RESOLUTION NO. 20-8911

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA ADOPTING THE FINDINGS OF THE TASMAN EAST SPECIFIC PLAN INFRASTRUCTURE IMPACT FEE NEXUS STUDY AND SETTING THE IMPACT FEES FOR FISCAL YEAR 2020-2021

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on November 13, 2018 the City Council adopted the Tasman East Specific Plan (the "Project"), a specific plan for a transit-oriented pedestrian friendly neighborhood of up to 4,500 residential units with supportive retail uses, located on approximately 45 acres of land proximate to the Lick Mill Light Rail Station that are currently developed with industrial uses;

WHEREAS, on November 13, 2018 the City Council adopted and certified the Environmental Impact Report ("EIR") for the Project (SCH #2016122027), as well as a set of CEQA Findings and a Statement of Overriding Considerations, in accordance with the requirements of CEQA;

WHEREAS, amendments to the adopted Tasman East Specific Plan (Amendment #1) are now under consideration to replace a proposed street extension for Calle Del Sol with a pedestrian and bicycle paseo;

WHEREAS, in order to ensure that all potential environmental impacts of the Project (including Amendment #1) were thoroughly analyzed, the City caused an addendum to the EIR to be prepared pursuant to CEQA Guidelines 15164;

WHEREAS, the Project, EIR, Project amendments, and environmental addendums specified that certain public improvements are necessary to support the Project and include sanitary sewer facility upgrades, storm sewer facility upgrades, potable water facility upgrades, non-potable water facility expansion, public street improvements and expansions, traffic signal installations, traffic safety device installations, traffic signal mitigations and fair-share traffic payments;

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WHEREAS, in 2019, the City contracted with Economic & Planning Systems, Inc. (EPS Consultants), to prepare a nexus study to justify the creation of an infrastructure impact fee ("Infrastructure Impact Fee") to apply to new residential development within the Tasman East Specific Plan area;

WHEREAS, the intent of the of the Infrastructure Impact Fee is to create an equitable distribution of area-wide and common infrastructure costs for all new residential development within the Tasman East Specific Plan area;

WHEREAS, the Department of Public Works has prepared a report entitled "TASMAN EAST SPECIFIC PLAN INFRASTRUCTURE IMPACT FEE NEXUS STUDY" (the "Study"), which provides the purpose, nexus, improvements, cost estimates, and justification for the creation of an Infrastructure Impact Fee, and is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by this reference;

WHEREAS, the Study proposes that the fee applies to new residential uses within the Tasman East Specific Plan area;

WHEREAS, the Study recommends fee levels be adjusted annually in order to keep up with construction costs and inflation;

WHEREAS, the Study provides an evaluation of the need for an infrastructure impact fee and establishes the nexus between the imposition of such impact fee and the estimated reasonable cost of providing the improvements for which the fees are charged;

WHEREAS, The Mitigation Fee Act, California Government Code section 66001 et seq., requires that, in any action establishing a fee as a condition of approval of a development project, a local agency shall make the following findings:

1) Under Government Code Section 66001(a)(1), identify the purpose of the fee.
2) Under Government Code Section 66001(a)(2), identify the use to which the fee is to be put.

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3) Under Government Code Section 66001(a)(3), determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

4) Under Government Code Section 66001(a)(4), determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

5) Under Government Code Section 66001(b), Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed;

WHEREAS, the City wishes to adopt this proposed Infrastructure Impact Fee in accordance with the calculations and recommendations contained in the Study;

WHEREAS, pursuant to Sections 6062a and 66018 of the California Government Code, notice of a public hearing to be held on November 17, 2020 was published in the *Santa Clara Weekly*, a newspaper of general circulation in the City, on November 4, 2020 and November 11, 2020;

WHEREAS, on September 15, 2020, a notice of the public hearing to be held on November 17, 2020 was emailed to persons who requested notice of new and increased fees in accordance with Government Code Section 66019;

WHEREAS, on November 17, 2020, the City Council held a full public hearing with respect to the Study and the proposed Infrastructure Impact Fee;

WHEREAS, the Study was made available for public inspection at least ten days before the public hearing by placing the data on file with the City Clerk's Office on September 15, 2020 in accordance with Government Code 66016;

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WHEREAS, on November 17, 2020 the City Council introduced an ordinance to add Section 17.15.350 "TASMAN EAST SPECIFIC PLAN INFRASTRUCTURE IMPACT FEE" to Chapter 15 "Property Development of Title 17 "Development" establishing an infrastructure impact fee for the Tasman East Specific Plan Area;

WHEREAS, the City Council adopts a Master Fee Schedule as part of its budget, fixing and establishing fees, rates, and charges for good and services provided by the City; and,

WHEREAS, pursuant to the Mitigation Fee Act (California Government Code Section 66000 et seq.) of the California Government Code the City Council now desires to approve the Study and proposed Infrastructure Impact Fee.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That in accordance with the Mitigation Fee Act and the Report, and based on the facts and substantial evidence in the record, the Infrastructure Impact Fee is hereby adopted by the City Council based on the following findings:

A. Development projects in the Tasman East Specific Plan area will create the need for improvements to support increased residential uses at in the Specific Plan area.

B. The Tasman East Specific Plan provides the analysis and justification for the need for the required improvements with new residential development within the Tasman East Specific Plan

C. The Study estimates the cost of each infrastructure improvement necessary to support the anticipated new residential development in the Tasman East Specific Plan Area and substantiates an Infrastructure Impact Fee rate that will charge each new development project only for the portion of the costs of the improvements necessary to support that development project.

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D. There is a reasonable relationship between the need for the identified improvements and the development projects on which the Infrastructure Impact Fee will be imposed.

E. The Infrastructure Impact Fee does not exceed the estimated reasonable cost of providing the facilities for which the Infrastructure Impact Fee is imposed. The Infrastructure Impact Fee is not levied, collected or imposed for general government purposes.

F. As the purpose of this Resolution is to begin collection of an impact fee to fund improvements identified within and necessary to support development within the Tasman East Specific Plan of which an EIR was adopted by the City Council, the setting and imposition of the Infrastructure Fee is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 21080(b)(8)(D) of the California Public Resources Code.

2. That the Fee is hereby imposed upon every person or entity having equitable or legal title, or other interest as owner, lessee, or otherwise who causes the development of new Multifamily Residential Use Buildings within the Tasman East Specific Plan Area on or after November 13, 2018 at the following rate:

Multi-Family Residential	$6,731 per dwelling unit

3. That unless otherwise modified by the City Council, the Infrastructure Impact Fee shall automatically adjust for inflation annually at the start of each fiscal year, based on the latest Engineering News Record Construction Cost Index. If this index ceases to exist, the Director of Public Works shall substitute another construction cost index, which in his or her judgment is as nearly equivalent to the original index as possible.

4. That the Study is hereby approved, confirmed and adopted.

5. Effective date. This resolution shall become effective 60 days following the date of its passage and adoption.

6. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 17TH DAY OF NOVEMBER, 2020, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Chahal, Davis, Hardy, O'Neill, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
1. Tasman East Specific Plan Area Infrastructure Impact Fee Nexus Study

Final Report

Tasman East Specific Plan Area Infrastructure Impact Fee Nexus Study

The Economics of Land Use

Prepared for:

City of Santa Clara

Prepared by:

Economic & Planning Systems, Inc. (EPS)

September 2020

EPS #181136

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1. Introduction and Fee Overview

Introduction

This Nexus Report provides the analysis and necessary technical documentation to support the adoption of a development impact fee program for the Tasman East Specific Plan (TESP) area (Plan Area) in the City of Santa Clara (City). Development impact fees are one-time charges on new development collected and used by the City to cover the cost of capital facilities and improvements required to serve real estate development. Fees are typically collected upon issuance of a building permit, though in some cases upon certificate of occupancy or final inspection.

This Nexus Report has been prepared by Economic & Planning Systems, Inc. (EPS), with direction and input from City staff. It provides a legal basis for requiring payment of a TESP areawide infrastructure development impact fee consistent with Mitigation Fee Act (AB 1600/ Government Code Section 66000 et seq.). The TESP Area Infrastructure Impact Fee Program must be approved by the City Council and will be effective 60 days following the City's final action on the ordinance authorizing collection of the fee.

The TESP, adopted by the Santa Clara City Council in November, 2018, provides the land use and regulatory framework for the development of a high-density transit-oriented neighborhood. This TESP Area Infrastructure Impact Fee is based the proposed TESP land use program as well as current estimates of the infrastructure and improvement costs needed to serve the area. The following documents produced by or for the City have been used to inform this analysis:

- Tasman East Focus Area Specific Plan Document.
- Tasman East Infrastructure Costs and Proposed Infrastructure Fee Spreadsheet.
- Infrastructure cost estimates prepared by the City, BKF, and Woodard & Curran.

Legal Context

This Nexus Study is designed to provide the necessary technical analysis to support a TESP Area Infrastructure Impact Fee to be established by a City Ordinance and Resolution. The Mitigation Fee Act allows the City to adopt, by resolution, the TESP Area Infrastructure Impact Fee consistent with the supporting technical analysis and findings provided in this Report. The Resolution approach to setting the fee allows periodic adjustments of the fee amount that may be necessary over time, without amending the enabling ordinance.

Impact fee revenue are used to cover the cost of constructing capital and infrastructure improvements required to serve new development and growth in the City. As such, impact fees must be based on a reasonable nexus, or connection, between new development and the need for a specific capital facilities and improvements. Impact fee revenue cannot be used to cover the operation and maintenance costs of these or any other facilities and infrastructure. In addition, impact fee revenue cannot be collected or used to cover the cost of pre-existing infrastructure needs or deficiencies.

In establishing, increasing, or imposing a fee as a condition for the approval of a development project, Government Code 66001(a) and (b) state that the local agency must:

1. Identify the purpose of the fee;
2. Identify how the fee is to be used;
3. Determine how a reasonable relationship exists between the fee use and type of development project for which the fee is being used;
4. Determine how the need for the public facility relates to the type of development project for which the fee is imposed; and
5. Show the relationship between the amount of the fee and the cost of the public facility.

These statutory requirements have been followed in establishing this TESP Area Infrastructure Impact Fee, as documented in subsequent chapters. **Chapter 3** summarizes the specific findings that explain or demonstrate this nexus.

If the TESP Area Infrastructure Impact Fee is adopted, this Nexus Report and the technical information it contains should be maintained and reviewed periodically by the City to ensure Impact Fee accuracy and to enable the adequate programming of funding sources. To the extent that infrastructure requirements, costs, and development potential changes over time, the Fee Program will need to be updated. Further information on the implementation and administration of the TESP Area Fee program is provided in **Chapter 4**.

TESP Area Infrastructure Impact Fee

Table 1 shows the TESP Area Infrastructure Impact Fee supported by the nexus findings and analysis contained in this Technical Report. As currently calculated, the fee would be applied to all new multi-family residential development projects within the TESP area (the Plan does not currently allow for single-family development). The TESP Area Infrastructure Impact Fee Program will be independent and separate from all other City, Santa Clara County (County), other agency, or regional development impact fees that may also be applicable to TESP development.

Table 1 Proposed TESP Area Infrastructure Impact Fee ($ 2020)

Use	Measure	Fee[1]
Multi-family Residential[2]	per Unit	**$6,731**

[1] Fee is set to cover full costs of required TESP infrastructure facilities. Includes a 2 percent administrative fee to cover City costs of reporting, managing, and updating fee program.

[2] Single family residential use is not permitted in the TESP area.

Source: BKF; City of Santa Clara; Woodard & Curran; Economic & Planning Systems, Inc.

The calculated TESP fee amount of $6,731 per multi-family residential units includes a program administration fee equal to 2 percent of the program costs, consistent with other Mitigation Fee Act program administrative costs in many other California jurisdictions.[1] It also covers 100 percent of the infrastructure costs needed to serve build-out of the TESP. In particular, the TESP Area Fee covers the following infrastructure items:

- On-Site Roadway Facilities (i.e., traffic signals, traffic safety devices, pavement).
- Sanitary Sewer Facilities and associated structures.
- Potable Water Facilities.
- Non-potable Water Facilities (i.e., Recycled Water).
- Storm Drainage Facilities.

[1] The 2 percent administration cost is designed to cover expenses for preparing subsequent updates impact fee technical report as well as the required reporting, auditing, collection and other annual administrative costs involved in overseeing the program. Development impact fee programs throughout California have applied similar administrative charges. The cost of preparing this Report has been included as a separate line item.

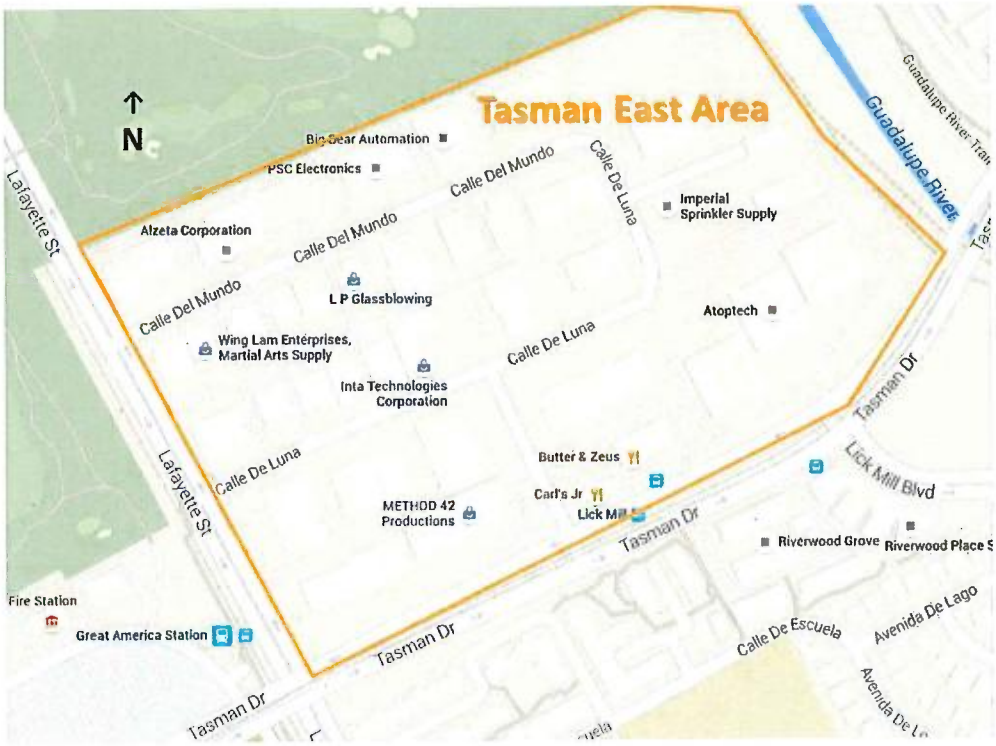
2. TESP Land Use and Infrastructure Assumptions

This chapter documents the land use growth projections and required infrastructure improvement costs associated with the TESP. These assumptions underlie the TESP Area Infrastructure Impact Fee calculations.

Existing and Planned Development

The TESP covers an approximately 46.1 acre area in the City of Santa Clara bounded by Tasman Drive to the south, the Guadalupe River to the East, the Santa Clara golf course to the north, and Lafayette Street to the west (see **Figure 1**). The Plan Area is currently zoned as "Manufacturing Light" (or ML) which allows for manufacturing, processing, repair, and storage uses. Consistent with this zoning, existing uses include a data center, several office and warehouse buildings and rear-yard storage areas.

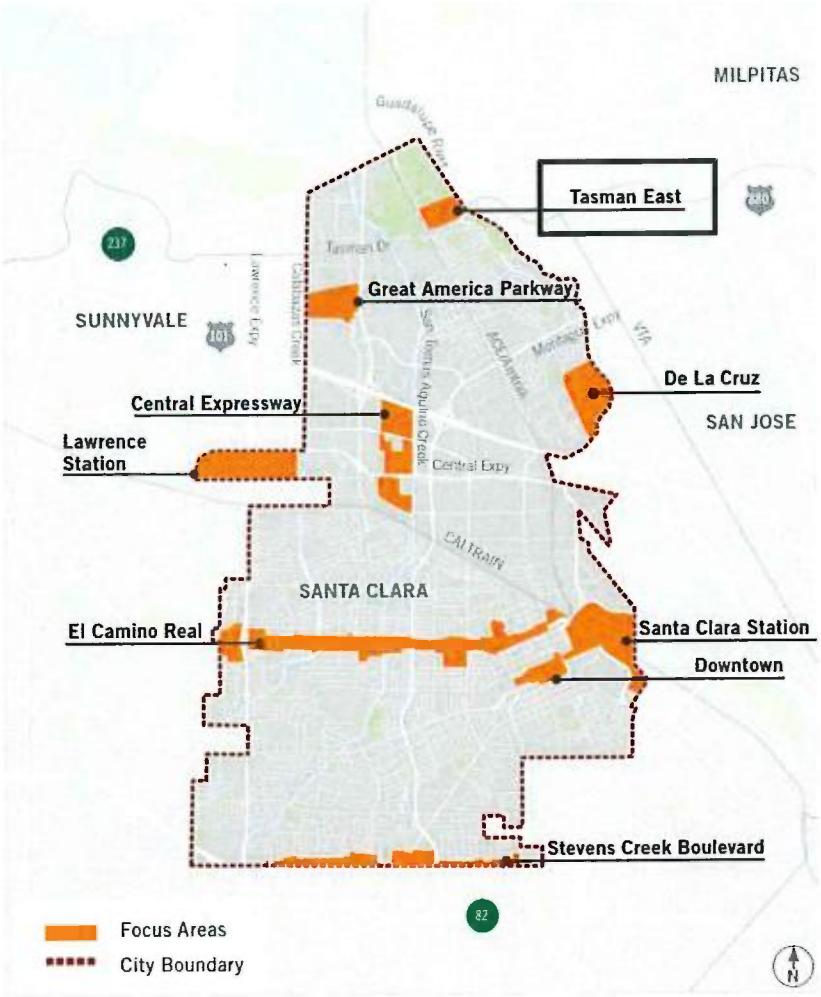
Figure 1 TESP Area Boundaries



Source: City of Santa Clara

Adopted in November, 2018, the TESP is designated by the City's 2010-2035 General Plan as one of nine Focus Areas in the City with potential to contribute to the City's Regional Housing Needs Allocation (RHNA) goals (see **Figure 2**). The TESP area provides an opportunity to develop higher density residential homes near transit while balancing existing commercial uses along the Tasman corridor.

Figure 2 City of Santa Clara Focus Areas



Source: City of Santa Clara

Implementation of the TESP involves updating the zoning from ML to transit residential, which would allow for a high-density residential neighborhood to take shape. In particular the TESP targets up to 4,500 residential units as well as up to 106,000 square feet of supporting, neighborhood-serving commercial services. As the commercial development is expected to be ancillary to and supportive of TESP housing (e.g., clustered ground-floor retail), the TESP Area Infrastructure Impact Fee is limited to residential development. However, retail development will be subject to other applicable City-wide fees, including the existing City-wide traffic impact fee.

Given that the Plan Area consists of multiple property owners and existing uses, the timing of future development, and thus generation of fee revenue, will depend on economic and a variety of other factors. Existing property owners may wish to continue to operate under the current light industrial zoning for the foreseeable future while others may seek to pursue residential development in the short-term. For the initial set of property owners who are interested in residential development, funding for any required up-front infrastructure may need to come from sources other the Plan Area Impact Fee. Consequently, infrastructure phasing will likely require a process for developer credits and reimbursements, as described further in in **Chapter 5**.

Plan Area Capital Improvements and Costs

Development impact fees are derived from a list of specific capital improvement projects and associated costs that are needed in part or in full to accommodate new growth. Consequently, the capital improvements included in the fee program need to be described in sufficient detail to generate cost estimates.

The capital improvements included in the TESP Area Infrastructure Impact fee are based on information provided by City staff, working in consultation with civil engineers (BKF, and Woodard & Curran) and input from local property owners/developers. None of the capital projects included in the TESP Area Infrastructure Impact Fee addresses existing deficiencies (e.g., these improvements are not required by existing land uses in the area). The specific infrastructure and improvement categories include:

- On-Site Roadway
- Sanitary Sewer
- Potable Water
- Non-potable Water
- Storm Drainage

These infrastructure improvements represent improvements that resolve an areawide impact and are included to equitably distribute the cost amongst the development of all 4,500 residential units (i.e., no single development site in the TESP is responsible for the Sanitary Sewer pump station facility upgrades).

Table 2 summarizes the estimated cost of TESP Area Infrastructure Impact Fee Program capital improvements. As shown, the estimated infrastructure hard and soft costs amount to a total of $30.3 million (additional cost detail is provided in **Appendix Table A-1**). A 2 percent administrative charge is included to account for program administration.

Table 2 TESP Area Capital Improvements and Cost Estimates ($ 2020)

Item	Description	Category	Total Costs[1] [2]
1	Sanitary Sewer Studies (Siting and Retrofit)	Sanitary Sewer	$132,000
2a	Sanitary Sewer Pump Station (Primavera) Improvements	Sanitary Sewer	$2,320,000
2b	Pump Station Building/Architectural Treatments	Sanitary Sewer	$3,190,000
3	Water Line Replacement (Calle De Sol, Calle De Luna, Calle De Mundo)	Potable Water	$4,205,000
4	New Recycled Water Line	Non-potable Water	$3,335,000
5	Storm Drain Mitigation	Drainage	$36,685
6	33-inch Storm Drain Relocation	Drainage	$726,450
7	Calle de Sol Pedestrian/Bicycle Paseo[3]	Roadway	$8,810,168
8	Sidewalk Installation from Tasman to Lafayette (Related Property)	Roadway	$250,850
9	Pavement Repair - Calle de Luna (Lick Mill Portion)	Roadway	$536,500
10	Pavement Repair - Calle de Mundo, Calle de Luna, Calle de Sol	Roadway	$1,145,500
11	Pavement Repair - Calle de Luna w/o Calle de Sol	Roadway	$1,073,000
12	Traffic Mitigation (Signalize Lafayette & Calle De Mundo)	Roadway	$1,305,000
13	Traffic Mitigation (Signalize Lick Mill & Calle de Luna)	Roadway	$1,305,000
14	Traffic Mitigation (Modify southbound approach to 1 right turn and 1 through right at Great America Parkway & WB SR 237 Ramps)	Roadway	$101,500
15	Traffic Mitigation (Convert WB approach to 1 left and 1 right turn at Lafayette and Calle de Luna)	Roadway	$58,000
16	New HAWK Signal on Lick Mill for midblock crossing between Calle de Luna and Calle de Mundo)	Roadway	$652,500
17	New Rectangular Rapid Flashing Beacon at Calle de Mundo and Calle de Sol	Roadway	$159,500
18	Traffic Fair Share Payments	Roadway	$333,321
19	TESP Plan Area Fee Program Nexus Report	Administrative	$20,000
	Subtotal		$29,695,974
	2% Administrative Cost[4]		$593,920
	Total Common Infrastructure Cost[5]		**$30,289,894**

[1] Includes a 15 percent contingency cost when applicable.

[2] Delivery costs are calculated as a percentage of construction costs. 20 percent is for Design, 10 percent for Administration and Permitting, 5 percent to Construction Management, and 10 percent to Inspection.

[3] Calle de Sol Pedestrian/Bicycle Paseo total costs include construction, delivery, and land acquisition costs. Land acquisition assumes the purchase of a 23,157 sq.ft. parcel at a cost of $169 per sq.ft. along with a 1 percent administrative cost associated with the purchase. Estimate as of August 2020.

[4] The 2 percent administration cost is designed to cover expenses for subsequent updates to the development impact fee technical report and as well as the required reporting, auditing, collection and other annual administrative costs involved in overseeing the program. Development impact fee programs throughout California have applied similar administrative charges.

[5] See Appendix Table A-1 for details.

Source: BKF; City of Santa Clara; Woodard & Curran; Economic & Planning Systems, Inc.

3. PLAN AREA FEE CALCULATION AND NEXUS FINDINGS

This chapter documents the Plan Area Fee calculation and methodology as well as required nexus findings. Specifically, it demonstrates "nexus" between new development in the TESP and the infrastructure improvements needed to serve it, as required under Government Code Section 66000 (also referred to as AB1600/the Mitigation Fee Act).

Nexus Findings

The development impact fee to be collected for residential land use is calculated based on the proportionate share of the total facility use that residential land use represents. With this approach, the following finding is made regarding the Fee Program.

Purpose of Fee

The purpose of the Fee Program is to provide a funding mechanism to help the City provide adequate infrastructure necessary to support development in the TESP.

Use of Fees

The fee charged to new development will be used to fund needed additions and improvements to infrastructure to accommodate new residential development. Infrastructure additions and improvements include water line replacements, storm drain relocations, and road widening and construction. The list of eligible capital projects and costs are summarized in Chapter 2 and further detailed in the **Appendix A**.

Relationship between Use of Fees and Type of Development

Development of new residential units in the TESP will require additional infrastructure capacity. This infrastructure in not currently required by existing land uses in the area.

Relationship between Need for Facility and Type of Project

The specific infrastructure improvements identified in this study are designed to accommodate residential development. In addition, the infrastructure is based on the land use and urban design goals and standards embodied in the TESP.

Relationship between Amount of Fees and Cost of or Portion of Facility Attributed to Development on which Fee is Imposed

The fee levels calculated in this Nexus Report are based on a fair share cost allocation to new TESP development. In particular, 100 percent of the costs are allocated to the planned residential development because (1) the identified infrastructure is not required by existing land uses in the area, and (2) all new commercial development is assumed to be ancillary or supporting the residential development (e.g., ground floor retail). New commercial development will, however, be responsible for paying all applicable citywide fees.

Plan Area Fee Calculation

The following steps describe the methodology for calculating the Plan Area Fee level:

1. Determine the total amount of land uses that will benefit from the infrastructure improvements. In this case, the Fee Program applies to the 4,500 residential units permitted under the Tasman East Specific Plan (discussed in **Chapter 2**).
2. Determine the infrastructure needed to serve new development (identified by the City and shown on **Table 2**).
3. Determine the cost of infrastructure to be funded by the Fee Program (also estimated in **Table 2**).
4. Divide the allocated cost by the number of units to determine the justifiable fee per unit for residential development (shown on **Table 3** below).

Table 3 Plan Area Fee Calculation ($ 2020)

Fee Calculation		Amount
Total Common Infrastructure Cost[1]	*a*	$30,289,894
Number of Multi-family Residential Units[2]	*b*	4,500
Fee per Multi-family Residential Unit[3]	*c = a / b*	**$6,731**

[1] See Table 2 for TESP capital improvements and cost estimates.

[2] Per the Tasman East Specific Plan (adopted by City Council on November 13, 2018).

[3] Fee is set to cover full costs of required TESP infrastructure facilities. Includes a 2 percent administrative fee to cover City costs of reporting, managing, and updating fee program.

Source: BKF; City of Santa Clara; Woodard & Curran; Economic & Planning Systems, Inc.

4. TESP Area Fee Implementation and Administration

The proposed TESP Fee Program is anticipated to be adopted by the City through an ordinance establishing and authorizing collection of the fee. The City also will adopt a resolution to establish the fee amount. This chapter describes the additional implementation and administrative issues and procedures to be addressed in the Fee Program.

Credits and Reimbursement

As is typical with development impact fee programs, some of the required infrastructure and facilities may be needed up front, before adequate revenue from the fee collection would be available to fund such improvements. Consequently, private funding may be necessary to pay for infrastructure facilities when needed. This private funding may be in the form of land-secured bonds, developer equity, or another form of private funding. There shall be no adjustment to the Fee Program based on the method by which a constructing party funds or constructs eligible project costs.

Fee Credits

Impact fee ordinances frequently allow for fee credits if a developer provides a particular facility or improvement that replaces facilities that would have otherwise been funded in whole or in part by the TESP Area Infrastructure Impact Fee. For example, the City may elect to offer a fee credit to developers who provide transportation related improvements, consistent with those specified in the current Area Fee program. The fee credit is usually equal to the most current cost estimate of the infrastructure item (as defined by annual cost review or other recent evaluation of cost) regardless of the actual cost to construct. The City's Ordinance should allow for fee credits under specific terms.

Fee Reimbursements

Fee reimbursements are typically considered for developers who contribute more funding and/or build and dedicate infrastructure items that exceed their proportional obligation, especially if the project funded is a priority project. Such reimbursements should be provided as fee revenue becomes available and should include a reasonable factor for interest earned on the reimbursable amount. It should not compromise the implementation of other priority capital projects. A provision for including such interest payments as additional costs in subsequent fees can also be included in the Ordinance.

As will be more specifically detailed in an Infrastructure Fee Program Reimbursement Agreement (Fee Reimbursement Agreement), a form of which shall be approved by the City Council, reimbursements will be provided under the following conditions:

- A Constructing Owner shall have executed a Fee Reimbursement Agreement with the City.
- Constructing Owner-installed improvements or dedicated public facility land in excess of a Constructing Owner's obligations, which shall be illustrated and identified in a Fee

Reimbursement Agreement, would be eligible for reimbursement. Only funds collected from the Fee Program shall be used to reimburse a developer who installed eligible infrastructure improvements identified in this report. Reimbursements are an obligation of the Fee Program and not an obligation of the City General Fund or other operating funds.

The total amount of reimbursement for completed infrastructure will be based on actual costs incurred for eligible hard costs based on a properly bid construction contract. Soft costs will be calculated as a fixed percentage (e.g., 20 percent) of hard costs. Descriptions of hard costs and soft costs will be more specifically detailed in the Fee Reimbursement Agreement. All hard costs will be subject to verification by the City and actual costs expended will go through a true-up process upon completion of the infrastructure component. The true-up process, which will be more specifically detailed in the Fee Reimbursement Agreement.

Periodic Program Updates and Fee Adjustments

This fee program is based on the estimated TESP development program as well as the associated capital facility needs as of 2020. It is recognized that these individual projects and associated costs my change over time due to economic, technological, or other factors. The amount of residential development may also deviate from the projections included in the TESP. These factors may affect the appropriate fee level needed to cover necessary infrastructure. Accordingly, the Nexus Study should be updated periodically to account for these potential changes. Ideally this would occur every five (5) years, however, more frequent updates may be necessary to account for major changes.

The Development Impact Fee Ordinance should also allow for an automatic annual adjustment to account for inflation. This adjustment will be based on data from the Engineering News Record Construction Cost Index.

Annual Reporting and Fund Management

State Law (at Govt. Code. §§ 66001(c), 66006(b)(1)) stipulates that each local agency that requires payment of a fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

- A description of the type of fee in the account
- The amount of the fee
- The beginning and ending balance of the fund
- The amount of fees collected and interest earned
- Identification of the improvements constructed
- The total cost of the improvements constructed
- The fees expended to construct the improvement
- The percentage of total costs funded by the fee

If sufficient fees have been collected to fund specific improvements, the agency must specify the approximate date for the development of that improvement. Because of the dynamic nature of growth and capital equipment requirements, the City should monitor inventory activity, the need

for infrastructure improvements, and the adequacy of the fee revenues and other available funding. Formal annual review of the Fee Program should occur, at which time adjustments should be made. Costs associated with this monitoring and updating effort are included in the Plan Area Fee and are assumed to be 2 percent of overall Fee Program capital costs.

State Law also requires that if any portion of a fee remains unexpended or uncommitted in an account for five years or more after deposit of the fee, the City Council shall make findings once each year: (1) to identify the purpose to which the fee is to be put, (2) to demonstrate a reasonable relationship between the fee and the purpose for which it was charged, (3) to identify all sources and amounts of funding anticipated to complete financing of incomplete improvements, and (4) to designate the approximate dates on which the funding identified in (3) is expected to be deposited into the appropriate fund (§66001(d)).

If adequate funding has been collected for planned improvements, an approximate date must be specified as to when the cost of the improvement will be incurred. If the findings show no need for the unspent funds, or if the conditions discussed above are not met, and the administrative costs of the refund do not exceed the refund itself, the local agency that has collected the funds must refund them (Govt. Code §66001(e)(f)).

APPENDIX A:

TESP Capital Improvements and Cost Estimates

Table A-1 TESP Capital Improvements and Construction Cost Estimates ($ 2020)

Item	Description	Category	Construction Costs (Rounded)[1]	Delivery Costs[2]	Total Costs
1	Sanitary Sewer Studies (Siting and Retrofit)	Sanitary Sewer	$132,000	$0	$132,000
2a	Sanitary Sewer Pump Station (Primavera) Improvements	Sanitary Sewer	$1,600,000	$720,000	$2,320,000
2b	Pump Station Building/Architectural Treatments	Sanitary Sewer	$2,200,000	$990,000	$3,190,000
3	Water Line Replacement (Calle De Sol, Calle De Luna, Calle De Mundo)	Potable Water	$2,900,000	$1,305,000	$4,205,000
4	New Recycled Water Line	Non-potable Water	$2,300,000	$1,035,000	$3,335,000
5	Storm Drain Mitigation	Drainage	$25,300	$11,385	$36,685
6	33-inch Storm Drain Relocation	Drainage	$501,000	$225,450	$726,450
7	Calle de Sol Pedestrian/Bicycle Paseo[3]	Roadway	$3,350,000	$1,507,500	$8,810,168
8	Sidewalk Installation from Tasman to Lafayette (Related Property)	Roadway	$173,000	$77,850	$250,850
9	Pavement Repair - Calle de Luna (Lick Mill Portion)	Roadway	$370,000	$166,500	$536,500
10	Pavement Repair - Calle de Mundo, Calle de Luna, Calle de Sol	Roadway	$790,000	$355,500	$1,145,500
11	Pavement Repair - Calle de Luna w/o Calle de Sol	Roadway	$740,000	$333,000	$1,073,000
12	Traffic Mitigation (Signalize Lafayette & Calle De Mundo)	Roadway	$900,000	$405,000	$1,305,000

[1] Includes a 15 percent contingency cost when applicable.

[2] Delivery costs are calculated as a percentage of construction costs. 20 percent is for Design, 10 percent for Administration and Permitting, 5 percent to Construction Management, and 10 percent to Inspection.

[3] Calle de Sol Pedestrian/Bicycle Paseo total costs include construction, delivery, and land acquisition costs. Land acquisition assumes the purchase of a 23,157 sq.ft. parcel at a cost of $169 per sq.ft. along with a 1 percent administrative cost associated with the purchase. Estimate as of August 2020.

[4] The 2 percent administration cost is designed to cover expenses for subsequent updates to the development impact fee technical report and as well as the required reporting, auditing, collection and other annual administrative costs involved in overseeing the program. Development impact fee programs throughout California have applied similar administrative charges.

Source: BKF; City of Santa Clara; Woodard & Curran; Economic & Planning Systems, Inc.

Table A-1 (cont.) TESP Capital Improvements and Construction Cost Estimates ($ 2020)

Item	Description	Category	Construction Costs (Rounded)[1]	Delivery Costs[2]	Total Costs
13	Traffic Mitigation (Signalize Lick Mill & Calle de Luna)	Roadway	$900,000	$405,000	$1,305,000
14	Traffic Mitigation (Modify southbound approach to 1 right turn and 1 through right at Great America Parkway & WB SR 237 Ramps)	Roadway	$70,000	$31,500	$101,500
15	Traffic Mitigation (Convert WB approach to 1 left and 1 right turn at Lafayette and Calle de Luna)	Roadway	$40,000	$18,000	$58,000
16	New HAWK Signal on Lick Mill for midblock crossing between Calle de Luna and Calle de Mundo)	Roadway	$450,000	$202,500	$652,500
17	New Rectangular Rapid Flashing Beacon at Calle de Mundo and Calle de Sol	Roadway	$110,000	$49,500	$159,500
18	Traffic Fair Share Payments	Roadway	$333,321	$0	$333,321
19	TESP Plan Area Fee Program Nexus Report	Administrative	$20,000	$0	$20,000
	Subtotal		$17,772,621	$7,838,685	$29,695,974
	2% Administrative Cost[4]				$593,920
	Total Common Infrastructure Cost				**$30,289,894**

[1] Includes a 15 percent contingency cost when applicable.

[2] Delivery costs are calculated as a percentage of construction costs. 20 percent is for Design, 10 percent for Administration and Permitting, 5 percent to Construction Management, and 10 percent to Inspection.

[3] Calle de Sol Pedestrian/Bicycle Paseo total costs include construction, delivery, and land acquisition costs. Land acquisition assumes the purchase of a 23,157 sq.ft. parcel at a cost of $169 per sq.ft. along with a 1 percent administrative cost associated with the purchase. Estimate as of August 2020.

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Source: BKF; City of Santa Clara; Woodard & Curran; Economic & Planning Systems, Inc.