in the CMP development forum since the first CMP Policy Advisory Committee guided the development of the first CMP in the early 1990s. In regard to the development of the Congestion Mitigation Fee, four members of the business community were represented on a 21 member PAC that met from December 2000 to June 2002, and which studied 14 alternative approaches to the CMP Debit-Credit Deficiency Plan. After this extensive effort, the Board directed staff in 2003 to explore the feasibility of a Congestion Mitigation Fee to meet the CMP Deficiency Plan requirement.

Again, upon adoption of the 2004 CMP, staff was directed by the Board to focus exclusively on the Congestion Mitigation Fee. Beginning in October 2006, the PAC was

reconvened and met through October 2007. This discussion guided the framework of the Congestion Mitigation Fee. This PAC contained 40 stakeholders including 21 representatives from the business community. This framework was integrated into the Congestion Mitigation Fee Feasibility Study and adopted by the Board in September 2008. As we continued to develop the Study, we have had over 16 meetings with representatives of the business community since late 2009. These meetings have included quarterly meetings with business representatives to present the progress of our work effort, a technical workshop with business community consultants to review the nexus methodology (no comments were received as a result of workshop), and most recently we have met with representatives of the BizFed Transportation Committee. Attachment D summarizes the issues that we have received from BizFed and our response.

As part of the Pilot Nexus Study process, jurisdictions and other stakeholders requested that an economic impact analysis be conducted on the impacts of implementing a Congestion Mitigation Fee Program. The results of this economic impact analysis have provided a better understanding of the impacts and benefits of enacting a Congestion Mitigation Fee prior to proceeding with program implementation. These studies showed that the Congestion Mitigation Fee has not only a mobility benefit in each subregion, but a positive impact on the economy and jobs in each subregion.

The subregional pilot nexus studies were conducted based on travel demand modeling analysis. The study evaluated future congestion with and without a subregion's project list and also compared future conditions in contrast to current conditions. The key performance measure evaluated in this study is change in annual vehicle-hours-of-delay (VHD). The methodology demonstrated that the nexus test was met in each subregion, as the subregional mitigation fee projects reduced future VHD. The model runs also demonstrated that the projects were not reducing VHD lower than the existing congestion level, thereby not mitigating existing deficiencies. This methodology is similar to that used in other countywide nexus studies, and has most recently been successfully applied in the countywide fee adopted in San Diego County. It should also be noted that VHD is consistent with performance measures being actively considered by FHWA to measure performance for MAP-21.

The Pilot Nexus Studies demonstrate that growth in the County of Los Angeles over the next 20 years is expected to result in a two-fold increase in VHD, or congestion, on a roadway network that is already operating near or at capacity. To address this projected impact, jurisdictions identified 1,700 transportation projects with a cost of \$5.1 billion, of which 700 projects could be evaluated quantitatively. Also, building all of these transportation projects over the next 20 years could generate up to \$2.9 billion in new transportation funding that could be used to leverage other funding. It is important to note that the pilot studies reflect a need based process. If the Board approved a \$200 countywide minimum fee-per-trip amount, the Congestion Mitigation Fee would be projected to generate up to \$767 million over the next 20 years countywide.

The Pilot Nexus Studies resulted in minimum subregional fee-per-trip levels ranging from \$200 - \$1,000. Based on these results, we are recommending a countywide minimum fee-per-trip of \$200 as this level can be implemented by all subregions. Attachment E summarizes the results of the Pilot Nexus Studies. For examples of how this fee-per-trip level would affect individual land-use categories, see Attachment F. Attachment G is a compilation of all Pilot Nexus Studies and Attachment H documents the technical methodology used for the Nexus Study. Finally, Attachment I is the compilation of all Subregional Economic Analysis Reports for each Pilot Nexus Study.

**Pilot Nexus Study Conclusions.** The Pilot Nexus Studies resulted in the following conclusions:

- The Congestion Mitigation Fee proposal is feasible, meets statutory requirements of the CMP by providing “measurable improvement”, shown in VHD reduction.
- The Congestion Mitigation Fee Program meets the nexus test of the California Mitigation Fee Act and demonstrates that it does not improve VHD to the point that it is mitigating existing deficiencies.
- The Congestion Mitigation Fee can be implemented countywide, as various diverse jurisdictions across the county successfully demonstrated.
- Based on minimum fee ranges of \$200 - \$1,000 fee-per-trip amounts across subregions, a countywide minimum fee-per-trip amount of \$200 is feasible.
- If all the projects from the Pilot Nexus Studies were built:
  - A reduction of approximately 25 million vehicle-hours-of-delay (VHD) would be demonstrated based on the transportation projects that could be modeled.
  - A 6 percent – 38 percent reduction in VHD would be achieved in various subregions over the next twenty years.
  - The Congestion Mitigation Fee Program could generate a countywide net economic benefit of about 60,200 jobs, \$11.2 billion in economic output, and more than \$3.7 billion in disposable income.
- If adopted, a \$200 countywide minimum fee-per-trip amount would generate about \$767 million over twenty years countywide. Specific congestion reductions and economic benefits would be calculated based on the final local transportation project list.
- The Pilot Nexus Study was also beneficial as a forum for cities to work together in identifying mobility. Through this effort, local jurisdictions identified:
  - Individual projects that benefit multiple cities
  - Corridor improvement strategies for multi-jurisdictional participation
  - Sub-area needs and sub-area strategies for multiple jurisdictions

- The Congestion Mitigation Fee Program can be a mechanism and an opportunity to implement local land use visions:
  - Many eligible Congestion Mitigation Fee projects also have a greenhouse gas benefit that helps work toward SB 375 goals.
  - The mitigation fee concept can and has been used by local jurisdictions to implement general plans and help jurisdictions achieve their vision of future growth.

## **DETERMINATION OF SAFETY IMPACT**

The Congestion Mitigation Fee Program will not have any adverse safety impacts for our employees and patrons.

## **FINANCIAL IMPACT**

Upon Board approval of the FY14 Budget, the necessary \$850,000 in Cost Center 4220, Project Number 405544, Task Number 01 will be available to assist cities with the next phase of the Congestion Mitigation Fee Program – Implementation Guidelines, Nexus Study Update, and Local Ordinance Adoption. Since this is a multi-year contract, the cost center manager and Executive Director of Countywide Planning will be accountable for budgeting the cost in future years.

## **Impact to Budget**

The source of funds for this project is Proposition C 25% Streets and Highway funds. These funds are not eligible for bus and rail operating and capital expenditures. No other source of funds was considered for this activity. The Congestion Mitigation Fee program is not anticipated to increase future transit operating costs.

## **ALTERNATIVES CONSIDERED**

The Board could decide not to adopt the countywide Congestion Mitigation Fee Program. If not adopted, MTA would need to develop an alternative Deficiency Plan approach that meets CMP statutory requirements. Alternatives would need to be developed in consultation with local jurisdictions and the development community and could include updating the local mitigation share under the Debit-Credit system or requiring jurisdiction specific Deficiency Plans. Updating the Debit-Credit system is not recommended as we anticipate the local mitigation responsibility will be higher. Jurisdiction specific mitigation plans are not recommended as staff time for both local jurisdictions and MTA staff could be prohibitive, and the process could delay local land use development approvals.

## **NEXT STEPS**

If the Congestion Mitigation Fee Program were adopted, we would work with local jurisdictions to implement the fee program within the next two years. The activities that would be conducted during this phase include the following:

- Develop Fee Implementation Guidelines in consultation with local jurisdictions and the business community to address technical implementation issues necessary for local jurisdictions to implement the Congestion Mitigation Fee Program. This document would be brought to the MTA Board for action.
- Work with local jurisdictions to finalize their fee transportation project lists once the minimum fee-per-trip level has been adopted. Update subregional nexus plans based on final local transportation project lists.
- Work with local jurisdictions to draft a fee ordinance and assist them with local fee ordinance adoption.

Members of the business community have expressed their opposition to the Congestion Mitigation Fee. They have noted their view that the CMP is outdated in light of changes in land use practice and in relation to state greenhouse gas legislation. We will track any recommendations by the business community proposing CMP legislative reform and will report to the Board on any legislation that is introduced. As the Congestion Management Agency, we have a statutory responsibility to implement existing CMP law and to ensure that local jurisdictions meet their legal obligations. As such, we will proceed in working with jurisdictions on fee implementation responsibilities, including developing implementation guidelines, finalizing local transportation project lists, and updating subregional nexus studies. We will, however, work with the business community to address their concerns, including considering CMP statutory change as appropriate.

Upon Board approval, we will return within 60 days with a modification to the existing firm fixed-price contract to conduct the tasks to implement the Congestion Mitigation Fee Program as described above.

## **ATTACHMENTS**

- A. Resolution of the Los Angeles County Metropolitan Transportation Authority Regarding the Adoption of Congestion Mitigation Fee Program As the Countywide Congestion Management Program Deficiency Plan
- B. Congestion Mitigation Fee Program Transportation Projects Category Description
- C. Congestion Mitigation Fee Program Guiding Principles
- D. Summary of BizFed Issues and MTA Response
- E. Congestion Mitigation Fee Pilot Nexus Study Results Summary by Subregion
- F. Minimum Level of Compliance Fee-per-Trip by Land Use Examples

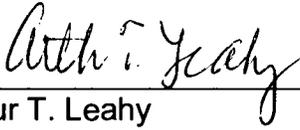
- G. Congestion Mitigation Fee Study – Pilot Nexus Study Reports (attached under separate cover and on website at [http://www.metro.net/projects/congestion\\_mgmt\\_pgm/](http://www.metro.net/projects/congestion_mgmt_pgm/))
- H. Congestion Mitigation Fee Study Nexus Analysis Methodology (attached under separate cover and on website at [http://www.metro.net/projects/congestion\\_mgmt\\_pgm/](http://www.metro.net/projects/congestion_mgmt_pgm/))
- I. Congestion Mitigation Fee Study Subregional Economic Analysis Reports (attached under separate cover and on website at [http://www.metro.net/projects/congestion\\_mgmt\\_pgm/](http://www.metro.net/projects/congestion_mgmt_pgm/))

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**RESOLUTION OF THE LOS ANGELES COUNTY METROPOLITAN  
TRANSPORTATION AUTHORITY REGARDING THE ADOPTION OF  
CONGESTION MITIGATION FEE PROGRAM AS THE COUNTYWIDE  
CONGESTION MANAGEMENT PROGRAM DEFICIENCY PLAN**

**WHEREAS**, Los Angeles County Metropolitan Transportation Authority (“MTA”) has completed a ten-year effort of working with local jurisdictions, their subregions, and the business development community to explore how to best meet state mandated Congestion Management Program (“CMP”) Deficiency Plan requirements for local jurisdictions to mitigate the impact of new development,

**WHEREAS**, after exploring a wide range of alternatives, the MTA Board of Directors directed staff to explore the feasibility of a Congestion Mitigation Fee to meet CMP Deficiency Plan requirements,

**WHEREAS**, MTA has conducted over 300 meetings, completed an extensive Congestion Mitigation Fee Program development work plan, developed various technical documents for implementation of the fee, and tested the fee concept by working with each of eight Los Angeles County sub-regions in developing subregional nexus pilot studies,

**WHEREAS**, at its regularly scheduled and noticed public meeting on May 23, 2013, notice of which was provided in accordance with California Government Code sections 6062a and 66018, the MTA Board of Directors considered the Staff Report, all materials presented in connection therewith, and all public comments presented at said meeting, and

**WHEREAS**, as a result of this extensive effort, MTA has found that the Congestion Mitigation Fee Program is feasible, provides effective mitigation and a new source of funding with local control, and complies with the statutory requirements of the CMP and the California Mitigation Fee Act,

**NOW, THEREFORE**, be it resolved, determined and ordered by the Board of Directors of the Los Angeles County Metropolitan Transportation Authority as follows:

Section 1. The Congestion Mitigation Fee Program is hereby approved and adopted as the Countywide Deficiency Plan of the Los Angeles County CMP. MTA staff will work with local jurisdictions and the business community to prepare for local implementation of the Congestion Mitigation Fee Program within the next two years.

Section 2. The purpose of the implementation of the Congestion Mitigation Fee Program is to address the impact that projected growth in the County of Los Angeles will have on regional congestion through funding locally identified

transportation projects that will have regional impacts and mitigate regional congestion.

Section 3. The fees collected under the Congestion Mitigation Fee Program (“Development Fees”) would be a one-time fee generally applied to all new development across all land uses, paid at the time a local jurisdiction issues a building permit. The Congestion Mitigation Fee Program establishes a minimum \$200 fee-per-trip based on trip generation rates for different land uses.

Section 4. MTA will work with local jurisdictions to adopt local ordinances implementing the Congestion Mitigation Fee Program within the next two years.

Section 5. MTA hereby determines that there is a fair and reasonable relationship between the use of the Development Fees that will be imposed under the Congestion Mitigation Fee Program and the type of development projects on which the Development Fees are imposed. This determination is based on the findings and determinations in the Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies attached as exhibits to the Staff Report, upon all other materials presented in connection therewith, and all public comments presented at the aforementioned May 23, 2013 Board meeting. The facts on which said findings are based on those set forth in said Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies.

Section 6. MTA hereby determines that there is a fair and reasonable relationship between the need for the public facilities to be constructed with the proceeds of the Development Fees that will be imposed under the Congestion Mitigation Fee Program and the type of development projects on which the Development Fees are imposed. This determination is based on the findings and determinations in the Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies attached as exhibits to the Staff Report, upon all other materials presented in connection therewith, and all public comments presented at the aforementioned May 23, 2013 Board meeting. The facts on which said findings are based on those set forth in said Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies.

Section 7. MTA hereby determines that there is a fair and reasonable relationship between the amount of Development Fees that will be imposed under the Congestion Mitigation Fee Program, including without limitation the minimum \$200 fee-per-trip, and the total estimated cost of the public facilities to be constructed with the proceeds of the Development Fees. This determination is based on the findings and determinations in the Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies attached as exhibits to the Staff Report, upon all other materials presented in connection therewith, and all public comments presented at the aforementioned May 23, 2013 Board meeting. The facts on which said findings are based on those set forth in said Congestion Mitigation Fee Study and eight Sub-Regional Pilot Nexus Studies.

Section 8. This Resolution shall become effective immediately upon adoption.

Adopted this \_\_\_\_ day of May 2013 by the Board of Directors of the Los Angeles County Metropolitan Transportation Authority.

CERTIFICATION

The undersigned, duly qualified and serving as Secretary of the Los Angeles County Metropolitan Transportation Authority, certifies that the foregoing is a true and correct representation of a Resolution adopted at a legally convened meeting of the Board of Directors of the Los Angeles County Metropolitan Transportation Authority held on \_\_\_\_\_.

Michele Jackson  
Metro Board Secretary

Date:

(Seal)

**Congestion Mitigation Fee Program  
Transportation Projects Category Description**

A variety of transportation projects were identified during the Pilot Nexus Study process. For projects to be eligible for the Congestion Mitigation Program, they must be able to demonstrate they improve the capacity of the transportation system and consist of capital improvement projects. Ongoing operational and maintenance projects are not eligible under this program. The following provide a summary of the transportation project categories that were identified by jurisdictions:

- Bicycle and pedestrian improvements that provide accessibility to bus and rail transit and that were developed in a systemic and multi-modal manner.
- Signal synchronization, bus speed improvements, bottleneck intersection improvements, traffic control and monitoring systems, and Intelligent Transportation Systems.
- Bus and rail transit capital and/or construction of transit stations and centers, park and ride lots, commuter rail stations, transit stop improvements and transit vehicle purchases.
- Regional arterial enhancements such as arterial widening, bottleneck intersection improvements, closure of gaps in the arterial system, on-ramps and off-ramps to freeways, grade separations, and interchange improvements.
- Other projects determined on a case-by-case basis.

## Congestion Mitigation Fee Program

### Guiding Principles

Adopted in April 2007 by MTA Board

- **Fees should be structured to mitigate congestion from new development without discouraging economic development.** One of the key elements of this program is to respect the diverse economic development programs and initiatives within each jurisdiction to ensure the fee program supports economic development to the fullest extent possible.
- **Fees are to augment other regional funds, not replace or redirect them.** The intent of the Congestion Mitigation Fee program is not to shift regional resources or regional responsibility, but rather to help local jurisdictions mitigate the regional impacts of new development by increasing funding options that can generate needed revenue.
- **Local jurisdictions identify local projects with regional benefit consistent with agreed upon guidelines.** Local jurisdictions identify local projects with regional benefit that will conform to agreed upon policies and proposed Program Guidelines.
- **Local jurisdictions adopt, collect, and administer congestion mitigation fees.** Local jurisdictions are responsible for adopting a fee program authorizing them to collect the congestion mitigation fee, and also retaining the congestion mitigation fee revenues in their own accounts. This uses the same local processes that local jurisdictions use to collect other impact fees and minimizes the administrative burden to local staff. In addition, local jurisdictions have the flexibility to administer the program locally or sub-regionally in a manner agreed to by the local jurisdictions that are collecting the funds. Thus, this principle guarantees that all congestion mitigation fee revenue will be returned to the source.
- **Local jurisdictions build projects (or local jurisdictions may choose to participate in multi-jurisdictional or regional projects, if mutually desired).** Local jurisdictions are responsible for building projects that they identify in their local ordinance. Local jurisdictions may also choose to participate in contributing to regional transportation projects that are constructed by others.
- **Local jurisdictions with existing fee programs receive dollar-for-dollar credit for local projects with a regional benefit consistent with agreed upon guidelines.** Local jurisdictions that have existing local traffic mitigation fees would receive credit for transportation projects in their fee program that are also part of the regional mitigation program. This would ensure no double counting. Funds collected by local fee programs would not be affected.

## ATTACHMENT C

- **Fees should be structured to support transit-oriented development, and to exempt mixed use and high-density residential development within ¼ mile of rail stations consistent with CMP statute.** Per state of California Government Code (Section 65089.4) the fee shall exclude high-density residential and mixed-use development within ¼ mile of a fixed rail passenger station.
- **The program will be developed in a manner to encourage certainty and predictability among local jurisdictions, business, environmental and development communities.** A principle of the Congestion Mitigation Fee program will be to simplify the environmental review process, whenever possible, by promoting a structured approach to dealing with future traffic. This Guiding Principle is not intended to reduce or limit a local jurisdiction's entitlement authority in the project development/approval process.

## Summary of BizFed Issues and MTA Response

### Issue I. Is CMP still relevant?

**MTA response:** The Congestion Management Program (CMP) is still mandated by State statute and implemented by numerous Congestion Management Agencies across the State. The need to mitigate the impact of local land use decisions, which is the heart of the CMP, is still relevant and the use of mitigation fees to address mitigation is relevant. Mitigation fees have been implemented in 22 jurisdictions in Los Angeles County, including those such as Santa Monica who have endorsed “smart growth” and other state-of-the-art integrated land use strategies. Further, all the counties adjacent to Los Angeles County currently have Congestion Mitigation Fee programs in place and a total of 14 counties around the State have transportation mitigation fees.

Congestion management has been an emerging federal priority for regional agencies, such as SCAG, over the last several years. FHWA conducted a workshop in Los Angeles and around the country to stress the importance of congestion management programs. SCAG uses the Los Angeles CMP as a component of its federally required congestion management program.

### **Will TODs and infill housing projects have to pay the fee?**

**MTA Response:** CMP statute exempts certain developments within ¼ mile of a rail station as well as low and very low income housing. The California Mitigation Fee Act also allows for reduced traffic impact fees for other types of housing projects located within ½ mile of a transit station. On-going research may provide the basis for technical adjustments to mitigation requirements for infill and TOD projects. This will be considered in the development of Congestion Mitigation Fee implementation guidelines, if the fee is adopted.

### Issue II. Has MTA Staff adequately explored other alternatives?

**MTA Response:** We have explored 14 alternatives to the CMP Debit-Credit system with the CMP PAC over a 2 year period. This PAC included four members of the business community. Additionally, staff presented to the MTA Board in 2004 various alternatives to a congestion mitigation fee, including county sales tax increases, freight container fees, bonding mechanisms, state and federal gas tax increases, fees per oil barrel, and motor vehicle fees. Of those options, the Board directed us to explore the feasibility of a congestion mitigation fee to specifically meet the requirements of the CMP.

**Issue III. Is MTA operating on an outdated premise regarding the need for a fee? With new regulations and fees, will a fee be economically damaging?**

**MTA Response:** Fees have been very prevalent since the passage of Proposition 13 and countywide fees are common. At the request of the business community and local jurisdictions, MTA conducted a sub-regional economic analysis for each subregional Pilot Nexus Study. The economic analysis for each subregion shows that the Congestion Mitigation Fee is not economically damaging. Rather, it shows that the Congestion Mitigation Fee results in economic growth and more jobs. Specifically, over the next 20 years, the implementation of the subregional fee programs would result in 25 million hours of delay reduced, the creation of 60,200 jobs, and \$11.2 billion in additional economic activity.

**While Metro indicates “dollar for dollar credit” for local fee programs, have fee projects been deliberately selected to avoid duplication (e.g., Pasadena)?**

**MTA Response:** Local jurisdictions that have local mitigation fees have provided us with their local ordinance projects for the Subregional Pilot Nexus Studies. We are not aware of any city that has avoided local ordinance projects. Our review of Pasadena’s project list indicates that Pasadena submitted projects from their adopted local ordinance. The assertion that cities have deliberately selected projects to avoid duplication is incorrect.

**Issue IV. The effort to establish a fee began before adoption of Measure R, the Metro LRTP, SCAG’s RTP/SCS and the 2012 AQMD, and America’s Fast Forward.**

**MTA Response:** The Congestion Mitigation Fee complements all of these programs, and actually works to implement components of the RTP and AQMP. The Congestion Mitigation Fee Feasibility Study is discussed in the 2009 LRTP. All projects funded through the fee (arterial, TDM, transit and active transportation) are called for in the adopted RTP. The RTP also calls out the need for new innovative funding sources, such as mitigation fees. The language of SB 375 that established standards for RTP/SCSs also identifies programs to construct local streets and roads, as well as active transportation. We note that as a general rule, those communities that have embraced smart growth/sustainable community principles have already implemented traffic mitigation fees as part of their comprehensive toolbox, e.g., Santa Monica.

**Is the fee requirement superseded by passage of Measure R?**

**MTA Response:** The CMP Deficiency Plan is statutorily required of cities when CMP performance standards are not met. It should be noted when the CMP was passed, the State gas tax was increased by 9 cents, Proposition A existed, and Proposition C just passed. The 30 Year Plan was the countywide plan at the time of CMP adoption and was the basis for the CMP deficiency analysis. This plan had a larger transit and highway regional program than Measure R. Yet the modeling analysis demonstrated that land use growth outpaced this ambitious transportation plan and that the statutory

Deficiency Plan requirement was triggered. Likewise, Measure R does not fully mitigate CMP deficiencies and avoid the Deficiency Plan requirement.

**Issue V. Will the fee harm our economy?**

**MTA Response:** Traffic congestion is a major impediment to further economic growth in Los Angeles County and the region. Our economic analysis studies demonstrate that the fee program provides a mobility benefit that will result in a benefit to the economy and increase jobs. Over the next twenty years, 60,800 jobs will be created and \$11.2 billion in economic activity will result from the fee.

**Issue VI. Is the Vehicle Hours of Delay (VHD) metric based on the Texas Transportation Institute work and is it appropriate?**

**MTA Response:** VHD is a commonly used performance measure in countywide mitigation fee studies. It was not derived from the Texas Transportation Institute Urban Mobility Report. The measure was used because it has been successfully applied to other countywide mitigation fee studies. For example, the SANDAG Regional Transportation Congestion Improvement Plan uses VHD as its primary nexus metric. SANDAG's fee was successfully adopted recently using this measure. This performance measure is consistent with MAP-21 and with performance measures under consideration nationwide to implement MAP-21. It should also be noted that during the nexus workshop we held for business community consultants, the VHD measure was not refuted by the business community's consultants.

**Issue VII. Does the fee dilute and undermine the goal of developing a regional transportation system?**

**MTA Response:** The Congestion Mitigation Fee methodology focuses on developing projects based on a subregional network that is complementary to and integrated with the CMP network and the regional transportation system. The proposed fee program recognizes that the regional system is neither designed to nor capable of handling the demands placed on it, without considering its interaction with the subregional system which often serves as a relief valve.

The Congestion Mitigation Fee further supports the regional system by leading the effort to quantify the benefits of active transportation projects which are called for by SB 375. The MTA Board has directed staff to develop a bicycle model to quantify the regional benefit of bicycle projects. Through this effort, MTA is serving as a national leader and developing state-of-the-art modeling tools.

**Issue VIII. Program takes backward approach to planning, specifically:**

**Needs to have targets to reach regional compliance.**

**MTA Response:** The CMP is based on highway level of service standards of Level of Service E, or F if it was at F in the CMP base year analysis. If these standards had been achieved, the requirement for a Deficiency Plan would not have been triggered.

**Does fee program allow cities to propose whatever they want?**

**MTA Response:** In accordance with CMP statute, cities are responsible for proposing mitigation strategies consistent with MTA guidance. As such, cities choose from an eligible project list and have undergone a nexus process with us to determine projects based on anticipated growth.

**Various concerns regarding population growth and relationship to development.**

**MTA Response:** The nexus methodology forecasts growth over the next twenty years based on the SCAG Regional Growth Forecast. In developing the regional forecast, SCAG had an extensive effort to work with cities to ensure the forecast reflected local growth. Additionally, the Congestion Mitigation Fee Analysis Tool developed for this study converted population growth into land use growth and these assumptions were checked by the city as a way of validating the regional forecast. The regional forecast is a reasonable method of measuring growth, is commonly used in nexus studies and mitigation analysis, and meets the requirements of the Mitigation Fee Act.

**Will the Fee produce funding needed and will additional funding be needed?**

**MTA Response:** Cities will have the opportunity to balance the amount of the fees with the number of projects to be funded by revising their project lists based on the adopted minimum fee amount, as well as the opportunity to consider leveraging the fee with other funding.

**Issue IX. Do all projects need to be on the CMP network; are cities submitting “wish lists”?**

**MTA Response:** CMP statute does not require Deficiency Plan projects to be on the CMP system. For twenty years, the current Debit-Credit approach has specifically provided credit for projects not on the CMP system.

Through the Sub-regional Nexus Pilot Studies, extensive coordination occurred between MTA and local jurisdictions to assess expected growth and the mitigation strategies that best address that growth. It was also an opportunity for jurisdictions to work together on multi-jurisdictional corridors or to consider projects that benefit more than one city.

**Issue X. How has MTA coordinated with the business community?**

**MTA Response:** It is important to note that the business community has been involved in the CMP development forum since the first CMP Policy Advisory Committee guided the development of the first CMP in the early 1990s. In regard to the development of the Congestion Mitigation Fee, four members of the business community were represented on a 21 member Policy Advisory Committee (PAC) that met from December 2000 to June 2002, and which studied 14 alternative approaches to the CMP Debit-Credit Deficiency Plan. After this extensive effort, the Board directed staff in 2003 to explore the feasibility of a Congestion Mitigation Fee to meet the CMP Deficiency Plan requirement. Again, upon adoption of the 2004 CMP, staff was directed by the Board to focus exclusively on the Congestion Mitigation Fee. Beginning in October 2006, the PAC was reconvened and met through October 2007, and which guided the framework of the Congestion Mitigation Fee. This PAC contained 40 stakeholders including 21 representatives from the business community. This framework was integrated into the Congestion Mitigation Fee Feasibility Study and adopted by the Board in September 2008. As we continued to develop the Study, we have had 16 meetings with representatives of the business community since late 2009. These meetings have included quarterly meetings with business representatives to present the progress of our work effort, a technical workshop with business community consultants to review the nexus methodology (no comments were received as a result of workshop), and most recently we have met with representatives of the BizFed Transportation Committee.

**Issue XI. Fee program fails to clearly identify lead oversight agency.**

**MTA Response:** Under CMP statute, MTA is designated the Congestion Management Agency for Los Angeles County to exercise oversight authority for establishing guidance, for auditing compliance, and for determining annually whether jurisdictions are properly implementing the program. CMP statute also provides the responsibility to cities to select their projects. The mitigation fee program improves on this by providing opportunities for multi-jurisdictional or subregional coordination as well.

### Congestion Mitigation Fee Pilot Nexus Study Results Summary by Subregion

Subregion	Fee-per-Trip		Vehicle-Hours-of-Delay (VHD) (Congestion) Reduction (1)	Economic Impact/Benefits of Congestion Mitigation Fee Program (1)		
	Fee-Per-Trip of All Nexus Projects (2) (NOT the recommended fee-per-trip amount)	Minimum Sub-regional Fee-per-Trip Amount		Percent VHD Reduction 2010-2030	Jobs Created	Economic Output (\$Millions)
Arroyo Verdugo (3)	\$590	\$400	6%	600	\$100	\$30
City of Los Angeles (4)	\$1,322	\$400	9%	18,500	\$3,500	\$1,100
Gateway Cities	\$1,113	\$200	15%	11,400	\$2,400	\$700
Las Virgenes Malibu	\$1,044	\$1,000	17%	2,400	\$500	\$200
North L.A. County	\$1,238	\$500	19%	2,100	\$400	\$100
San Gabriel Valley	\$1,048	\$200	16%	9,900	\$2,200	\$700
South Bay Cities	\$1,649	\$300	38%	14,200	\$2,400	\$800
Westside Cities (3)	\$2,243	\$400	7%	1,700	\$300	\$100

(1) Vehicles-hours-of-delay (congestion) reduction and economic impact/benefits are based on building all projects that could be modeled from the Nexus Project List. Does not include non-motorized projects.

(2) Illustrates the maximum fee that could hypothetically be charged if fee fully funds all nexus projects submitted – this is not the staff recommendation

(3) Results do not include the City of Los Angeles

(4) Includes City of San Fernando

## Minimum Level of Compliance Fee-per-Trip by Land Use Examples

Land Use Category	Trip Generation Rate Average Daily Trips	Minimum Level Of Compliance Fee-per-Trip	Congestion Mitigation Fee Amount
Single Family Home	9.38	\$200	\$1,876 / home
Multi-Family Unit	5.75	\$200	\$1,150 / unit
Retail Center (per 1,000 sq. ft.)	14.58	\$200	\$2.91 / sq. ft.
Office (per 1,000 sq. ft.)	11.32	\$200	\$2.26 / sq. ft.
Industrial (per 1,000 sq. ft.)	7.16	\$200	\$1.43 / sq. ft.
High Cube Warehouse (per 1,000 sq. ft.)	1.48	\$200	\$.30 / sq. ft.
Hotel/Motel (per room)	12.32	\$200	\$2,464 / room

**ATTACHMENT G**

**Congestion Mitigation Fee Study – Pilot Nexus Study Reports**

**(Attached Under Separate Cover)**

**Congestion Mitigation Fee Study – Nexus Analysis Methodology  
(Attached Under Separate Cover)**

**ATTACHMENT I**

**Congestion Mitigation Fee Study – Subregional Economic Analysis Reports  
(Attached Under Separate Cover)**