

**ORDINANCE NO. 2866**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA, AMENDING CHULA VISTA MUNICIPAL  
CODE CHAPTER 3.54, RELATING TO DEVELOPMENT  
IMPACT FEE TO PAY FOR THE TRANSPORTATION  
FACILITIES IN THE CITY'S EASTERN TERRITORIES**

**WHEREAS, in January 1988, the City Council of the City of Chula Vista adopted Ordinance No. 2251 establishing a development impact fee for transportation facilities in the City's eastern territories; and**

**WHEREAS, pursuant to Ordinance No. 2251, the City has commenced the collection of development impact fees to be used to construct transportation facilities to accommodate increased traffic generated by new development within the City's eastern territories; and**

**WHEREAS, Ordinance No. 2251 as amended by Ordinance Nos. 2289, 2348, 2349, 2431, 2580, 2604, and 2671 were repealed by Ordinance No. 2802 in January 1999; and**

**WHEREAS, by Ordinance 2802, the Transportation Development Impact Fee was placed in Municipal Code Chapter 3.54; and**

**WHEREAS, Municipal Code Chapter 3.54 was amended by Ordinance 2823; and**

**WHEREAS, the City Council of the City of Chula Vista is placing this ordinance on its first reading which will increase the development impact fee (per equivalent dwelling) unit to finance transportation facilities within the City of Chula Vista; and**

**WHEREAS, pursuant to Government Code Section 66017(a), the fees increased by this ordinance will not become effective until sixty (60) days after its second reading; and**

**WHEREAS, the average daily trips for residential development shall be based on its density, and**

**WHEREAS, pursuant to the Municipal Code and California Government Code Sections 66000, et. seq., the City Council has caused a study to be conducted to reanalyze and reevaluate the impacts of development on the transportation system for the City's eastern territories and, further re-analyze and evaluate the development impact fee necessary to pay for the transportation facilities which financial and engineering study prepared by Willdan, is entitled "Eastern Area Development Impact Fees for Streets" dated July 2002; and**

**WHEREAS, the financial and engineering studies and the City's General Plan show the transportation network will be adversely impacted by new development within the eastern territories unless new transportation facilities are added to accommodate the new development; and**

**WHEREAS, the financial and engineering studies and the City's General Plan establish that the transportation facilities necessitated by development in the eastern territories comprise and integrated network; and**

WHEREAS, the City's Municipal Code authorizes the City Council to amend or modify the list of projects to be financed by the fee; and

WHEREAS, on August 6, 2002, the City Council of the City of Chula Vista held a duly noticed meeting at which oral or written presentations regarding the development impact fee for the City's eastern territories could be made; and

WHEREAS, the City's Environmental Review Coordinator has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA, and

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

#### SECTION 1: Findings

The City Council finds that developers of land within the Eastern Territory should be required to mitigate the burden created by development through the construction of transportation facilities within the boundaries of the development, the construction of those transportation facilities outside the boundaries of the development which are needed to provide service to the development in accordance with City standards and the payment of a development impact fee to finance the development's portion of costs of the transportation network; and

The City Council finds that the legislative findings and determinations set forth in Ordinance No.2802 continue to be true and correct; and

The City Council finds, after consideration of the evidence presented to it including the "Eastern Area Development Impact Fees for Streets" dated July 2002, that certain amendments to Chapter 3.54 of the Chula Vista Municipal Code are necessary in order to assure that there are sufficient funds available to finance the transportation facilities necessary to serve the eastern territories by the development impact fee; and

The City Council finds, based on the evidence presented at the meeting, the City's General Plan, and the various reports and information received by the City Council in the ordinary course of its business, that the imposition of traffic impact fees on all development in the eastern territories for which building permits have not been issued is necessary in order to protect the public health, safety and welfare and in order to assure effective implementation of the City's General Plan; and

The City Council finds that the amount of the amended fees levied by this ordinance does not exceed the estimated cost of providing the transportation facilities; and

The City Council finds that it is appropriate to refine the fees for industrial and commercial land uses, including high rise commercial, to reflect the findings of the analyses of the industrial and commercial trip origination and destination whereby only estimated trips generated from outside the Transportation Development Impact Fee boundary shall be used in determining the fee for industrial, commercial and commercial high-rise land uses; and

The City Council finds it is necessary to ensure the timely payment of the "DIF program monitoring" cost item, included in Table H "Program Funding Requirements" of the financial

and engineering study, "Eastern Area Development Impact Fees for Streets" dated July, 2002, to adequately fund ongoing and future administration activities and studies.

## SECTION 2:

That the Development Impact Fee Schedule set forth in Section 3.54.010(C) of the Municipal Code, and as adjusted annually by the 20 City Construction Cost Index as published monthly in the Engineering News Record, shall be amended to read as follows:

C. The amount of the fee for each development shall be calculated at the time of building permit issuance based upon the following schedule:

Development Type	Transportation Fee
Residential	
(Low density) 0-8 du/gross ac	\$8,180/dwelling unit
(Medium density)>8-20 du/gross ac	\$6,544/dwelling unit
(High density) >20 du/gross ac	\$4,908/dwelling unit
Senior housing	\$3,272/dwelling unit
Commercial	\$171,780/gross ac
High rise commercial	\$278,120/gross ac
Industrial	\$65,440/gross acre
Golf course	\$572,600/golf course
Medical center	\$531,700/gross acre

The density of the development type shall be based on the number of dwelling units per gross acre for single-family or multi-family residential and shall be based upon the densities identified on the approved tentative map or approved tentative parcel map entitling the development unless otherwise approved in writing by the city manager's designee. Gross acreage as it applies to the commercial, high rise commercial, industrial and medical center development types, means all land area within the boundary of the parcel or parcels of the development project for which building permits are being requested.

The amount of the fee shall be adjusted, starting on October 1, 2003, and on each October 1st thereafter, based on the one-year change (from July to July) in the 20 City Construction Cost Index as published monthly in the Engineering News Record. For reference purposes, the July 2002, 20 City Construction Cost Index is 6604.82. Adjustments to the above fees based upon the Construction Cost Index shall be automatic and shall not require further action of the city council. The city council shall at least annually review the amount of the fee.

The city council may adjust the amount of the fee as necessary to reflect changes in the type, size, location or cost of the transportation facilities to be financed by the fee, changes in land use designations in the city's general plan, and upon other sound engineering, financing and planning information. Adjustments to the above fees resulting from the above reviews may be made by resolution amending the master fee schedule.

## SECTION 3:

That the Definitions as set forth in Section 3.54.020 of the Municipal Code, shall be amended to read as follows:

3.54.020 Definitions.

For the purposes of this chapter, the following words or phrases shall be construed as defined herein, unless from the context it appears that a different meaning is intended.

- A. "Building permit" means a permit required by and issued pursuant to the Uniform Building Code.
- B. "Director of Public Works" means the director of public works, the director of public works' designee or the city manager's designee.
- C. "Density" means dwelling units per gross acre identified for each planning area shown on the approved tentative map or approved tentative parcel map or as determined by the city manager's designee.
- D. "Developer" means the owner or developer of a development.
- E. "Development permit" means any discretionary permit, entitlement or approval for a development project issued under any zoning or subdivision ordinance of the city.
- F. "Development project" or "development" means any activity described in Section 66000 of the State Government Code.
- G. "Eastern Territories" generally means that area of the city located between Interstate 805 on the west, the city sphere of influence boundary on the east and northeast, the city boundary on the north and the city's southern boundary on the south, excepting Villages 9 and 10 of the Otay Ranch (the University Site) as shown on the map entitled "Figure I" of the update of the financial and engineering studies. The property known as Bonita Gateway located at the northeast quadrant of Bonita Road and 1-805 intersection is also included.
- H. "Financial and engineering studies" means the "Interim Eastern Area Development Impact Fee for Streets" study prepared by George T. Simpson and Willdan Associates dated November 1987; the "Eastern Area Development Fee for Streets" study prepared by Willdan Associates dated November 19, 1990; the Eastern Development Impact Fee for Streets – 1993 Revision" study prepared by city staff dated July 13, 1993; and the study prepared by Project Design Consultants ("Eastern Area Development Impact Fees for Streets, 1999 Update") dated October 25 1999;, and the study prepared by Willdan ("Eastern Area Development Impact Fees for Streets" dated July 2002), which are on file in the office of the city clerk.
- I. "High rise commercial" means commercial office usage five or more stories in height.
- J. "Transportation facility project" means that project or portion of project which involves the specified improvements authorized by Section 3.54.030.

SECTION 4:

That the transportation facilities to be financed by the fee as set forth in Section 3.54.030(A) shall be amended as follows:

### 3.54.30 Transportation facilities to be financed by the fee.

A. The transportation facilities and programs to be financed by the fee established by this chapter are:

- 1.\* State Route 125 from San Miguel Road to Telegraph Canyon Road.
- 2.\* State Route 125 from Telegraph Canyon Road to Olympic Parkway.
- 3.\*\* Telegraph Canyon Road from Paseo Del Rey to east of Paseo Ladera/north side
- 3a.\*\* Telegraph Canyon Road at I-805 interchange/Phase II.
- 4.\*\* Telegraph Canyon Road / Phase I Rutgers Avenue to Eastlake Boundary.
- 5.\*\* Telegraph Canyon Road / Phase II Paseo Ladera to Apache Drive.
- 6.\*\* Telegraph Canyon Road / Phase III Apache Drive to Rutgers Avenue.
7. East H Street / I-805 Interchange modifications.
- 8.\*\* East H Street from Eastlake Drive to SR-125.
- 9.\*\* Otay Lakes Road from Camino del Cerro Grande to Ridgeback Road.
- 10a. La Media Road from Telegraph Canyon Road to East Palomar Street.
- 10b. La Media Road from East Palomar Street to Olympic Parkway.
11. Bonita Road from Otay Lakes Road to Central Avenue.
12. Bonita Road from Central Avenue to San Miguel Road.
- 13.\* San Miguel Road from Bonita Road to SR-125.
- 14.\*\* East H Street from State Route 125 to San Miguel Road.
- 15.\*\* Proctor Valley Road (East H Street) from San Miguel Road to Hunte Parkway.
- 16.\*\* Olympic Parkway from Brandywine Avenue to Paseo Ranchero.
- 17.\*\* East Palomar Street from Oleander Avenue to Medical Center Drive.
- 17a.\*\* East Palomar Street from Medical Center Drive to Paseo Ladera.
- 17b. East Palomar Street from Paseo Ladera to Sunbow eastern boundary.
- 18.\*\* Telegraph Canyon Road from eastern boundary of Eastlake to Hunte Parkway.
- 19.\*\* Eastlake Parkway from Otay Lakes Road to Eastlake High School southern boundary.
- 20.\*\* Hunte Parkway from Proctor Valley Road to Telegraph Canyon Road.
- 21.\*\* Hunte Parkway from Telegraph Canyon Road to Club House Drive.
- 21a.\*\* Hunte Parkway from Club House Drive to Olympic Parkway.
- 22a. Olympic Parkway from SDGE easement to Hunte Parkway.
- 22b. Olympic Parkway from SR 125 to SDGE easement.
- 23a.\*\* Paseo Ranchero from Telegraph Canyon Road to East Palomar Street.
- 23b. \*\*Paseo Ranchero from East Palomar Street to Olympic Parkway.
- 24a. Olympic Parkway from Paseo Ranchero to La Media Road.
- 24b. Olympic Parkway from La Media Drive to East Palomar Street.
- 24c. Olympic Parkway from East Palomar Street to SR125.
- 24d. Olympic Parkway from SR125 to Eastlake Parkway.
- 25a. Olympic Parkway / I-805 Interchange modifications to Brandywine Avenue.
- 25b.\*\* Olympic Parkway from Oleander to Brandywine
- 26a.\*\* East Palomar Street from Paseo Ranchero to Santa Maria.
- 26b.\*\* East Palomar Street from Sunbow eastern boundary to Santa Maria
27. Deleted project (East Palomar Street at I-805 interchange).
28. Otay Lakes Road from Hunte Parkway to Wueste Road
- 29.\*\* Olympic Parkway from Hunte Parkway to Wueste Road.
30. Otay Lakes Road from SR-125 to Eastlake Parkway.
31. Eastlake Parkway from Fenton Street to Otay Lakes Road.
- 32a. East "H" Street from I-805 to HiddenVista Drive.
- 32b. East "H" Street eastbound to Terra Nova Shopping Center.
- 33.\*\* Bonita Road at Otay Lakes Road intersection.

- 34.\*\* Otay Lakes Road at Elmhurst Drive intersection.
- 35.\*\* East "H" Street at Otay Lakes Road intersection.
36. Traffic Signal Interconnection / Eastern Territories.
37. EastLake Parkway from Eastlake High School southern boundary to Olympic Parkway.
- 38.\*\* East "H" Street from Paseo Del Rey to Tierra del Rey.
- 39.\*\* Bonita Road from I-805 to Plaza Bonita Road.
40. Alta Road from SR125 to Eastlake Parkway.
- 41.\*\* Brandywine/Medical Center Drive from Medical Center Court to Olympic Parkway.
42. Birch Road from La Media Road to SR 125.
43. Birch Road from SR125 to Eastlake Parkway.
44. Deleted project (Birch Road from Eastlake Parkway to Hunte Parkway).
45. Eastlake Parkway from Olympic Parkway to Birch Road.
46. Eastlake Parkway from Birch Road to Alta Road.
- 47a. Mt. Miguel Road from Proctor Valley Road North to SR 125.
- 47b. Mt. Miguel Road from SR 125 to Proctor Valley Road (South), previously named East "H" Street.
48. Hunte Parkway from Olympic Parkway to Eastlake Parkway.
50. Deleted project. [La Media Road bridge crossing the Otay River (one-half the cost)].
51. La Media Road from Olympic Parkway to Birch Road.
52. La Media Road from Birch Road to Rock Mountain Road.
53. La Media Road from Rock Mountain Road to Main Street (previously named Otay Valley Road).
54. La Media Road from Main Street to southern city boundary.
55. Otay Lakes Road from East H Street to Telegraph Canyon Road.
- 56a. Main Street from Nirvana to Rock Mountain Road.
- 56b. Main Street from Rock Mountain Road to La Media Road.
- 56c. Main Street from La Media Road to SR125.
- 56d. Main Street at I-805 Underpass widening.
57. Paseo Ranchero from Olympic Parkway to Main Street.
- 58a. Paseo Ranchero from Main Street to southern City boundary (excludes bridge crossing the Otay River).
- 58b. Paseo Ranchero bridge crossing the Otay River (0% of cost).
- 59a. Proctor Valley Road from Hunte Parkway to Rolling Hills Ranch Neighborhood 9 west entrance.
- 59b. Proctor Valley Road from Rolling Hills Ranch Neighborhood 9 west entrance to easterly city boundary.
60. Rock Mountain Road from SR125 to Main Street.
61. Willow Street from Bonita Road to Sweetwater Road (including bridge over Sweetwater River).
62. East H Street from Buena Vista Way to Otay Lakes Road.
63. Intersection signalization area wide within the Eastern Territories.
64. Development impact fee program support.

\* Project is now included in the interim pre-SR125 transportation facility fee.

\*\* Project has been completed.

SECTION 5:

That the developer authorization for construction of transportation facilities as set forth in Section 3.54.040(B) shall be deleted:

## SECTION 6:

That the developer construction of transportation facilities as set forth in Section 3.54.040(C) shall be amended as follows:

B. Whenever a developer requests reimbursement, or a credit against fees, for work to be done or paid for by the developer under subsections (A) of this section, the request shall be submitted in writing to the city manager's designee.

1. The request shall contain a description of the project with a detailed cost estimate which itemizes those costs of the construction attributable to the transportation facility project and excludes any work attributable to a specific subdivision project. The estimate is preliminary and the amount of reimbursement or credit against fees is subject to final determination by the city manager's designee. Additional information shall be provided to the city by the developer upon request of the city.

2. Such reimbursement or credit against fees shall be subject to the following conditions:

a. Requirements of Developer.

- i. Preparation of plans and specifications for approval by the city;
- ii. Secure and dedicate any right-of-way required for the transportation facility project;
- ii. Secure all required permits and environmental clearances necessary for the transportation facility project;
- iv. Provision of performance bonds (where the developer intends to utilize provisions for immediate credit, the performance bond shall be 100 percent of the value of the transportation facility project);
- v. Payment of all city fees and costs.

b. The city will not be responsible for any of the costs of constructing the transportation facility project. The developer shall advance all necessary funds to construct the transportation facility project.

c. The developer shall secure at least three qualified bids for work to be done and shall award the construction contract to the lowest qualified bidder. The developer may combine the construction of the transportation facility project with other development-related work and award one construction contract for the combined work based on a clearly identified process for determining the low bidder, all as approved by the city manager's designee. Should the construction contract be awarded to a qualified bidder who did not submit the lowest bid for the transportation facility project portion of the contract, the developer will only receive transportation development impact fee credit based on the lowest bid for the transportation facility portion of the contract. Any claims for additional payment for extra work or charges shall be justified, shall be documented to the satisfaction of the city manager's designee and shall only be reimbursed at the prices for similar work included in the lowest bid for the transportation facility portion of the contract.

d. Upon complying with conditions set forth in Section 3.54.040(B)1. and 2.a. above as determined by the city and upon approval of the estimated cost by the city manager's designee, the developer shall be entitled to immediate credit for 50

percent of the estimated cost of the construction attributable to the transportation facility project. Once the developer has received valid bids for the project which comply with Section 3.54.040(B)2.c., entered into binding contracts for the construction of the project, and met the conditions set forth in Section 3.54.040(B)1. and 2.a. above as determined by the city, all of which have been approved by the city manager's designee the amount of the immediate credit shall be increased to 75 percent of the bid amount attributable to the transportation facility project. The immediate credits shall be applied to the developer's obligation to pay transportation development impact fees for building permits issued after the establishment of the credit. The developer shall specify those building permits to which the credit is to be applied at the time the developer submits the building permit applications.

f. If the developer uses all of the immediate credit before final completion of the transportation facility project, then the developer may defer payment of development impact fees for other building permits by providing to the city liquid security such as cash or an irrevocable letter of credit, but not bonds or set-aside letters, in an amount equal to the remaining amount of the estimated cost of the transportation facility project.

g. When all work has been completed to the satisfaction of the city, the developer shall submit verification of payments made for the construction of the transportation facility project to the city. The city manager's designee shall make the final determination on expenditures which are eligible for credit or cash reimbursement.

h. After final determination of eligible expenditures has been made by the city manager's designee and the developer has complied with the conditions set forth in this Section 3.54.040(B) as determined by the city, the final amount of transportation development impact fee credits shall be determined by the city manager's designee. The developer shall receive credit against the deferred fee obligation in an amount equal to the difference between the final expenditure determination and the amount of the 75 percent immediate credit used, if any. The city shall notify the developer of the final deferred fee obligation, and of the amount of the applicable credit. If the amount of the applicable credit is less than the deferred fee obligation, then the developer shall have 30 days to pay the deferred fee. If the deferred fees are not paid within the 30-day period, the city may make a demand against the liquid security and apply the proceeds to the fee obligation.

i. At the time building permits are issued for the developer's project, the city will incrementally apply credit which the developer has accrued in lieu of collecting the required transportation development impact fees. The amount of the credit to be applied to each building permit shall be based upon the fee schedule in effect at the time of the building permit issuance. The city manager's designee shall convert such credit to an EDU basis for residential development and/or a gross acre basis for commercial or industrial development for purposes of determining the amount of credit to be applied to each building permit.

If the total eligible construction cost for the transportation facility project is more than the total transportation development impact fees which will be required for the developer's project, then the amount in excess of development impact fees will be paid in cash when funds are available as determined by the city manager; a reimbursement agreement will be executed; or the developer may waive reimbursement and use the excess as credit against future transportation development impact fee obligations. The city may, in its discretion, enter into an agreement with the developer to convert excess credit into EDU and/or gross acre



credits for use against future development impact fee obligations at the fee rate in effect on the date of the agreement.

j. The requirements of Section 3.54.040(B) may, in the city' s discretion, be modified through an agreement between the developer and the city and approved by city council.

#### SECTION 7:

That the developer construction of transportation facilities as set forth in Section 3.54.040(D) shall be amended as follows:

C. Whenever a transportation development impact fee credit is generated by constructing a transportation facility using assessment district or community facility district financing, the credit shall only be applied to the transportation development impact fee obligations within that district.

#### SECTION 8:

That Section 3.54.090 is added as follows:

##### 3.54.090 Economic Incentive Credit

The city council may authorize the city to participate in the financing of transportation facility projects or portions of transportation facility projects identified in Section 3.54.030. At the time of the appropriation of funds by city council for the construction of an eligible transportation facility, the city shall be eligible to receive a credit known hereafter as an Economic Incentive Credit. Such economic incentive credit may be applied to development impact fee obligations for those projects which the city council determines, in its sole discretion, to be beneficial to the city. The use of the economic incentive credit may be subject to conditions which shall be set forth in a written agreement between the developer of the project and the city and approved by city council. The amount of the credit shall be determined pursuant to Section 3.54.040(B).

The city may receive Economic Incentive Credit only for those eligible projects (i) identified in Section 3.54.030 and (ii) for amounts of funding not identified in the financial and engineering study, "Eastern Area Development Impact Fee for Streets" dated July 2002.

#### SECTION 9: Expiration of this ordinance

This ordinance shall be of no further force when the City Council determines that the amount of fees which have been collected reaches an amount equal to the cost of the transportation facilities or reimbursements.

#### SECTION 10: Time limit for protest and judicial action

Any judicial action or proceeding to attack, review, set aside, void or annul this ordinance shall be brought within the time period as established by Government Code Section 66020 after the effective date of this ordinance.


In accordance with Government Code Section 66020(d)(1), the ninety-day approval period in which parties may protest begins upon the effective date of this ordinance.  
SECTION 11: Effective Date

This Ordinance shall become effective 60 days after its adoption.

Presented by


Approved as to form by

  
\_\_\_\_\_  
John P. Lippitt  
Public Works Director

  
\_\_\_\_\_  
John M. Kaheny  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 20th day of August, 2002, by the following vote:

AYES:	Councilmembers:	Davis, Padilla, and Salas
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	Rindone and Horton

  
\_\_\_\_\_  
Stephen Padilla, Deputy Mayor

ATTEST:

  
\_\_\_\_\_  
Susan Bigelow, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO    )  
CITY OF CHULA VISTA     )

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2866 had its first reading at a regular meeting held on the 13<sup>th</sup> day of August, 2002 and its second reading and adoption at a regular meeting of said City Council held on the 20<sup>th</sup> day of August, 2002.

Executed this 20<sup>th</sup> day of August, 2002.

  
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Susan Bigelow, City Clerk