

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS FOR UNEXPENDED DEVELOPMENT FEES IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 66001, AND REVIEWING AND ACCEPTING ANNUAL DEVELOPMENT FEE DISCLOSURE INFORMATION

WHEREAS, the Mitigation Fee Act, Government Code Section 66000 *et seq.*, authorizes the City of Milpitas (“City”) to impose, collect, and expend mitigation fees to offset the impacts of development within the City; and

WHEREAS, among the procedural requirements mandated by the Mitigation Fee Act is a requirement that beginning with the fifth fiscal year following deposit of development fees into a designated account, and each fifth fiscal year thereafter, the City make specified findings regarding any portion of the fees that remain unexpended; and

WHEREAS, a portion of the fees currently deposited in the City’s Traffic Impact Fee Fund were collected over five (5) years ago, and therefore the City wishes to make the findings required by Government Code Section 66001(d); and

WHEREAS, the City also wishes to review and approve reports required by the Mitigation Fee Act under the annual information disclosure requirements of Government Code Section 66006(b), including but not limited to the amount of the fee, the beginning and ending balance of the fee account or fund, and the interest earned thereon.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council finds that the Traffic Impact Fee Fund currently contains One Hundred Seventeen Thousand Five Hundred Twenty-Five Dollars (\$117,525) and Six Hundred Sixty-Two Thousand Four Hundred Forty-Eight Dollars (\$662,448) in unexpended traffic impact fees that were collected over five (5) years ago from developers and/or property owners for the Montague Expressway Widening project and Milpitas Business Park project, respectively (“Unexpended Fee”).
3. In accordance with Government Code section 66001(d)(1), the City Council finds as follows:
 - (A) The Unexpended Fee will be used to provide for the Montague Expressway Widening and Milpitas Business Park projects. The specific improvements include:
 1. Alder Drive Widening
 2. Add WB left-turn lane on Tasman at Alder Dr.
 3. Widen Montague Expressway
 4. Add SB right turn lane on Montague at Main St.
 5. Add NB through lane and add WB left turn lane on Montague Expressway at McCarthy Blvd.
 - (B) There exists a reasonable relationship between the Unexpended Fee described above and the purpose for which it was charged because the improvements will mitigate the increased traffic caused by development and ensure that adverse traffic impacts can be minimized by implementing needed roadway improvements.
 - (C) The current estimated total cost of the Montague Expressway Widening Project is approximately Twenty Million Dollars (\$20,000,000), of which the City’s share is approximately Two Million Seven Hundred Thousand Dollars (\$2,700,000). The City’s funding source will include the Unexpended Fee of One Hundred Seventeen Thousand Five Hundred Twenty-Five Dollars (\$117,525), and future traffic impact fees to be collected for this project within the nexus area along Montague Expressway.

The estimated total cost of the Milpitas Business Park project is approximately Eight Million Dollars (\$8,000,000), to be fully funded by traffic impact fees. The funding source will include the Unexpended Fee of Six Hundred Sixty-Two Thousand Four Hundred Forty-Eight Dollars (\$662,448) and future traffic impact fees to be collected for this project within the nexus area of the Milpitas Business Park.

- (D) The Unexpended Fee has been deposited in the Traffic Impact Fee Fund, which is the appropriate fund to finance the Montague Expressway Widening Project and the Milpitas Business Park Project. Roadway improvements will be implemented when adverse traffic condition is triggered by developments and when sufficient funds are collected for roadway improvement implementation to mitigate the adverse traffic condition.
4. In accordance with Government Code Section 66006(b), the City Council has reviewed and accepted the annual disclosure information made available to the public regarding City mitigation fees which was presented to the City Council in the staff report attached to this Resolution as **Exhibits 1-4**, and also placed on file with the City Clerk.

PASSED AND ADOPTED this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

City of Milpitas

Annual Report of Development Fees and Expenditures for the
Fiscal Year ended June 30, 2015

Exhibit 1 - Traffic Impact Fee

In order to implement the goals and objectives of the City of Milpitas' General Plan and to mitigate the impacts caused by new development in the City of Milpitas, certain public facilities must be or had to be constructed. The City Council has determined that development impact fees are needed in order to finance these public improvements and to pay for the development's fair share of the construction costs of these improvements. In establishing the development impact fee described below, the City Council finds the fee to be consistent with its General Plan and, pursuant to Government Code Section 65913.2 (Municipal Code, VIII-4-1.01). The amount of the fee as of June 30, 2015, was as follows:

Area Covered	Type of Dwelling	Amount
Mid-Town		\$128 per PM peak trip
S. Main Street		\$317 per average daily trip
Citywide except TASP to widen Montague Expressway		\$1,024 per PM peak trip
Citywide except TASP to widen Calaveras Boulevard	Residential 5 or more units	\$266 per dwelling unit
	Retail Development of 1,000 or more square feet	\$803 per thousand square feet
	Office Development of 1,000 or more square feet	\$685 per thousand square feet
	Other Uses	A focused nexus study will be required

Traffic Impact Fee Fund
Statement of Revenues, Expenditures, and Changes in Fund Balances for
Fiscal Year 2014-2015

Revenues:

Traffic Fees	\$ 26,688
Interest	<u>19,861</u>
 Total Revenues	 <u>46,549</u>

Expenditures:

1. 2014 Road Rehabilitation	115,920
2. Street Resurfacing	<u>50,000</u>
 Total Expenditures	 <u>165,920</u>

Excess (deficiency) of revenues over
(under) expenditures (119,371)

Fund Balance, beginning of year as restated 1,561,162*

Fund Balance, end of year \$1,441,791

Note: Beginning fund balance has been restated and decreased in the amount of \$250,000 to reflect Community Planning fees incorrectly recorded in Traffic Impact Fee Fund in prior years.

Item Number	Project Description	% of the project funded with development fees
1	Pavement rehabilitation overlay of local streets at various locations on Abel Street, Dixon Road, and Arizona Avenue. The project also includes the installation of curb ramps and repairing sidewalks to increase accessibility in the neighborhood.	6%
2	This project provides for a variety of pavement resurfacing treatments, from slurry seal to major rehabilitation and reconstruction. Streets are selected for improvements based on the City's Pavement Management System to optimize the pavement condition based on the available budget. There are currently over 123 centerline miles of streets that are owned and maintained by the City of Milpitas. This project will also include citywide replacement of existing curb, gutter and sidewalk, installation of ADA ramps and implementation of Class II bike lanes and Class III bike route facilities as described in the updated 2009 City of Milpitas Bikeway Master Plan.	2%

Exhibit 2- Transit Area Specific Plan (TASP) Impact Fee

The purpose of the Transit Area Specific Plan Impact fee is to fund the planning and development of an approximately 437-acre area in the southern portion of the City near the Great Mall shopping center.

Type of Dwelling	Amount
Residential	\$32,781 per unit
Retail	\$22.80 per square foot
Office	\$36.60 per square foot

Transit Area Specific Plan (TASP) Impact Fee Fund
Statement of Revenues, Expenditures, and Changes in Fund Balances for
Fiscal Year 2014-2015

Revenues:

TASP Impact Fees	\$ 9,353,919
Interest	<u>43,983</u>
Total Revenues	<u>9,397,902</u>

Expenditures:

1. McCandless Park	4,906,937
2. Lower Penitencia Creek Pedestrian Bridge	150,000
3. Sewer Infrastructure	2,798,547
4. Parks and Community Facilities	1,351,704
5. Interest on Interfund Loans	<u>60,814</u>
Total Expenditures	<u>9,268,002</u>

Excess (deficiency) of revenues over (under) expenditures	129,900
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Fund Balance, beginning of year	<u>(5,491,980)*</u>
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Fund Balance, end of year	<u>(\$5,362,080)</u>
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Note: Beginning fund balance was restated and increased in the amount of \$3,600,000 to reflect VTA Projects accrued as expenditure in prior year but was not expensed; and decreased in the amount of \$19,152 to reflect interest overstated in prior years.

Item Number	Project Description	% of the project funded with development fees
1	Park in-lieu fees received and paid to Mission West Properties for the purchase of 10.89 acres of land for \$21.78 million per Purchase and Sale Agreement dated February 15, 2011. In addition, \$300,000 was used for CIP 5102 to coordinate the layout and schematic design of the new public park adjacent to a new MUSD elementary school located on McCandless drive in the Transit Area.	100%
2	Lower Penitencia Creek Pedestrian Bridge project provides for the design and construction of a new pedestrian bridge over Lower Penitencia Creek adjacent to McCandless Drive. The new bridge will connect two new levee trails to be constructed by the Harmony and Taylor Morrison development projects.	77%
3	The Sewer Infrastructure project constructs sewer pipeline upgrade projects 11A-D as described in the 2009 Sewer Master Plan: Project 11A- South Main, North of Great Mall Parkway; Project 11B- Great Mall Parkway between South Main and Montague Expressway; Project 11C- Montague Expressway; and Project 11D- South Main Street, South of Great Mall Parkway.	50%
4	Developer of real property located at 569-625 Trade Zone Blvd, known as Traverse Residential, has made an irrevocable offer of dedication to the City for 0.73 acres of park land located within the project site per Fee Credit Agreement dated October 21, 2014. The park land will serve more than the developer's properties within the TASP area. Whereas the park would otherwise be financed by the TASP Fee, developer is to receive a fee credit of \$1,876,200 for the dedication of parkland and \$447,000 for the park construction.	100%
5	Interest on interfund loans advanced from Sewer and TOT funds.	100%

Exhibit 3 – Storm Drain Fee

The purpose of the storm drain fee is to fund facilities necessary to provide storm drain services, and revenues derived from the fee imposed by the City shall be used solely for that purpose. Prior to connection or discharge to any storm drain facility from a new development project, developers shall pay City a fee for connection/discharge to the City’s storm drain system (Municipal Code XI-16). The developers may also be assessed with mitigation fee due to the impact to the storm drain system. The amount of the fee as of June 30, 2015 was as follows:

Type of Dwelling	Parcel Size	Per Parcel Fee
Connection Fees		
Single-family medium density	Equal or smaller than 8,710 square feet	\$1,100
Single-family low density	Between 8,711 and 43,560 square feet	\$1,916
Single-family	Between 1 acre and 4 acres	\$3,594
Single-family	Between 4 acre and 9 acres	\$4,792
Single-family	Greater than 9 acres	\$6,469
Multiple-family		\$16,771 per acre
Commercial, industrial, institutional, or mixed use sites		\$21,562 per acre
Schools with athletic fields		\$7,187 per acre
Parks		\$4,792 per park
Offsite Storm Mitigation Fee		Various depends on the agreed-upon impact assessment

Storm Drain Development Fund
Statement of Revenues, Expenditures, and Changes in Fund Balances for
Fiscal Year 2014-2015

Revenues:

Connection Fees	\$ 266,228
Interest	<u>14,335</u>
Total Revenues	<u>280,563</u>

Expenditures:

CIP 3706- Minor Storm Drain Project	75,000
CIP 3709- Dempsey Road Storm Drain Project	400,000
CIP 3710- Penitencia Pump Station	<u>50,000</u>
Total Expenditures	<u>525,000</u>

Excess (deficiency) of revenues over (under) expenditures (244,437)

Fund Balance, beginning of year 1,173,251

Fund Balance, end of year \$ 928,814

CIP Number	Project Description	% of the project funded with development fees
3706	The Minor Storm Drain Project involves the ongoing analysis and implementation of various minor modifications and improvements to the existing storm drain system. The scope also includes storm drain studies.	90%
3709	The Dempsey Road Storm Drain Project includes replacement of three segments of storm drainage piping around the Dempsey Road area and installation of two outfall into Los Coches at Dempsey.	40%
3710	The Penitencia Pump Station Project provides a complete reconstruction of the pump station and wet well. Work scope includes replacement of three diesel engines and pump assemblies, electric jockey pump, station controls and electrical system upgrades. The station is located at Hall Park and provides drainage for approximately 215 acres of residential area (Manor neighborhood).	8%

Exhibit 4 – Park Development Fee

The purpose of the park development fee is to fund design and construction of park and park improvements required to mitigate the impact of new development. The amount of the fee as of June 30, 2015 was as follows:

Area Covered	Amount*
Mid-Town/TASP	\$64/sq ft
Citywide except TASP and Mid-Town	\$53/sq ft

*Amount based on density and unit type.

Park Development Fee Fund
Statement of Revenues, Expenditures, and Changes in Fund Balances for
Fiscal Year 2014-2015

Revenues:

Park Development Fees	\$ 0
Interest	32,000
Transfer in from closed CIP 5092	<u>349,812</u>
Total Revenues	<u>381,812</u>

Expenditures:

CIP 5097 – Higuera Adobe Park	1,000,000
CIP 3408 – MSC Facility Improvements	<u>300,000</u>
Total Expenditures	<u>1,300,000</u>

Excess (deficiency) of revenues over (under) expenditures	(918,188)
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Fund Balance, beginning of year	<u>4,095,052</u>
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Fund Balance, end of year	<u>\$ 3,176,864</u>
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CIP Number	Project Description	% of the project funded with development fees
5097	This project provides for the design and construction of renovation improvements of various park elements at the Higuera Adobe Park. This includes the large picnic area behind the adobe building, playground including shade structures, and surrounding area. The project will evaluate the maintenance to the caretaker's building, ADA compliance assessment and improvements, drainage, landscaping, walkways and related improvements.	50%
3408	This project provides for various improvements to the Milpitas Sports Center facility. The work includes resurfacing the plaster at the three swimming pools and replacement of tile work, lane lines, and other pool elements. The project will reconstruct the men's and Women's showers/ restroom area, replace the locker room flooring and other code related upgrades to the facility.	16%