ORDINANCE NO. 2046

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING CHAPTER 17.15 "PROPERTY DEVELOPMENTS" OF TITLE 17 "DEVELOPMENT" TO ADD SECTION 17.15.360 ("PATRICK HENRY DRIVE SPECIFIC PLAN INFRASTRUCTURE IMPACT FEE") TO ESTABLISH A DEVELOPMENT IMPACT FEE FOR THE PATRICK HENRY DRIVE SPECIFIC PLAN AREA

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

WHEREAS, on March 22, 2022, the City Council adopted the Patrick Henry Drive Specific Plan (the "Project"), a specific plan for a high-density mixed-use community of up to 12,000 residential units with supportive retail uses, located on approximately 74 acres of land bounded by Mission College to the south, Great America Parkway to the east, the Hetch-Hetchy right-of-way to the north, and Calabazas Creek to the west that are currently developed with industrial uses;

WHEREAS, on March 22, 2022, the City Council adopted and certified the Environmental Impact Report ("EIR") for the Project (SCH #2019120515), as well as a set of CEQA Findings and a Statement of Overriding Considerations, in accordance with the requirements of CEQA;

WHEREAS, the Project and EIR specified that certain improvements to public facilities are necessary to support the Project and include sanitary sewer facility upgrades, potable water facility upgrades, non-potable water facility upgrades, storm water facility upgrades, public and private street improvements and expansions, traffic signal installations, traffic safety device installations, traffic signal mitigations, fair-share traffic payments, emergency response vehicle and tiller aerial ladder apparatus purchases, entry monument and signs, and formation of a transportation management association;

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WHEREAS, in 2021, the Project Consultant, MIG, 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 and office development within the Project 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 and office development within the Project area;

WHEREAS, the Department of Public Works has prepared a report entitled "Patrick Henry Drive 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 and office uses within the Project area; and,

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

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

SECTION 1: Intent and Purpose. The City Council of the City of Santa Clara does hereby find and declare:

(a) The City, pursuant to the home rule provisions of Article 11, Section 5, of the California Constitution, may make and enforce all ordinances and regulations with respect to municipal affairs.

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(b) The City, pursuant to Article 11, Section 7, of the California Constitution, may make and enforce all local ordinances not in conflict with general laws.

(c) The purpose of this section is to implement the necessary improvements required to support the completion of the proposed development within the Patrick Henry Drive Specific Plan which was adopted by the City Council on March 22, 2022.

(d) The Patrick Henry Drive Specific Plan identified that certain improvements are necessary to support completion of the Specific Plan. These improvements include sanitary sewer facility upgrades, potable water facility upgrades, non-potable water facility upgrades, storm water facility upgrades, public and private street improvements and expansions, traffic signal installations, traffic safety device installations, traffic signal mitigations, fair-share traffic payments, emergency response vehicle and tiller aerial ladder apparatus purchases, entry monument and signs, and formation of a transportation management association.

(e) In order to provide equitable distribution of costs to complete such improvements, the intent of this fee is to distribute costs to new residential and office development within the Patrick Henry Drive Specific Plan area.

SECTION 2: That a new section 17.15.360 (entitled "Patrick Henry Drive Specific Plan Infrastructure Impact Fee" is hereby added to Title 17 (entitled "Development") of "The Code of the City of Santa Clara, California" ("SCCC") to read as follows:

"Section 17.15.360 Patrick Henry Drive Specific Plan Infrastructure Impact Fee"

(a) Definitions. When used in this section, the following words and phrases will be defined as set forth below. When examples are given, they are illustrative only, and they are not intended to be an exhaustive itemization of all potentially includable items.

(1) "Building" means any structure used or intended for supporting or sheltering any use or occupancy.

(2) "Building permit" means the permit issued or required for the construction or improvement of any structure in connection with the development of land pursuant to the California Building Code.

(3) "Costs" means amounts spent or authorized to be spent in connection with the planning, financing, acquisition and completion of the improvements identified in the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study including, without limitation, the costs of land, construction, engineering, administration, financing costs, legal and financial consulting fees, and incidental expenses.

(4) "Multifamily Residential Use" means a building or portion thereof used and designed as a residence for two or more families living independently of each other, including apartment houses, apartment hotels, and flats, but not including automobile courts, motels, hotels, or boarding houses. Each unit in the structure is separated from other units by one or more common, fire-resistant walls.

(5) "Office/R&D use," in general, means any structure or portion thereof intended for occupancy by a business entity which will primarily provide clerical, professional or business services, and/or research and development activities for the business itself, or which will primarily provide clerical, professional or business services, and/or research and development activities to the public or other business entities. The structure or portion thereof may also include light fabrication areas in the manner of conducting business.

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(6) "Person" means any individual, domestic stock company, partnership of any kind, joint venture, club, business or common law trust, society, legal entity, or any other manner of owning property or conducting business.

(7) "Patrick Henry Drive Specific Plan Area" refers to the approximately 74 acres of land within the City of Santa Clara generally bounded by Mission College to the south, Great America Parkway to the east, the Hetch-Hetchy right-of-way to the north, and Calabazas Creek to the west.

(8) "Patrick Henry Drive Specific Plan Area Infrastructure Impact Fee Schedule" refers to the document, as amended from time to time, on file in the City's Public Works Department used to determine applicability of the fees to particular land uses. If a proposed building use, or use within a portion of the building, does not fall under a use listed in such schedule, but, in the Director of Public Works or City Engineer's opinion, closely corresponds to a use listed in such schedule, the Infrastructure Impact fees will be imposed.

(b) Imposition of Patrick Henry Drive Specific Plan Infrastructure Impact Fees.

(1) Imposition of Fee. The Patrick Henry Drive Specific Plan Infrastructure Impact Fee is hereby imposed upon every person (person having equitable or legal title, or other interest as owner, lessee, or otherwise) who causes the development of new Multifamily Residential Use Buildings or Office Buildings within the Patrick Henry Drive Specific Plan area, as each is defined herein, on or after June 4, 2022.

(2) Exceptions. There are no exceptions for the payment of the Patrick Henry Drive Specific Plan Infrastructure Impact Fee.

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(3) Amount of Fee. The amount of the Patrick Henry Drive Specific Plan Infrastructure Impact Fee shall be established by resolution of the City Council.

(4) Fee Adjustments and Escalation.

(A) Periodic Adjustments to Patrick Henry Drive Specific Plan Infrastructure Impact Fee. The Patrick Henry Drive Specific Plan Infrastructure Impact Fee shall be adjusted periodically to reflect the current status of cost and scope of the improvements identified in the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study. The Director of Public Works or City Engineer shall make a periodic review of the improvements within the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study and make recommendations for amendment, if any, in a report to the City Council. After receiving such report and making it available for public distribution and review, the City Council shall give notice and, no less than ten days after public notice has been given, conduct a public hearing in which it shall consider these reports, receive testimony and information from any interested members of the public, and receive such other evidence as it may deem necessary. At the conclusion of that hearing, the City Council shall determine what changes, if any, are to be made to the Patrick Henry Drive Specific Plan Infrastructure Impact Fee.

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(B) Annual Adjustments for Inflation. Unless otherwise modified by the City Council, Patrick Henry Drive Specific Plan Infrastructure Impact Fees will automatically adjust for inflation annually at the start of each fiscal year, using the latest Construction Cost Index for San Francisco, published by Engineering News Record (ENR). 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. The automatic fee adjustment will occur when the City conducts its annual update of the municipal fee schedule unless it is otherwise modified by the City Council during its approval of the municipal fee schedule.

(5) Time of Payment of Fee. Any Infrastructure Impact Fees imposed under this section shall be due and payable prior to issuance of any building permit for a Multifamily Residential Use or Office Use project.

(6) Use of the Proceeds from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee. The sums derived from the collection of the Patrick Henry Drive Specific Plan Infrastructure Impact Fee, and any interest thereon, shall be held by the City's Director of Finance and shall be distributed according to the fiscal and budgetary policies of the City. Such funds are to be used for the projects identified in the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, as amended from time to time. In no case shall any of the moneys be used for maintenance.

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(7) Provisions of Section Are Not Exclusive. The provisions of this section are intended to establish an alternative method for spreading the costs of certain public improvements against the land that will be primarily benefited thereby; the provisions of this section shall not be construed to limit the powers of the City Council to utilize any other method for accomplishing this purpose. This shall be in addition to any other requirements which the City Council is authorized to impose as a condition to approving development pursuant to State and local law.

(8) Developer Construction of Facilities. Patrick Henry Drive Specific Plan Infrastructure Impact Fees are the minimum to be paid by new residential or office development. Patrick Henry Drive Specific Plan Infrastructure Impact Fees are to be initially paid in all circumstances. However, if because of special conditions caused by a particular new development, a development is required (pursuant to SCCC 17.15.090 and/or 17.15.310) to construct the improvements included within the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, the development will be reimbursed for such construction costs as determined by the Director of Public Works or City Engineer and based on the availability of fees paid to the City. To be entitled to such reimbursement, the new development must prove its claimed construction costs to the satisfaction of the Director of Public Works or City Engineer, or designee.

(9) Appeal from Decisions of City Staff. An appeal from a City staff decision shall be made within seven calendar days of the decision to the City Council. Written application for the appeal shall be filed with the City Clerk's office. The application shall state the factual basis of the appeal. The City Council will hear the appeal application at a public hearing to be conducted within thirty (30) calendar days of filing of the application. The decision of the City Council shall be final.

SECTION 3: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 4: **Savings clause**. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 5: Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance 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.

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SECTION 6: **Effective date**. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 22nd day of March, 2022, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, 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. Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study

Final Report

Patrick Henry Drive 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)

March 2022

EPS #171093

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1. INTRODUCTION AND FEE OVERVIEW

Introduction

This Nexus Report provides analysis and technical documentation to support the adoption of a development impact fee program for the Patrick Henry Drive Specific Plan (PHDSP) 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. The PHDSP Area Infrastructure Impact Fee would be applicable to future development in the PHDSP only and will not replace or exempt development from other City-wide impact fees.

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 PHDSP area-wide development impact fee consistent with Mitigation Fee Act (AB 1600/ Government Code Section 66000 et seq.) and subsequent related legislation. The PHDSP 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 PHDSP, to be adopted by the Santa Clara City Council before the approval of the PHDSP Infrastructure Area Impact Fee, provides the land use and regulatory framework for the development of a high-density, mixed-use neighborhood. This PHDSP Area Infrastructure Impact Fee is based on the land use program and level of service standards/requirements described in the PHDSP (and supporting environmental documents) as well as current estimates of the infrastructure and improvement costs needed to accommodate these land uses and standards.

Legal Context

This Nexus Study is designed to provide the necessary technical analysis to support a PHDSP 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 PHDSP Area Infrastructure Impact Fee consistent with the supporting technical analysis and findings provided in this Nexus 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 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.

In September 2021, the State of California adopted Assembly Bill (AB) 602, which includes several new requirements related to the development and implementation of impact fee programs. The key provisions related to the calculations documented in this Nexus Report are summarized below.

- **Capital Improvement Plan**: AB 602 requires that jurisdictions adopt a capital improvement plan as part of the nexus study process. This adoption can occur at the same time as the fee ordinance adoption. Accordingly, this Nexus Report relies on a PHDSP Area Long-Term Capital Improvement Plan to be approved by the City Council in conjunction with the PHDSP Area Infrastructure Impact Fee Program.
- **Explanation of Level of Service and Fee Increase**: AB 602 requires that the nexus study provide explanations if the fee calculation is based on a change in existing levels of service. Since the PHDSP Area Infrastructure Impact Fee will be new to the City and only apply to a defined area, existing or city-wide service standards are not used as a basis for the fee calculation. This Nexus Report is based on service standards that have been developed for, and are unique to, the PHDSP area, as documented in the Plan and referenced as appropriate in this document.

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

If the PHDSP 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 PHDSP Infrastructure Impact Fee Program (Fee Program) will need to be updated. Further information on the implementation and administration of the Fee program is provided in **Chapter 4**.

PHDSP Area Infrastructure Impact Fee

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

Table 1 Proposed PHDSP Area Infrastructure Impact Fee (FY$21-22)

Use	Measure	Fee[1]
Multi-family Residential[2]	per Unit	**$9,626**
Office	per Square Foot	**$21**

[1] Fee is set to cover full costs of required PHDSP infrastructure facilities and includes a two (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 PHDSP area.

Source: BKF; City of Santa Clara; Hexagon Transportation Consultants; Economic & Planning Systems, Inc.

The calculated PHDSP Area Infrastructure Impact Fee amounts of $9,626 per multifamily residential unit and $21.00 per office square foot 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 covers the cost of infrastructure needed to serve build-out of the Plan Area, as specified in more detail in Appendix A for the PHDSP Area Long-Term Capital Improvement Plan. In particular, the PHDSP Area Infrastructure Impact Fee covers the following infrastructure items:

- On-Site and Off-Site Roadway Facilities (i.e., traffic signals, traffic safety devices, pavement).
- Sanitary Sewer Facilities and associated structures.
- Potable Water Facilities.
- Monuments and Signage.
- Formation of a Transportation Management Association.
- Non-potable Water Facilities (i.e., Recycled Water).
- Storm Drainage Facilities.
- Emergency Response Apparatus/Equipment.
- All land right of way acquisition costs needed to support on-site public infrastructure.

[1] The 2 percent administration cost is designed to cover expenses for preparing subsequent updates to the 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 Nexus Report has been paid directly by the developers in the Specific Plan area outside of this fee.

2. PHDSP Land Use and Infrastructure Assumptions

This chapter documents the land use growth projections and infrastructure improvement costs used to calculate the PHDSP Area Infrastructure Impact fee. The assumptions are based on information from the PHDSP and cost analysis developed by City of Santa Clara staff, with support from transportation and civil engineering consultant firms Hexagon and BKF, respectively.

Existing and Planned Development

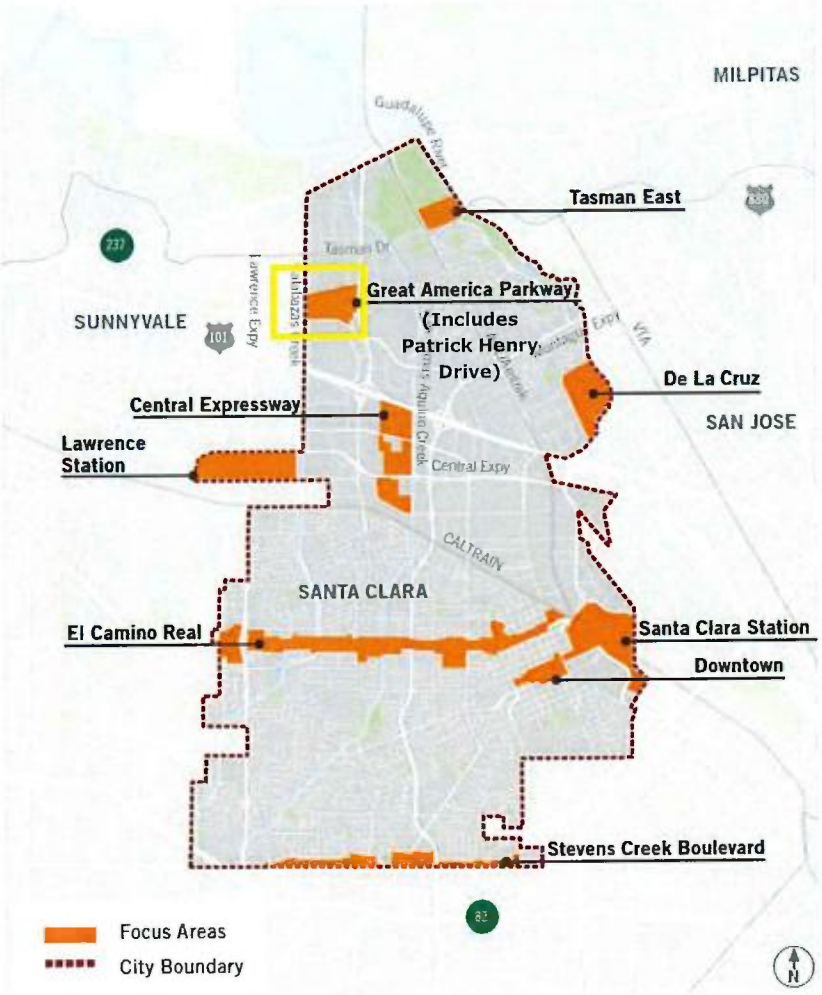
The PHDSP covers an approximately 74-acre area in the City of Santa Clara bounded by Mission College to the south, Great America Parkway to the East, the Hetch-Hetchy right-of-way to the north, and Calabazas Creek to the west (see **Figure 1**). Before approval of the PHDSP, the area is primarily zoned as "Light Industrial" (or ML), which allows for manufacturing, processing, repair, and storage uses. Consistent with this zoning, existing uses include electrical supply stores and several office and warehouse buildings housing R&D labs and software training institutes. A nine-acre section of the Plan Area is currently zoned as "Planned Development" (PD). The existing street, utilities and related infrastructure is sufficient to accommodate this level of development.

Figure 1 PHDSP Area Boundaries

Source: City of Santa Clara

With expected adoption in 2022, the PHDSP 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 PHDSP Plan Area provides an opportunity to develop higher-density residential homes supported by local amenities and accessible jobs, cultivating a vibrant and diverse mixed-use neighborhood.

Figure 2 City of Santa Clara Focus Areas



Source: City of Santa Clara

Implementation of the PHDSP involves updating the zoning from ML to Residential, Flex, and Mixed-Use designations, which would allow for a high-density, residential mixed-use neighborhood. As summarized in **Table 2**, the PHDSP considers two development scenarios for the Plan Area. Scenario A allows for up to 12,000 residential units at full build-out, along with 310,000 square feet of neighborhood-serving commercial and community space (e.g., retail, fitness, and public uses such as a library). Scenario B would include 785,000 square feet of office in place of 1,700 residential units, reducing the number of units to 10,300. The current level of public infrastructure (e.g., streets, utilities, storm drainage, and the like) is not sufficient to serve this level of development.

Table 2 PHDSP Buildout Scenarios

PHD Specific Plan Alternative	Multi-Family Residential Units	Office Square Feet	Other Commercial / Community-Serving Square Feet
Scenario A			
Maximum Allowable	12,000	-	310,000
Amount Assumed in Fee Calculation[1]	11,000	-	-
Scenario B			
Maximum Allowable	10,300	785,000	310,000
Amount Assumed in Fee Calculation[1]	9,300	785,000	-
Difference (Scenario B - Scenario A)	1,700	785,000	-

[1] As a conservative assumption, the impact fee is calculated based on 1,000 units less than the maximum development allowed under the PHDSP. This assumption is designed to assure that new development will cover the total cost of required infrastructure even if the maximum build-out potential is not achieved.

While the PHSDP designates the maximum allowable development that can occur within the PHDSP Plan Area, actual development may be less and will likely unfold over many years. To be conservative, the impact fee calculation assumes that the amount of development that is likely to occur in the Plan Area will be less than the maximum allowable. In particular, the fee calculation assumes slightly more than 90 percent of the total allowable residential development will be achieved within the Plan Area, or 1,000 less units than what is permitted. This assumption is designed to ensure that adequate fee revenue is generated to cover the full cost of required infrastructure needed to serve new development in the Plan Area.

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 economics 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 Infrastructure Impact Fee. Consequently, infrastructure phasing will likely require a process for developer credits and reimbursements, as described further in **Chapter 4**.

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. These infrastructure improvements, in turn, are based on the amount of new growth and corresponding public level of service standards/requirements defined in the PHDSP. The capital improvements included in the fee program need to be described in sufficient detail to generate cost estimates.

The cost of capital improvements included in the PHDSP Area Infrastructure Impact fee are based on information provided by City staff, working in consultation with civil engineers (BKF and Hexagon) and input from local property owners/developers. None of the capital projects included in the PHDSP Area Infrastructure Impact Fee address 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
- Emergency Response
- Monuments & Signage
- Transportation Management Association Formation

Table 3 summarizes the costs defined in the PHDSP Area Long-Term Capital Improvement Plan to be approved by the City Council in conjunction with the PHDSP Area Infrastructure Impact Fee Program. As shown, the estimated infrastructure hard and soft costs amount to a total of $105.9 million (additional cost detail is provided in **Appendix A Table A-2**). A 2 percent administrative charge is included to account for program administration.

The infrastructure items shown in **Table 3** represent improvements that will be needed to address new development in the PHDSP Plan Area. Moreover, the infrastructure analysis underlying the fee program suggests that these improvements will be needed regardless of whether Scenario A or Scenario B is ultimately developed. This means that the 785,000 square feet of office is expected to generate the same demand for infrastructure, and associated costs, as 1,700 multifamily residential units. In addition, the analysis finds that the PHDSP Plan Area is likely to require a similar level of infrastructure even if full build-out does not occur. Specifically, a level of development representing about 90 percent maximum allowable development is

expected to require the full array of transportation, utilities and related infrastructure items defined in the PHDSP Area Long-Term Capital Improvement Plan.

Table 3 PHDSP Area Long-Term Capital Improvement Plan (FY$21-22)

Item	Description	Category	Total Costs[1,2]
1	Sanitary Sewer Upgrades	Sanitary Sewer	$9,570,000
2	Water Line Replacement	Water	$5,220,000
3	New Recycled Water Line	Water	$4,060,000
4	Stormwater Treatment Facilities	Storm Water	$4,142,800
5	New Roadways Improvement Cost	Roadway	$21,914,000
6	Roadway Pavement Treatment	Roadway	$2,973,000
7	Specific Plan Traffic Improvements	Roadway	$1,305,000
8	Non-Specific Plan Traffic Improvements	Roadway	$8,468,000
9	Traffic Fair Share Payments	Roadway	$11,520,000
10	EMS Response Vehicle or Ambulance (2 each) and Tiller Aerial Ladder Apparatus	Emergency Response	$3,120,000
11	Entry Monument & Signs	Monuments & Signage	$334,000
12	Transportation Management Association Formation	Roadway	$150,000
	Subtotal		**$72,776,800**
	Real Estate (Land) Cost[3]		$31,031,240
	2% Administrative Cost[4]		$2,076,161
	Total Infrastructure Cost		**$105,884,201**

[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] Real estate costs and market land values are assumed at $155/SF and includes a 1 percent administrative cost.

[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; Hexagon Transportation Consultants; Economic & Planning Systems, Inc.

3. PLAN AREA INFRASTRUCTURE FEE CALCULATION AND NEXUS FINDINGS

This chapter documents the PHDSP Area Infrastructure Impact Fee calculation and methodology as well as required nexus findings. Specifically, it demonstrates "nexus" between new development in the PHDSP 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 new residential and office land uses in the Plan Area is calculated based on the proportionate share of the total facility use that these land use represents. As the commercial development is expected to be ancillary to and supportive of PHDSP housing and/or office (e.g., clustered ground-floor retail), the PHDSP Area Infrastructure Impact Fee is limited to residential and office development. However, retail development will be subject to other applicable City-wide fees, including the existing City-wide traffic impact fee.

With this context, the following findings are 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 as described in the PHDSP Area Long-Term Capital Improvement Program (CIP).

Use of Fees

The fee charged to residential and office development will be used to fund additions and improvements to infrastructure necessary to accommodate growth consistent with the PHDSP and level of service requirements described therein. Infrastructure additions and improvements include transportation, utilities, storm drainage, and other facilities. The list of eligible capital projects and costs are summarized in **Chapter 2** and further detailed in **Appendix A**.

Relationship between Use of Fees and Type of Development

Development of new residential units and office space in the Plan Area will require additional infrastructure capacity consistent with the level of public services and facilities defined therein. 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 and office development. In addition, the infrastructure is based on the land use and urban design goals and level of service standards and associated facilities described in the PHDSP.

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 PHDSP development. In particular, 100 percent of the costs are allocated to the planned residential and office 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 or office development (e.g., ground floor retail). New commercial development will, however, be responsible for paying all applicable citywide fees.

PHDSP Area Infrastructure Impact Fee Calculation

The following steps describe the methodology for calculating the Plan Area Infrastructure Impact Fee level. The specific calculations are shown in **Table 4**:

1. Determine the total amount of land uses that will benefit from the infrastructure improvements. In this case, the Fee Program applies to the 11,000 residential units (Scenario A) or 9,300 residential units and 785,000 square feet of office (Scenario B), representing the bulk of permissible growth under the PHDSP (discussed in **Chapter 2**).

2. Determine the infrastructure needed to serve new development (identified by the City and shown on **Table 3**).

3. Determine the cost of infrastructure to be funded by the Fee Program (also estimated in **Table 3**).

4. Divide the allocated cost by the number of residential units to determine the justifiable fee per unit for residential development (Scenario A).

5. Determine a dwelling unit equivalency factor between office and residential units. This is derived by dividing the amount of proposed office square footage that could be developed instead of residential development (as detailed under Scenario B and shown in **Table 4**).

6. Use the dwelling unit equivalency factor to convert the residential fee to an equivalent fee per square foot for office development.

Table 4 Plan Area Infrastructure Impact Fee Calculation (FY$21-22)

Fee Calculation		Amount	
		Scenario A	Scenario B
Total Infrastructure Cost[1]	*a*	$105,884,201	$105,884,201
Number of Multi-family Residential Units[2]	*b*	11,000	9,300
Square Footage of Office[2]	*c*	-	785,000
Dwelling Unit Equivalency Factor[3]	*d = 785,000 / 1,700*		462
Fee per Multi-family Residential Unit[4]	*e = $105.9M / 11,000*	**$9,626**	**$9,626**
Fee per Office Square Foot[4]	*f = e / d*	**-**	**$21**

[1] See Table 3 for PHDSP capital improvements and cost estimates.

[2] As a conservative assumption, the impact fee is calculated based on 1,000 units less than the maximum development allowed under the PHDSP Specific Plan. This assumption is designed to assure that new development will cover the total cost of required infrastructure even if the maximum build-out potential is not achieved.

[3] The fee calculation assumes infrastructure cost equivalency between 785,000 sq. ft. of office and 1,700 residential units.

[4] Fee is set to cover full costs of required PHDSP 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; Hexagon Transportation Consultants; Economic & Planning Systems, Inc.

4. PHDSP Area Infrastructure Impact Fee Implementation and Administration

The proposed PHDSP Fee Program is anticipated to be adopted by the City through an ordinance establishing and authorizing collection of the fee. The City will also adopt a resolution approving the PHDSP Area Long-Term Capital Improvement Program and establishing 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 upfront 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 PHDSP 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 but should not compromise the implementation of other priority capital projects. 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 the most current cost estimate of the infrastructure item (as defined by annual cost review or other recent evaluation of cost) or the 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 PHDSP development program as well as the associated capital facility needs as of 2022. It is recognized that these individual projects and associated costs may change over time due to economic, technological, or other factors. The amount of residential development may also deviate from the projections assumed in the Fee Program. 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 PHDSP Area Infrastructure Impact 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:

PHDSP Area Long-Term Capital Improvements and Cost Estimates

Table A-1 PHDSP Area Long-Term Capital Improvement Plan

Item	Description	Scope
1	**Sanitary Sewer Upgrades**	Abandon or remove existing sanitary sewer mains and install 5,080 LF of new 8 to 39 inch sanitary sewer mains
2	**Water Line Replacement**	Abandon and remove 1,900 LF of 8" AC Water Main and 4,000 LF of 12" AC Water Main and install 4,000 LF of 12" DIP Water Main
3	**New Recycled Water Line**	Abandon and remove 1,100 LF of 8" PVC RCW Main and 2,900 LF of 12" Yelomine RCW Main and install 4,000 LF of 12" DIP RCW Main
4	**Stormwater Treatment Facilities**	Post-Constructuion Stormwater Treatment facilities estimated at 4% of total impervious area for existing roadways
5	**New Roadways Improvement Cost**	Creation of new 192,610 SF of roadways to support the plan area. Inclucdes roadway construction costs and land acquistion costs
6	**Roadway Pavement Treatment**	Existing roadway pavement treatment; grind and overlay at Patrick Henry Drive, Old Ironsides Drive, Old Glory Lane and slurry seal at Great America Parkway
7	**Specific Plan Traffic Improvements**	Traffic improvements at various locations
8	**Non-Specific Plan Traffic Improvements**	Traffic improvements at various locations
9	**Traffic Fair Share Payments**	Fair share payments for traffic improvements at various locations
10	**EMS Response Vehicle or Ambulance (2 each) and Tiller Aerial Ladder Apparatus**	One tractor drawn aerial ladder apparatus and two Type 1 fire ambulances
11	**Entry Monument & Signs**	Four entry monuments and signs
12	**Transportation Management Association Formation**	Formation of a transportation management association to determine needs for a shuttle

Source: City of Santa Clara

Table A-2 PHDSP Area Long-Term Capital Improvements and Construction Cost Estimates (FY $21-22)

Item	Description	Category	Estimated Cost	Construction Costs (Rounded)[1]	Delivery Costs[2]	Total Costs
1	Sanitary Sewer Upgrades	Sanitary Sewer	$5,073,221	$6,600,000	$2,970,000	$9,570,000
2	Water Line Replacement	Water	$3,055,000	$3,600,000	$1,620,000	$5,220,000
3	New Recycled Water Line	Water	$2,430,000	$2,800,000	$1,260,000	$4,060,000
4	Stormwater Treatment Facilities	Storm Water	$2,483,772	$2,856,800	$1,286,000	$4,142,800
5	New Roadways Improvement Cost	Roadway	$13,140,630	$15,113,000	$6,801,000	$21,914,000
6	Roadway Pavement Treatment	Roadway	$1,781,500	$2,050,000	$923,000	$2,973,000
7	Specific Plan Traffic Improvements	Roadway	$781,500	$900,000	$405,000	$1,305,000
8	Non-Specific Plan Traffic Improvements	Roadway	$5,071,080	$5,840,000	$2,628,000	$8,468,000
9	Traffic Fair Share Payments	Roadway	$11,516,032	$11,520,000	$0	$11,520,000
10	EMS Response Vehicle or Ambulance (2 each) and Tiller Aerial Ladder Apparatus	Emergency Response	$2,704,757	$3,120,000	$0	$3,120,000
11	Entry Monument & Signs	Monuments & Signage	$200,000	$230,000	$104,000	$334,000
12	Transportation Management Association Formation	Roadway	$150,000	$150,000	$0	$150,000
	Subtotal		**$48,387,492**	**$54,779,800**	**$17,997,000**	**$72,776,800**
	Real Estate (Land) Cost[3]					$31,031,240
	2% Administrative Cost[4]					$2,076,161
	Total Infrastructure Cost					**$105,884,201**

[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] Real estate costs and market land values are assumed at $155/SF and includes a 1 percent administrative cost.

[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; Hexagon Transportation Consultants; Economic & Planning Systems, Inc.