

**Council Meeting: December 13, 2011****SUBJECT: FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees and Adoption of Resolution Approving Findings Regarding Unspent Fees****BACKGROUND**

The Mitigation Fee Act (California Government Code, § 66000 et seq.) requires local agencies that impose development impact fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment A) must be reviewed and accepted by Council within 180 days after the close of the fiscal year represented.

The City assesses four development impact fees - the Housing Mitigation Fee; the Sense of Place Fee; the Transportation Impact Fee; and the Park Dedication Fee. The first three are subject to the Mitigation Fee Act, while only a portion of the City's Park Dedication Fee is subject to the Mitigation Fee Act. Specifically, the Park Dedication Fees assessed pursuant to the Quimby Act (California Government Code §66477) and codified by the City in the Sunnyvale Municipal Code, Chapter 18.10 (Subdivisions – Parks and Open Space Dedication) are exempt from the reporting requirements included in the Mitigation Fee Act. However, Park Dedication Fees assessed pursuant to Sunnyvale Municipal Code, Chapter 19.74 (Zoning – Park Dedication Fees for Rental Housing Projects) are subject to the reporting requirements included in the Mitigation Fee Act. Therefore, only the non-exempt Park Dedication Fees are included in the report.

In addition to these four active fees, the City maintained a fund balance in FY 2010/2011 resulting from Traffic Mitigation Fees. Traffic Mitigation Fees have not been assessed by the City since 2004. It is important to note that the Traffic Mitigation Fee and the Transportation Impact Fee are exclusive of one another and monies associated with each are segregated in separate sub-funds. The Traffic Mitigation Fee was created in 2000 as a key component of the Transportation Strategic Program to provide an interim revenue mechanism to fund needed upgrades to the transportation system resulting from new development. In 2004, the City stopped assessing Traffic Mitigation Fees and began assessing Transportation Impact Fees. Both the Traffic Mitigation Fees and the Transportation Impact Fees are subject to the Mitigation Fee Act and are included in the report.

The Act also specifies that every five years, the report must contain findings specifying the intended use of any unexpended impact fees. Council made the required findings for Housing Mitigation Fees, Park Dedication Fees, and Traffic Mitigation Fees for FY 2005/2006. Correspondingly, findings for those fees are required for FY 2010/2011. The required findings for the Transportation Impact Fee were made for FY 2008/2009 and will not be needed again until FY 2013/2014. If findings are not presented as scheduled, it is possible that the City may be obligated to refund either all or a portion of the fees collected under the authority of the Act. Attached is a Resolution of the City Council making the FY 2010/11 findings with respect to unspent impact fees (Attachment B).

### **EXISTING POLICY**

Sunnyvale Municipal Code Chapters 3.50, 18.10, 19.22, and 19.74.

### **DISCUSSION**

As prescribed by the Mitigation Fee Act, the status report must include the following information for each development impact fee:

- A brief description of the fee and the fund into which the fee was deposited;
- The amount of the fee;
- The associated fund's beginning and ending balances for the fiscal year;
- The total amount of fees collected and interest earned;
- Identification of each public improvement on which impact fees were expended and amount of expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of approximate date by which construction of a public improvement will begin;
- Determination that sufficient funds have been collected to complete financing on an incomplete public improvement;
- Description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an inter-fund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan; and
- Amount of any refunds made due to inability to expend impact fees once a determination is made that sufficient impact fees have been collected to

finance a public improvement, and the improvement remains incomplete, and the City has not determined an approximate date by which construction will begin.

This information is presented in the attached FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees.

### **FISCAL IMPACT**

In FY 2010/2011, the City received \$5,468,974 in new development impact fees. Of that total amount \$1,858,495 was reportable under the Mitigation Fee Act and \$3,610,479 was exempt from reporting requirements. However, all fees are shown in the report. The fee revenue will be used to fund public improvements necessary to meet the demand for services resulting from commercial and residential development in the City. The specifics of how these monies are programmed for expenditure are included in the status report, as well as in the FY 2010/2011 Adopted Budget and Resource Allocation Plan.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center, and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk, and on the City's Web site.

The Mitigation Fee Act stipulates a 15-day public review period for the Annual Mitigation Fee Status Report. The status report was available for public inspection by November 28, 2011.

### **ALTERNATIVES**

1. Accept the FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees.
2. Do not accept the FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees.

### **RECOMMENDATION**

Staff recommends Alternative 1, to accept the FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees.

Reviewed by:

Grace K. Leung, Director of Finance

Prepared by: Brice McQueen, Senior Management Analyst, Finance

Reviewed by:

Hanson Hom, Director of Community Development

Reviewed by:

Kent Steffens, Director of Public Works

Approved by:

Gary M. Luebbbers  
City Manager

**Attachments**

- A. FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees
- B. A Resolution of the City Council of the City of Sunnyvale making findings with respect to unspent impact fees; Housing Mitigation Sub-fund; Park Dedication Fund; Traffic Mitigation Sub-Fund

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**FY 2010/2011**

**Fee:**                    **Housing Mitigation Fee**

**Fee Description:**    Fees paid by developers of high intensity industrial projects that result in new floor area ratios to mitigate demand for affordable housing. (Sunnyvale Municipal Code Chapter 19.22)

**Amount of Fee:**       \$9.08 per applicable square foot

**Fund:**                    Housing Mitigation Fund/Housing Mitigation Sub-fund  
(070/100)

**FY 2010/2011 Receipt and Use:**

Beginning Balance	\$	9,948,212
Resources		
New Fees Collected		1,284,437
Other Revenues - Loan Repayments		92,520
Other Revenues - Rental Income/Grants		350,729
Interest		67,912
		1,795,605
Total Resources	\$	11,743,810

Expenditures

Affordable Housing Capital Project Management	\$	145,092
% Funded by Fee:		100%
Origination Year:		FY 10/11
Planned Completion Year:		On-going
Management, Supervision, and Administration		206,053
% Funded by Fee:		100%
Origination Year:		FY 10/11
Planned Completion Year:		On-going
City Owned Properties – Downtown/388 Charles Street		5,547
% Funded by Fee:		0%
Origination Year:		FY 05/06
Planned Completion Year:		FY 12/13
Predevelopment Costs on Affordable Housing Sites		13,481
% Funded by Fee:		100%
Origination Year:		FY 06/07
Planned Completion Year:		On-going
County-wide Homeless Count		8,310
% Funded by Fee:		100%
Origination Year:		FY 06/07
Planned Completion Year:		On-going

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First-Time Homebuyer Loans (81-120% AMI)	17,500	
% Funded by Fee:	100%	
Origination Year:	FY 09/10	
Planned Completion Year:	On-going	
General Fund In-Lieu	50,265	
Origination Year:	On-going	
Planned Completion Year:	On-going	
Interfund Transfer To:	General Fund	
Total Expenditures/Transfers	\$ 446,248	
Ending Balance	\$ 11,297,562	

*Note: No interfund loans or refunds were made during FY 2010/2011.*

**Description of Projects:**

*235330 Affordable Housing Capital Project Management* — This operational function provides staff time to support the provision of affordable housing within the City.

*235340 Management, Supervision, and Administration* — This operational function provides staff time to support the provision of affordable housing within the City.

*825930 City Owned Properties – Downtown/388 Charles Street* — This project provides funding for repairs, general maintenance, and administration of the property at 388 Charles Street. These properties are projected to be maintained until FY 2012/13, or until full assemblage or sale of all existing parcels is completed.

*826520 Predevelopment Costs on Affordable Housing Sites* — This project will allow for professional services to be secured as needed to analyze feasibility of large-scale housing projects for study by Council such as the Onizuka housing proposals and the downtown housing properties.

*826530 County-wide Homeless Count* — This project provides for the City's share of the cost to conduct a biannual county-wide homeless count and survey.

*828100 First-Time Homebuyer Loans (81-120% AMI)* – This project provides funding for the First Time Homebuyer Program, to be used for down-payment assistance loans to eligible moderate-income households.

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*General Fund In-Lieu* — Transfer to the General Fund to cover the indirect costs realized during the course of managing Housing activities not directly associated with a specific capital improvement project.

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**Fee:**                      **Sense of Place Fee**

**Fee Description:**      Fees paid by developers in areas in which desired public improvements exceed the requirements of other areas of the City, including those with special land use or public improvement plans.

**Amount of Fee:**        \$1,071 per unit in the applicable areas.

**Fund:**                      Capital Projects Fund/Sense of Place Fees Sub-fund  
(385/970)

**FY 2010/2011 Receipt and Use:**

Beginning Balance	\$	482,155
Resources		
New Fees Collected		94,334
Interest		3,129
		3,129
Total Resources	\$	579,618
Total Expenditures/Transfers	\$	--
Ending Balance	\$	579,618

*Note: No interfund loans, refunds, or transfers were made during FY 2010/2011.*

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**Fee:**                      **Transportation Impact Fee**

**Fee Description:**      Fees adopted pursuant to the Transportation Strategic Program to fund major transportation projects necessary to support land use plans. (Sunnyvale Municipal Code, Chap. 3.50)

**Amount of Fee:**

A.	Impact Fee — Area South of State Route 237	
	• Single Family detached, per dwelling unit	\$ 2,049.18
	• Multi-family attached, per dwelling unit	\$ 1,257.91
	• Office, per 1,000 square feet	\$ 3,023.06
	• Retail, per 1,000 square feet	\$ 3,794.03
	• Industrial, per 1,000 square feet	\$ 1,501.38
	• Research and Development, per 1,000 square feet	\$ 1,988.32
	• Hotel, per room	\$ 1,237.62
	• Uses not enumerated, per trip	\$ 2,028.89
B.	Impact Fee — Industrial Area North of State Route 237	
	• Industrial, per 1,000 square feet	\$ 3,442.67
	• Research and Development, per 1,000 square feet	\$ 4,551.32
	• Destination Retail, per 1,000 square feet	\$10,911.49
	• Neighborhood Retail, per 1,000 square feet	\$ 5,455.75
	• Hotel, per room	\$ 3,559.37
	• Uses not enumerated, per trip	\$ 5,835.02

**Fund:**                      Capital Projects Fund/Transportation Impact Fees Sub-fund  
(385/960)

**FY 2010/2011 Receipt and Use:**

Beginning Balance	\$ 11,653,000
Resources	
New Fees Collected	479,724
Interest	81,462
	\$ 12,214,186
Expenditures	\$ --
Transfers	
Project Administration In-Lieu	\$ 9,242
Origination Year:	FY 07/08
Planned Completion Year:	FY 11/12
Interfund Transfer To:	Internal Services Fund

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General Fund In-Lieu		\$	12,095
Origination Year:	On-going		
Planned Completion Year:	On-going		
Interfund Transfer To:	General Fund		
Total Expenditures/Transfers			\$ 21,337
Ending Balance			\$ 12,192,849

*Note: No interfund loans or refunds were made during FY 2010/2011.*

**Description of Projects:**

*Project Administration Fund In-Lieu* — Transfer to the Project Management Services General Service Fund to cover the indirect costs realized during the course of managing traffic related capital projects.

*General Fund In-Lieu* — Transfer to the General Fund to cover the indirect costs realized during the course of managing traffic related activities not directly associated with a specific capital improvement project.

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**Fund:**                      **Traffic Mitigation Fee**

**Fee Description:**      Specific fee amounts assessed as a condition of development to mitigate increased demands for traffic improvements. This fee was superseded by the Transportation Impact Fee (TIF) in FY 2003/2004.

**Amount of Fee:**        Occasionally received for development projects approved prior to adoption of the TIF in FY 2003/2004. Amount is subject to the Fee Schedule that was in effect at the time the development project was approved.

**Fund:**                      Capital Projects Fund/Traffic Mitigation Sub-fund  
(385/950)

**FY 2010/2011 Receipt and Use:**

Beginning Balance	\$	3,182,771
Resources		
New Fees Collected		--
Interest		21,566
		<hr/>
Total Resources	\$	<u>3,204,337</u>
Expenditures		
Future Traffic Signal Construction/Modification	\$	28,957
% Funded by Fee:		100%
Origination Year:		FY 07/08
Planned Completion Year:		On-going
Transfers		
Borregas Avenue Bicycle Corridor	\$	22
% Funded by Fee:		19%
Origination Year:		FY 07/08
Planned Completion Year:		FY 09/10
Interfund Transfer To:		Cap.Proj. – Gas Tax Fund
Downtown Streetscape Improvements	\$	191,174
% Funded by Fee:		20%
Origination Year:		FY 09/10
Planned Completion Year:		FY 12/13
Interfund Transfer To:		Cap.Proj. – General Assets
Hendy Avenue Complete Street Project	\$	4,472
% Funded by Fee:		15.7%
Origination Year:		FY 10/11
Planned Completion Year:		FY 12/13
Interfund Transfer To:		Cap.Proj. – General Assets

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Sunnyvale Avenue/Old San Francisco Road Left Turn Project	\$	6,195
% Funded by Fee:		11.47%
Origination Year:		FY 10/11
Planned Completion Year:		FY 12/13
Interfund Transfer To:		Cap.Proj. – General Assets
 Total Expenditures/Transfers	 \$	 230,820
Ending Balance	\$	<u>2,973,517</u>

*Note: No interfund loans or refunds were made during FY 2010/2011.*

**Description of Projects:**

*816000 Future Traffic Signal Construction/Modification* — This project provides funding for major signal modifications and/or installing new traffic signals as necessitated by traffic conditions.

*821870 Borregas Avenue Bicycle Corridor* – This project involves the design and construction of the Borregas Avenue Bicycle Corridor which includes new bike/pedestrian bridges over US-101 and SR-237. The construction of over-crossings eliminates approximately two miles of detours which currently exist for bicyclists and pedestrians who wish to cross over the freeways. The project also improves access to the Bay Trail, other recreational facilities in Baylands Park and the Valley Transportation Authority (VTA) Light Rail. The project provides safer and more convenient bicycle and pedestrian access between central Sunnyvale (residential areas and Caltrain) and north Sunnyvale (major employment area and light rail) along the north-south Borregas Avenue corridor by avoiding high speed, heavy traffic volume arterial corridors and freeway interchanges.

*828670 Downtown Streetscape Improvements* - The project will implement the adopted streetscape design standards for street furniture, sidewalk width and patterns, street lighting, landscaping, and signing and markings by filling in the gaps on portions of Mathilda Avenue, Iowa Avenue, Washington Avenue, Evelyn Avenue and Sunnyvale Avenue. The project is consistent with the Downtown Specific Plan and is listed in the Resource Allocation Plan as a long term, revenue-dependent project priority. Grant revenue has been secured to fund 80% of these improvements.

*828900 Hendy Avenue Complete Street Project* – This project is to reconstruct Hendy Avenue from Sunnyvale Avenue to Fair Oaks Avenue. This project has been included as part of City, County, and Regional long-range Traffic and Transportation Plans for many years. It is part of the City’s Bicycle Capital Improvement Program, Santa Clara County’s Bicycle Expenditure Program, and the Valley Transportation Authority’s (VTA) Bicycle Plan. The condition of the roadway in this area is exceptionally poor and it is missing or has substandard sidewalks, bikeways, and lighting. Drainage facilities are also inadequate. This project will essentially reconstruct the entire roadway section to provide for all travel modes, upgrade lighting and

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streetscape to downtown standards, and provide additional on-street parking in the vicinity of the Northrop Grumman facility.

*828910 Sunnyvale Avenue/Old San Francisco Road Left Turn Project* – This project will construct a new signalized southbound left turn access to Old San Francisco Road from Sunnyvale Avenue. A preliminary engineering feasibility analysis was conducted that indicated there was an operational benefit to providing a left turn lane onto Old San Francisco Road from Sunnyvale Ave, where none currently exists.

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**Fee:**                    **Park Dedication Fee**

**Fee Description:**    Fee assessed on certain residential subdivisions to purchase land, buy equipment, or construct improvements in neighborhood and district parks and recreational facilities serving the subdivision.  
(Sunnyvale Municipal Code, Chap. 19.74 — Non-exempt from Mitigation Fee Act reporting requirements.)

**Amount of Fee:**       \$96.00 per square foot.

**Fund:**                    Park Dedication Fund  
(141)

**FY 2010/2011 Receipt and Use:**

The City of Sunnyvale has two different types of Park Dedication Fees. The first was established pursuant to the Quimby Act (California Government Code §66477), listed in the Subdivision Map Act, and codified by the City in the Sunnyvale Municipal Code, Chapter 18.10. These particular Park Dedication Fees are assessed only on subdivisions with single family residential units and may be used to purchase land, buy equipment or construct improvements in neighborhood parks, district parks, and recreational facilities serving the residential subdivision. The fees collected for this type of development are exempt from reporting requirements, and details are not included in this report.

The second type of Park Dedication Fee was established pursuant to the Mitigation Fee Act (California Government Code §66000(b)) and codified by the City in the Sunnyvale Municipal Code, Chapter 19.74. These Park Dedication Fees are assessed only on multi-family residential units and may be used to purchase land, buy equipment or construct improvements in neighborhood parks, district parks, and recreational facilities serving the multi-family residential unit. The fees collected for this type of development are subject to the reporting requirements included in the Mitigation Fee Act.

**Non-exempt Park Dedication Fees:**

Prior to FY 2009/2010, all non-exempt fees had been expended on appropriate projects, so no beginning balance existed in FY 2009/2010. There were no Non-exempt fees collected in FY 2010/11.

**Exempt Park Dedication Fees:**

During FY 2010/2011, the City collected \$3,610,479 in new exempt Park Dedication Fees. Keep in mind these fees were assessed on the development of subdivisions containing single family residential units. The City has specified 18 capital projects for parks and common use spaces that serve the residents. Descriptions of the projects are included in Volume III of the FY 2010/2011 Adopted Budget and Resource Allocation Plan. As previously noted, these fees are exempt from reporting requirements, and therefore, details are not included in this report.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE MAKING FINDINGS WITH RESPECT TO UNSPENT IMPACT FEES; HOUSING MITIGATION SUB-FUND; PARK DEDICATION FUND; TRAFFIC MITIGATION SUB-FUND**

WHEREAS, Government Code section 66001(d) requires the City to make certain findings with respect to development impact fees collected which remain unexpended or uncommitted five or more years after deposit of such fees; and

WHEREAS, the City has collected housing mitigation fees as authorized under Chapter 19.22 of the Sunnyvale Municipal Code for the purpose of requiring developers of high intensity industrial development to mitigate the demand for affordable housing created by the development; and

WHEREAS, the City has worked to mitigate the effects of the jobs/housing imbalance by expanding the supply of affordable housing to low and moderate income residents for acquisition, rehabilitation, new construction, and predevelopment costs; and

WHEREAS, the City has collected park dedication fees as authorized under Chapter 19.74 of the Sunnyvale Municipal Code for the purpose of requiring developers of multi-family/rental housing developments to pay their fair share toward improvement, and/or purchase and development of parks and recreational facilities; and

WHEREAS, the City has collected park dedication fees as authorized under Chapter 18.10 of the Sunnyvale Municipal Code for the purposes of requiring developers of new subdivisions to pay their fair share toward improvement, and/or purchase and development of parks and recreational facilities; and

WHEREAS, the City has collected cumulative and regional traffic mitigation fees as a key component of the Transportation Program in order to receive interim revenue to mitigate the impact of new development on future forecast transportation deficiencies; and

WHEREAS, the City has retained unspent housing mitigation, park dedication and traffic mitigation fees, together with accrued interest thereon, for a period of five years or more; and

WHEREAS, the City Council desires to make the findings required by law with respect to such fees;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT the City Council adopts the following findings and actions:

**A. Housing Mitigation Fees**

1. Housing mitigation fees were collected pursuant to Chapter 19.22 to supplement limited federal funding available to the City in support of funding affordable rental

- housing, emergency housing, group homes and transitional housing developed by non-profit housing developers.
2. Housing mitigation fees are used to fund loan programs that provide low and moderate income first time homebuyer down payment loans. These programs directly support the ability to recruit and retain City employees, local school district employee and childcare teachers.
  3. Housing mitigation fees, when combined with the Countywide efforts to assist moderate income first-time homebuyers, support home ownership efforts through down payment assistance loans funded by the Housing Trust Fund of Santa Clara County.
  4. A reasonable relationship exists between the housing mitigation fees and the purpose for which they were collected in that the funds were collected from development projects of high intensity industrial development which create the demand for affordable housing.
  5. Housing mitigation fees will continue to be collected and deposited to provide financial resources to develop innovative ownership housing opportunities through development of City owned land.
  6. Based on the foregoing, a continuing need for affordable housing mitigation funds to develop programs to assist low and median income homebuyers move into ownership opportunities has been demonstrated.

**B. Park Dedication Fees**

1. Park dedication fees were collected pursuant to Chapters 18.10 and 19.74 of the Sunnyvale Municipal Code in order to mitigate increased demands for park and recreational facilities due to new residential development from low density, medium-low, medium and high density residential development projects.
2. Park dedication fee revenues are expended in order to develop new or rehabilitate existing neighborhood or community parks or recreational facilities, to purchase land, buy equipment or construct improvements in neighborhood and community parks. Ongoing operational or maintenance costs are excluded.
3. A reasonable relationship exists between the park dedication funds and the purpose for which they were collected, in that the funds were collected from development projects that increase demand for park and recreational facilities.
4. Park dedication funds will be used solely for the purpose of developing new or rehabilitating existing neighborhood or community parks or recreational facilities, to purchase land, buy equipment or construct improvements in neighborhood and community parks.

5. Park dedication funds continue to be required in order to provide park and recreational facilities and will continue to be deposited as collected to contribute to the quality of life for Sunnyvale residents.
6. Based on the foregoing, a continuing need for park dedication funds has been demonstrated.

**C. Cumulative Traffic Mitigation Fees**

1. Cumulative mitigation funds were collected pursuant to the California Environmental Quality Act and Sunnyvale City Council policy 1.2.2 for those projects contributing traffic to the local roadway system at levels defined as significant per the criterion of the Santa Clara County Congestion Management Program Transportation Impact Analysis Program.
2. Funds are to be used for projects identified in the Sunnyvale General Plan Land Use and Transportation Element, adopted November 11, 1997 as required to maintain roadway intersection levels of service per City General Plan policy, or those projects identified in subsequent CEQA analyses or in transportation analyses to implement or refine General Plan policy. Projects are listed in the City's Resource Allocation Plan.
3. The City has refined its forecast of transportation improvement needs to maintain local roadway levels of service since adoption of the Land Use and Transportation Element, and assesses additional specific needs every five years. The current cost estimate for transportation system improvements necessary to maintain local roadway levels of service per General Plan policy is higher than the estimate upon which the cumulative mitigation contributions were based. The City has subsequently developed a Transportation Impact Fee and identified a strategy for obtaining the balance of funding from other sources including federal and state funds. All transportation system improvements to support General Plan land use are anticipated to be completed consistent with the buildout of the General Plan. Remaining improvements have not yet been implemented due to a temporary respite from deteriorating traffic conditions due to an economic recession, and levels of traffic growth which have not yet met cumulative forecast conditions.
4. A reasonable relationship exists between the cumulative mitigation funds and the purpose for which they were collected, in that the funds were collected from projects generating a significant level of new traffic to the roadway system that was determined in the General Plan and supporting documents to require improvements to maintain roadway levels of service. Traffic from these projects cumulatively generate traffic, which adversely impacts roadway level of service.
5. Cumulative mitigation funds will continue to be deposited as collected and will be used solely for the purpose of constructing traffic improvements to maintain roadway levels of service.
6. Cumulative mitigation funds continue to be required in order to fund traffic improvements to maintain roadway levels of service, and the cost of the necessary

improvements is to be spread proportionately among project generating significant levels of new traffic, which contribute the traffic generating the need for the improvements.

7. Based on the foregoing, a continuing need for the cumulative mitigation funds has been demonstrated.

**D. Regional Traffic Mitigation Fees**

1. Regional mitigation funds were collected pursuant to the California Environmental Quality Act and Sunnyvale City Council policy 1.2.2 for those projects contributing traffic to the regional roadway system at levels defined as significant per the criteria of the Santa Clara County Congestion Management Program Transportation Impact Analysis Program and to California Government Code 65089 (b) (4).
2. Funds are to be used for projects that improve the regional transportation system. Projects to improve the regional transportation system have been identified through the City's Resource Allocation Plan process and are listed in the Resource Allocation Plan. Of the four regional transportation system improvement projects being implemented using regional mitigation funds, three, Java Drive Sidewalks to serve the Tasman light rail line, the Frances Street Transit Corridor and the Borregas Avenue Bicycle Corridor have been completed and the Mary Avenue Extension is in project development.
3. The current cost estimate to complete projects to improve the regional transportation system is higher than the estimate upon which the regional mitigation contributions were based. The City has subsequently obtained funds from other sources including federal, state, regional and local sources.
4. A reasonable relationship exists between the regional mitigation funds and the purpose for which they were collected, in that the funds were collected from projects generating a significant level of new traffic to the regional roadway system that was determined at levels defined as significant per the criteria of the Santa Clara County Congestion Management Program Transportation Impact Analysis Program to require improvements to maintain regional traffic flow. Traffic from these projects cumulatively generate traffic, which adversely impacts the regional roadway system.
5. Regional mitigation funds will continue to be deposited as collected and will be used solely for the purpose of constructing transportation improvements to the regional transportation system.
6. Regional mitigation funds continue to be required in order to fund transportation improvements to the regional transportation system, and the cost of the necessary improvements is to be spread proportionately among projects generating significant levels of new traffic, which contribute the traffic generating the need for the improvements.
7. Based on the foregoing, a continuing need for the regional mitigation funds has been demonstrated.

**E. Other Reporting Mechanisms and Other Sources of Funding**

The City identifies public improvements to be financed with development impact fees through various means, including but not limited to, the capital improvement program, transportation strategic program, and other general and/or specific plan requirements. These public documents identify the facilities or other improvements to be completed with development impact fees, and are duly noticed and considered by the City Council. Such public improvements require various sources of funding in addition to development impact fees, including federal, state and regional apportionments and/or grant funding. Such funds are budgeted to the extent they can be reasonably projected.

The City of Sunnyvale has adopted a Capital Improvement Program (CIP) which indicates the approximate location, estimated cost and status of each proposed capital project which is available to the public upon request and is posted on the City's website. In addition, the City adopts the CIP as a component of its annual budget process which is subject to extensive public input and public hearing.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, 2011, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney