



TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: Marti Milan, Principal Civil Engineer

SUBJECT: Request from the Islamic Society of Santa Barbara, Located at 302 North Los Carneros Road, APN 077-160-035, for the Reduction of Park and Transportation Development Impact Fees

RECOMMENDATION:

- A. Consider a request from the Islamic Society of Santa Barbara for the reduction of Parks and Transportation Impact Fees.
- B. If Council wants to grant the request, adopt Resolution No. 18- __ entitled "A Resolution of The City Council of the City of Goleta, California Approving the Request from Islamic Society of Santa Barbara, APN 077-160-035, for a Reduction of Park and Transportation Development Impact Fees."

BACKGROUND:

On December 17, 2013, the City Council adopted Resolution 13-56 approving the Development Plan, Modifications and Minor Condition Use Permit for the Islamic Society of Santa Barbara (Project). The building received its Land Use Permit on June 22, 2016. The Project is located at 302 North Los Carneros Road and is currently under construction. The project consists of a 6,720 square foot, two story building, which includes a 400 square foot residential unit. The building is in the southwest corner of the site with a footprint of 3,820 square feet.

Under the authority of the Mitigation Fee Act (Government Code Section 66000 et seq.), the City can collect development impact fees (DIFs) from development that generates a need for new or expanded public facilities, including roads, parks, police, among others. Goleta collects development impact fees for parks, library, public administration, police, fire facilities, and transportation. Developers are required to pay their fair share of the costs associated with providing City infrastructure necessary to serve such development. The requirements of each of the City's development impact fee programs (e.g. fee amounts, timing of payment, etc.) are specific to each program.

On May 18, 2018, the City received a request from the Islamic Society seeking fee reductions for both the Park and Transportation DIFs, Attachment 2. DIFs are usually not paid until certificate of occupancy and the Project is almost done with construction and ready for occupancy.

DISCUSSION:

The City's transportation DIF is governed by the same language as in Section 23C-5 of the Santa Barbara County Municipal Code (SBCO 23C-5). The City adopted the County's transportation DIF upon incorporation. The City's Park DIF program is governed by Chapters 16.14, 16.15, 16.18 of the Goleta Municipal Code, each of these provide for the relevant DIFs and an option for the City to reduce fees for "beneficial projects."

The typical way jurisdictions deal with DIF reductions is to pass a resolution determining what projects are "beneficial" and designating a specific reduction for each type of "beneficial project." The City of Goleta has not adopted such a resolution and has reviewed each request on a case-by-case basis. However, staff will be bringing an item to Council in the near future regarding DIFs, which will update the DIF programs and fees and seek to put into place a resolution designating beneficial projects and reductions. The timing of the Islamic Society's request came before the DIF item was ready to bring to Council.

In recent requests the City has used the County of Santa Barbara's resolutions that identify beneficial projects, which include a "Non-Profit" and "Mixed-Use Housing" as a types of project qualifying for a fee reduction. The ordinances and resolutions applicable to this request are provided in Attachment 3. The County's definition of a Non-Profit and "Mixed Use Housing" are as follows:

Any non-profit entity or governmental agency which provides public access to sites of significant historical, cultural, or natural resource value, and/or provides essential health, safety, welfare, or other community service needs.

Mixed-use development shall be defined as a combination of residential and commercial land uses. The residential use shall be subordinate to a principal commercial land use. In no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial use.

If the Council wants to also recognize a non-profit and a mixed-use housing as beneficial projects, it could choose to use the County's definition of Non-Profit and mixed-use. On 2/19/13 the City approved a transportation fee reduction for Ice in Paradise at 75% as a non-profit facility. On 4/19/11 the City approved a transportation fee reduction for the Friendship Center at 85% as an adult day care facility.

The Islamic Society is a non-profit 501(c)(3) organization formed for the purpose of facilitating the education and practice of Islam. The Islamic Center will be open to all members of the public interested in practicing or learning about the Islamic faith. Therefore, it would provide a benefit to the community. The residential unit provided with

the Islamic Center is a small residence less than the total gross floor area of the Center's total gross floor area and is subordinate to the principal use, therefore, falling within the definition.

The City has used the County of Santa Barbara's resolutions regarding reduction amounts in the past for projects requesting a fee reductions. Those reduction amounts depend on the use type (commercial or residential). The Project consists of the primary building that will be used for religious purposes and a residential unit for the religious leader. The primary building is a commercial use under our DIF program and the residential unit is a mixed-use. Under the County's resolutions, if a project qualifies as a Non-Profit beneficial project, it would receive a certain percentage reduction from the full DIF. The below table represents what the Islamic Center's fees would be if the County's resolutions for beneficial projects' DIF reductions were used.

Islamic Society of Santa Barbara – Islamic Center and Residential Unit				
Mitigation Fee Type	Current Project Fee Amount*	County Reduction %	County Reduction Amount	Total Fee After Reduction
GTIP – Islamic Center	\$63,496.08	75%	\$47,622.06	\$15,874.02
GTIP – Residential Unit	\$18,246.00	60%	\$10,947.60	\$7,298.40
Park – Islamic Center	\$16,318.24	80%	\$13,054.59	\$3,263.65
Park – Residential Unit	\$11,848.00	40%	\$4,739.20	\$7,108.80
Total	\$109,908.32		\$76,363.45	\$33,544.87

Council may choose to allow for a fee reduction in any amount or not at all. The above table is only a sample of fee reductions based on the County's framework, which Goleta has used in the past. If Council chooses to allow for a fee reduction, it could apply a different percentage reduction. Staff recommends continuing to follow the historical pattern as it has followed in the past, but keeping in mind that staff will bring the subject of fee reductions as an item in the near future.

If Council were to allow for the fee reductions as shown in the table above it would result in a decrease of \$58,569.66 in transportation and \$17,793.79 in park DIF revenue. This would reduce available funding for future CIP projects in the Street's and Park's Divisions and could slow project delivery. However, the reduction in revenue should be balanced with the community benefit that the project provides.

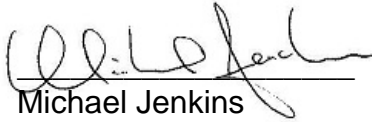
FISCAL IMPACTS:

If Council were to allow for the fee reductions as shown in the table above it would result in a decrease of \$58,569.66 in transportation DIF and \$17,793.79 in Park DIF revenue.


ALTERNATIVES:

All options have been provided in the Discussion section.

Legal Review By:


Michael Jenkins
City Attorney

Approved By:


Michelle Greene
City Manager

ATTACHMENTS:

1. A Resolution of the City Council of the City of Goleta, California, Approving the Request from Islamic Society of Santa Barbara, APN 077-160-035 for a Reduction of Park and Transportation Development Impact Fees.
2. Letter Request from Brownstein Hyatt Faber Schreck on behalf of the Islamic Society of Santa Barbara.
3. Ordinances 4270, 4341 and 4348 and Resolutions 99-250, 99-251 and 99-252 – Goleta Transportation Impact Mitigation Fee Program and Park and Recreation Fee Program

ATTACHMENT 1

A Resolution of The City Council of the City of Goleta, California, Approving the Request from Islamic Society of Santa Barbara, APN 077-160-035 for a Reduction of Park and Transportation Development Impact Fees.

RESOLUTION NO. 19-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, APPROVING THE REQUEST FROM ISLAMIC SOCIETY OF SANTA BARBARA, APN 077-160-035, FOR A REDUCTION OF PARK AND TRANSPORTATION DEVELOPMENT IMPACT FEES

The City Council of the City of Goleta does resolve as follows:

SECTION 1: *Recitals.* The City Council finds and declares that:

- A. On December 17, 2013 the City Council passed Resolution 13-56 approving the Development Plan, Modifications and Minor Condition Use Permit for the Islamic Center of Santa Barbara (Project). The building received its Land Use Permit on June 22, 2016. The Project is located at 302 North Los Carneros Road and is currently under construction. The project consists of a 6,720 square foot, two story building, which includes a 400 square foot residential unit on APN 077-160-035; and
- B. The City collects Development Impact Mitigation Fees (DIFs) pursuant to the Mitigation Fee Act (Government Code section 66000 et seq.); and
- C. The City collects a DIF for Park Impacts pursuant to City of Goleta Municipal Code Chapter 16.14, 16.15, and 16.18; and
- D. The City collects a DIF for Transportation Impacts (part of the Goleta Transportation Improvement Program (GTIP)) pursuant to Section 23C-5 of SBCO 23C, which the City adopted by reference upon incorporation; and
- E. The applicant submitted a letter requesting a fee adjustment for the DIFs in relation to Recreation (Parks) and the Goleta Transportation Improvement Program (Transportation) on May 18, 2018; and
- F. On January 15, 2019, the City Council considered the applicant's request for the reduction in Park and Transportation DIFs.

SECTION 2: *Findings of Facts.* The City Council finds and declares:

- A. Pursuant to Section 23C-5 of SBCO 23C, the Project is a Non-Profit and may request a reduction of Transportation DIF per 1,000 square feet of building space up to a maximum of 15,000 square feet of project and one residential unit; and

- B. Under Municipal Code Chapters 16.14, 16.15, and 16.18, the Project is a Non-Profit and may request a reduction of Park DIF per 1,000 square feet of building space up to a maximum of 15,000 square feet of project and one residential unit.

SECTION 3: *Action.* The City Council hereby approves a reduction in fees in the areas of Park and Transportation DIFs using the reduction rate reflected in the table below:

Table 1: Calculated vs. Adjusted Fee

Mitigation Fee Type	FY18/19 Project Fees Amount*	Reduction Percentage	Adjusted Fees
GTIP – Islamic Center	\$63,496.08	75%	\$47,622.06
GTIP – Residential Unit	\$18,246.00	60%	\$10,947.60
Park – Islamic Center	\$16,318.24	80%	\$13,054.59
Park – Residential Unit	\$11,848.00	40%	\$4,739.20

- *To be based on the most current DIF Fee Schedule at the time of payment of the fees for the Islamic Center of Santa Barbara.

Actual payment amounts will be based on the fees in effect and applicable at the time of payment. Any change in use from the approved project use shall invalidate this fee adjustment. Additionally, should the City adopt an updated AB 1600 Fee Study prior to the payment of DIF fees by the Project, then the rate of the DIFs charged will be based on the methodology and fees adopted in the updated study.

SECTION 4: This Resolution will remain effective until superseded by a subsequent Resolution.

SECTION 5: The City Clerk is directed to mail a copy of this Resolution to Islamic Center of Santa Barbara Schwan, P.O. Box 714, Goleta, CA 93116 and to any other person requesting a copy.

SECTION 6: This Resolution will become effective immediately upon adoption.

SECTION 7: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 15th day of January, 2019.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ,
CITY CLERK

MICHAEL JENKINS,
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 19-__ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 15th day of January, 2019 by the following vote of the City Council:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 2

Letter Request from Brownstein Hyatt Faber Schreck on behalf of the Islamic Society of
Santa Barbara

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May 18, 2018

TRANSMITTED VIA EMAIL AND MAIL

Mr. Joe Pearson II
Associate Planner
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117
jpearson@cityofgoleta.org

Beth A. Collins
Attorney at Law
805.882.1419 tel
805.965.4333 fax
bcollins@bhfs.com

RE: Development Impact Fee Reduction Request for Islamic Center

Dear Mr. Pearson,

On behalf of the Islamic Society of Santa Barbara ("Islamic Society"), I am writing to request a reduction in the transportation ("GTIP") and park development impact fees imposed on the Santa Barbara Islamic Center project ("Islamic Center").¹ Brownstein Hyatt Farber Schreck, LLP is land use legal counsel for the Islamic Society on this project.

We have been informed that the City relies on the three County resolutions referenced in this request to implement its fee reduction program set forth in Goleta Municipal Code § 16.18.080. The resolutions allow development impact fee reductions for certain "beneficial projects." As explained below, the Islamic Center qualifies as a beneficial project under the resolutions.

The Islamic Center Project

The Islamic Society is a non-profit 501(c)(3) organization formed for the purpose of facilitating the education and practice of Islam. The Islamic Society is the project proponent for the Islamic Center and will own and operate the Center. Approved by the City Council in 2013, the Islamic Center will include assembly and lecture halls for religious services and instruction, along with meeting rooms, offices, and a dining room to serve its patrons. It will also include one studio unit in which the Imam will reside. The building will have a total floor area of 6,320 square feet, with the studio comprising 400 square feet of the total floor area. The Center will be open to all members of the public interested in practicing or learning about the Islamic faith.

GTIP Fee Reduction

Resolution 99-250 provides that non-profit facilities "shall" receive a reduction of up to 75% of the GTIP fee per 1,000 square feet of building space up to a maximum of 15,000 square feet.² A non-profit is eligible for the reduction when it provides public access to sites of significant historical, cultural, or natural resource value, and/or provides essential health, safety, welfare, or other community service needs.

The Islamic Center constitutes a non-profit facility as defined in the Resolution. It will be owned and operated by the Islamic Society, which, as noted above, is a non-profit organization formed for the purpose of facilitating the education and practice of Islam. The Islamic Center will be accessible to members of the public who are interested in practicing Islam or studying it. There are currently no other centers in the area that allow residents to practice Islam or learn about Islam and Islamic culture. As such,

¹ The fee schedule for the Islamic Center is attached as Attachment A.

² A copy of Resolution 99-250 is attached as Attachment B.

the Islamic Center will be a site of significant cultural value and a unique resource for the Goleta community. It will support the community welfare and provide a community service as a venue for members of the local Islamic community to practice their faith.

The Islamic Society requests a reduction of 75% in its total assessed GTIP fee, bringing the fee down from \$79,663 to \$19,915.75.

Park Fee Reduction

Resolution 99-252 provides that non-profits (same definition as in Resolution 99-250) "shall" receive an 80% reduction in the Commercial and Industrial Park Fee per 1,000 square feet of building space up to the first 15,000 square feet.³ Resolution 99-251 provides that "Mixed-Use Housing" projects "shall" receive a 40% reduction in the Residential Park Fee per unit.⁴ A mixed-use housing project is defined in the Resolution as a combination of residential and commercial land uses where the residential use is subordinate to the commercial use and does not exceed the total gross floor area of the commercial use.

For the same reasons stated above, the Islamic Center qualifies for the Commercial Park Fee reduction as a non-profit facility. The Islamic Center also qualifies for the Residential Park Fee reduction as a mixed-use project since it includes a studio unit that is subordinate to the commercial use. The Islamic Society, therefore, requests an 80% reduction in the Commercial Park Fee, bringing it down from \$16,228 to \$3,245.60, and a 40% reduction in the Residential Park Fee, bringing it down from \$17,782 to \$10,669.20.

Conclusion

After years of planning, the Islamic Society is excited to be on the cusp of building this important new cultural institution that will benefit the entire community. We are thankful for all the support we've received from the City and the community at large. But as a non-profit, every ounce of financial assistance is critical to making this project viable for the future. We ask that the City grant the fee reductions requested herein to allow the Islamic Society to finally bring the Islamic Center to life.

Thank you for your consideration. Should you have any questions or require additional information, please contact me.

Sincerely,



Beth Collins

CC: Normah Halim, Islamic Society of Santa Barbara
Jamal Hamdani, Islamic Society of Santa Barbara
Ken Mineau, Islamic Society of Santa Barbara
Dylan Johnson, Brownstein Hyatt Farber Schreck, LLP

Attachments:

Attachment A – Islamic Center Fee Schedule
Attachment B – Resolution 99-250
Attachment C – Resolution 99-252
Attachment D – Resolution 99-251

³ A copy of Resolution 99-252 is attached as Attachment C.

⁴ A copy of Resolution 99-251 is attached as Attachment D.

ATTACHMENT 3

Ordinances 4270, 4341 and 4348 and Resolutions 99-250, 99-252 and 99-551 – Goleta
Transportation Impact Mitigation Fee Program and Park and Recreation Fee Program

ORDINANCE NO. 4270

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA
AMENDING CHAPTER 23 OF THE COUNTY CODE,
ADDING CHAPTER 23C TO THE COUNTY CODE,
AND ESTABLISHING A TRANSPORTATION IMPACT MITIGATION FEE PROGRAM

- § 23C-1 Findings.
- § 23C-2 Definitions.
- § 23C-3 Establishment of Transportation Impact Fee and Providing for their Adoption by Resolution of the Board of Supervisors.
- § 23C-4 Imposition of Transportation Impact Mitigation Fees.
- § 23C-5 Automatic Annual Adjustment.
- § 23C-6 Fee Revision by Resolution.
- § 23C-7 Creation of Special Funds.
- § 23C-8 Mitigation Fee Based on Proposed Land Use.
- § 23C-9 Calculation and Payment of Fees.
- § 23C-10 Fee Adjustments.
- § 23C-11 Fee Reduction Policy for Beneficial Projects.
- § 23C-12 Use of Funds.
- § 23C-13 Refund of Fees Paid.
- § 23C-14 Exemptions.
- § 23C-15 Developer Construction of Facilities.
- § 23C-16 Review.
- § 23C-17 California State Law.
- § 23C-18 Superseding Provisions.
- § 23C-19 Severability.
- § 23C-20 Effective Date.
- § 23C-21 Publication.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ORDAINS AS FOLLOWS:

Section 23C-1. Findings.

(A) Certain types of new development projects and subdivisions within the County can have impacts on public transportation and transit facilities.

(B) The State of California, through the enactment of Government Code Sections 66484 and 66001 through 66025 has decreed that local agencies may collect fees from new development projects and subdivisions within the County for the impacts they have on certain capital improvements, including transportation and transit facilities.

(C) New development and subdivisions within Santa Barbara County should be required to mitigate their transportation and transit facility impacts by constructing, or financing the construction of, the transportation and transit facilities needed to serve the new development and subdivisions.

(D) The County of Santa Barbara is comprised of different regions, and each of these regions has different transportation and transit facility needs that are impacted differently by new development and subdivisions.

(E) The County Board of Supervisors has (1) adopted, and regularly updates, a Santa Barbara County Comprehensive Plan Circulation Element that generally identifies future elements of the County transportation system that may be impacted by new development projects and subdivisions, and (2) has also initiated a program of developing Transportation Improvement Plans which identify the specific transportation and transit facility improvements needed in the various regions of the County that are impacted by new development projects and subdivisions.

(F) County staff periodically prepare reports that address the existing modes of transportation within the county and the demands created by new development projects and subdivisions for new or improved public facilities to accommodate motor vehicles and other modes of transportation.

(G) Documentation gathered by County staff has identified percentages of travelers using different modes of motorized and non-motorized transportation in the various planning areas of the County.

(H) The Board of Supervisors has determined that imposition of Transportation Impact Mitigation Fees to finance transportation and transit facilities for the County is necessary in order to: (1) protect the public health, safety and welfare by the provisions of adequate transportation and transit facilities, (2) provide developers or subdividers certainty with regard to their financial obligations, and (3) ensure that new development or subdivisions will not create an undue burden on the interrelated transportation and transit facilities throughout the County.

(I) The Transportation Impact Mitigation Fees expected to be generated by new development projects and subdivisions will not exceed the estimated total cost of constructing or providing the transportation and transit facilities necessitated by these new development projects and subdivisions.

(J) There is a reasonable relationship between the need for transportation and transit facilities and the development projects and subdivisions for which the Transportation Impact Mitigation Fees authorized by this ordinance are to be charged, and that there also exists a reasonable relationship between the proposed use of these fees and the type of land use for which the fees are to be charged.

(K) Therefore it is ordered that there is added so the Santa Barbara County Code a new chapter entitled "Transportation Impact Mitigation Fees".

Section 23C-2. Definitions.

For purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings ascribed to them by this section:

A. "Development" or "Development Project" means any project that involves the issuance of a Santa Barbara County Land Use Permit for construction, reconstruction or remodeling. The term "development" or "development project" shall also include the erection of manufactured buildings and building structures moved into the County.

B. "Fee" means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion, of the cost of transportation and transit facilities related to the development project or subdivision.

C. "Land Use Permit" means a permit, issued as per sections 35-314, 35-169 or 35-482 of the County Code as they presently exist or may hereafter be amended, that allow for the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement within the County. **This ordinance only applies to projects that (1) require a Land Use Permit and (2) have a transportation impact.** Projects that do not require a Land Use Permit and that have no transportation impact are exempt. These exempted projects include, but are not limited to, the following:

1. Repair and maintenance activities.
2. The construction of fences and walls.
3. The installation of irrigation lines and other underground utilities.
4. The remodeling or reconstruction of structures in which the land use does not change.
5. Minor construction projects including tool and storage sheds, driveways, patio additions, spas, hot tubs, etc., where the gross floor of the land use is not increased such that a transportation impact occurs.
6. The replacement or restoration of conforming buildings or structures that are damaged or destroyed by a disaster with a substantially similar building or structure.

Sections 35-134, 35-169 or 35-482 of the County Code, as they presently exist or may hereafter be amended, also provide additional, specific information regarding projects exempt from land use permits and should be consulted for a conclusive determination.

D. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a

condominium project, as defined in subdivision (f) of Section 1351 of the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.

E. "Transit Facilities" includes capital improvements for public transit systems including but not limited to bus turnouts, benches, bus stop covers and bus stop signage. It also includes the related planning, engineering, construction and administrative activity for these capital improvements.

F. "Transportation Facilities" includes but is not limited to roads, road rights of way, striping, curbs, gutters, sidewalks, bridges, traffic control devices, street lighting, bike lanes, bike paths and related planning, engineering, construction and administrative activity.

G. "Transportation Impact" includes any project requiring a land use permit, and/or any subdivision of land, which generates one or more **additional** peak hour motor vehicle trips as determined by the Traffic Manual of the Institute of Traffic Engineers or its successor publication.

Section 23C-3. Establishment of Transportation Impact Mitigation Fees and Providing for their Adoption by Resolution of the Board of Supervisors .

Transportation impact mitigation fees may be established pursuant to this Chapter by resolution of the Board of Supervisors to address identified transportation impacts for each planning area of the County. These fees are payable upon approval of final subdivision maps, or the issuance of land use permits, in order to finance the cost of transportation and transit facilities. Planning areas of the County currently include, but are not limited to:

- A. Goleta Planning Area
- B. Montecito Planning Area
- C. Summerland Planning Area
- D. Mission Canyon Planning Area
- E. Orcutt Planning Area
- F. Mission Hills – Vandenberg Village Planning Area
- G. Santa Ynez Valley Planning Area
- H. Los Alamos Planning Area
- I. Rural County Planning Area

Planning Areas may be further defined, added, deleted or consolidated by resolution of the Board of Supervisors.

Section 23C-4. Imposition of Transportation Impact Mitigation Fees.

A. Any person who, after the effective date of this Chapter, seeks to develop or subdivide land within the County by receiving approval for a final subdivision map or a Land

Use Permit shall be required to pay the appropriate Transportation Impact Mitigation fee(s) established pursuant to this ordinance, (unless exempted as provided herein by Section 23 C-14) in the manner, amount and for the purposes herein referenced.

B. No Land Use Permit for any Development Project shall be issued unless and until the appropriate Transportation Impact Mitigation fee(s) have been paid to the County in accordance with Sections 66000 et. seq. of the California Government Code, or the development project has been found to be exempt from the payment of these fee(s) as provided by Section 23C-14 of this ordinance.

C. No final subdivision map shall be deemed approved unless and until the appropriate Transportation Impact Mitigation fee(s) have been paid to the County, or the subdivision has been found to be exempt from the payment of these fee(s) as provided by Section 23C-14 of this ordinance.

Section 23C-5. Automatic Annual Adjustment.

Each fee imposed by this Chapter shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1998, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding twelve (12) months.

Section 23C-6. Fee Revision by Resolution.

The amount of each fee established pursuant to this Chapter may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 23C-7. Creation of Special Funds.

Each fee collected pursuant to this Chapter shall be deposited in a fund specifically identified by planning area to hold the revenue generated by the fee(s). Monies within this fund in excess of \$75,000 may be expended only for specific projects which are identified in the Capital Improvement Plans adopted by the Board of Supervisors for the various planning areas. Monies within this special fund in an amount less than \$75,000 may be expended by the appropriation of the Director of Public Works for specific projects which are of the same category, and in the same planning area, as that for which the money was collected.

Section 23C-8. Mitigation Fee Based on Proposed Land Use.

The proposed land use of the property to be developed or subdivided shall be used in the computation of the fees required to be paid with respect to any property. If a development or subdivision is proposed to have more than one land use, then the applicable fees shall be prorated by parcels, units and/or square footage, as appropriate, attributable to each land use classification. The methodology for calculating all fees due, or exemptions allowed, shall be determined by the Santa Barbara County Director of Public Works, or a designee authorized by

the Director of Public Works, and approved by the Auditor-Controller, or a designee authorized by the Auditor-Controller.

Section 23C-9. Calculation and Payment of Fees.

A. Fees for residential land uses shall be calculated per parcel, for final approval of a subdivision map, or by dwelling unit, for issuance of a Land Use Permit .

B. Fees for commercial and industrial developments shall be calculated per parcel, for final approval of a subdivision map, or on the basis of gross square footage (i.e., all of the floor area confined by the outside surface of the exterior walls of a building, except for that floor area devoted solely to vehicle parking and/or vehicle circulation), for issuance of a Land Use Permit.

C. The fees established pursuant to this Chapter shall be detailed in the Transportation Impact Mitigation Program fee schedules for the various planning areas of the County and paid at the time of final approval of a subdivision map, or the issuance of any required Land Use Permit, except as otherwise provided herein. All fees shall be collected in accordance with the provisions of California Government Code Sections 66007 and 66848, as the same presently exists or may hereafter be amended. Any fee payable pursuant to this Chapter may be paid under protest as provided by Section 66020 of the California Government Code as it now exists or may hereafter be amended.

Section 23 C-10. Fee Adjustments.

A. A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this Chapter may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Transportation Impact Mitigation Program fee based upon the absence of any reasonable relationship or nexus between the transportation impacts of the project or subdivision and either the amount of the fee(s) charged or the type of transportation or transit facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Director of Public Works within 15 calendar days following the determination of the fee amount.

B. The Director of Public Works shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 23C-11. Fee Reduction Policy for Beneficial Projects.

A. The Board of Supervisors may establish by resolution categories of "Beneficial" Projects" which are eligible for fee reductions or waivers. The resolution will establish administrative procedures for granting fee reductions or waivers. *(Amended by Ord.4362, 6/22/99)*

B. Any reduction or waiver of Transportation Impact Mitigation Fees must be accompanied by a finding of availability of substitute funds to assure that the transportation improvements needed to mitigate the impacts of the project receiving the reduction, adjustment or waiver can be constructed. *(Amended by Ord.4362, 6/22/99)*

C. Any Transportation Impact Mitigation Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to reevaluation by the County and may result in the imposition of fees previously reduced or waived.

23C-12. Use of Funds.

A. Funds collected from Transportation Impact Mitigation fees shall be used for the purpose of (1) paying the actual or estimated costs of constructing and/or improving the pertinent transportation and transit facilities within the County necessary to serve development projects and subdivisions, including any required acquisition of land or rights of way; (2) reimbursing the County for the development's or subdivision's share of those transportation or transit facilities already constructed by the County, or to reimburse the County for costs advanced; or (3) reimbursing other developers or subdividers who have constructed transportation or transit facilities that were beyond those needed to mitigate the impact of their own project or subdivision and which benefit the newly proposed project or subdivision.

B. In the event that bonds or similar debt instruments are issued for advanced provision of transportation or transit facilities which benefit a proposed project or subdivision, the Transportation Impact Mitigation fees paid by the project or subdivision may be used for debt service on such bonds or similar debt instruments.

C. Funds may be used to provide refunds, as provided herein.

23C-13. Refund of Fees Paid.

A. If a Land Use Permit expires without commencement of construction, the fee payer shall be entitled to a refund of the Transportation Impact Mitigation fee(s) paid, with any interest accrued thereon, as a condition of the issuance of the permit. The fee payer shall submit a written request for a refund to the Public Works Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.

B. In the event any fee collected pursuant to this ordinance remains unexpended and uncommitted five or more years after deposit of said fee, the Board of Supervisors shall make findings once each fiscal year to identify the purpose to which the fee is to be put and demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

C. The unexpended and uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to Subsection B, shall be refunded to

the then current owner(s) of record of the development project(s), less any amounts expended as provided herein.

D. The provisions of California Government Code Section 66001 (d), (e) and (f), as they now exist or as they may be amended, shall apply to any refund of fees remaining unexpended or uncommitted by the County for five or more years after deposit.

23C-14. Exemptions.

The following will be exempted from payment of the Transportation Impact Mitigation fees referenced herein:

A. Any development project or subdivision that has no transportation impact, as defined by Section 23C-2.G of this chapter.

B. Any development project that does not require a Land Use Permit (issued as per Sections 35-314, 35-169, or 35-482 of the County Code, as they presently exist or may hereafter be amended) that allows for the erection, moving, alteration, enlarging, or rebuilding of any building, structure or improvement within the County.

23C-15. Developer Construction of Facilities.

In-lieu fee credit for the construction of transportation facilities and service improvements is allowable under the following conditions:

A. Only the costs of transportation or transit facilities listed on, or exempted from, the applicable Transportation Improvement Plan shall be eligible for in-lieu credit.

B. With prior approval of the Director of Public Works or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of transportation or transit facility provided by the developer.

C. Actual construction costs do not include design costs or the cost of environmental review. If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.

D. An amount of in-lieu credit that is greater than the specific fee(s) required under this Chapter may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Director of Public Works.

E. If an applicant is required, as a condition of approval for a development permit or a final subdivision map, to construct any off-site transportation or transit facility, and the cost of the facility is determined to exceed the fee due under this Ordinance, a reimbursement agreement may be offered in writing by the Director of Public Works. The reimbursement agreement shall contain terms and conditions approved by the Public Works Director, Auditor-Controller,

County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.

F. Transportation and transit facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.

G. A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Public Works Director to support the request for credit or reimbursement. The Public Works Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.

H. Any claim for credit must be made at or before the time of application of a Land Use Permit or final map approval. Any claim not so made shall be deemed waived.

I. Credits shall not be transferable from one project or subdivision to another without Board of Supervisors' approval.

J. Determinations made by the Public Works Director pursuant to this section (23C-15) may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within ten (10) working days of the determination of the Public Works Director.

23C-16. Review.

A. At least once each fiscal year a proposed capital improvement program detailing the specific transportation and transit facilities to be funded by Transportation Impact Mitigation Program fees shall be presented for adoption to the Board of Supervisors at a noticed public hearing in accordance with Section 65090 and 66002 of the Government Code, as they now exist or may be amended.

B. Except for the first year that this ordinance is in effect, no later than sixty (60) days following the end of each fiscal year, the Public Works Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Transportation Impact Mitigation Program fund(s) established pursuant to this Chapter, the facilities constructed during the past fiscal year, and the facilities proposed for construction during the current fiscal year. In preparing the report, the Public Works Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

C. At a public hearing the Board of Supervisors shall review estimated costs of the transportation and transit facilities described in the report, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the

fees are charged. The Board of Supervisors may revise the Transportation Mitigation Program fees to include additional projects not previously foreseen as being needed.

23C-17. California State Law.

The provisions of this chapter and any resolution adopted pursuant hereto shall at all times be subject and subordinate to the provisions of the laws of the State of California as the same presently exist or may hereafter be amended.

23C-18. Superseding Provisions.

The provisions of this ordinance and any resolution adopted pursuant hereto shall supersede any previous County ordinance or resolution to the extent the same is in conflict with this ordinance. Off-site Transportation Improvement Fees existing prior to the effective date of this ordinance shall remain in effect within each planning area of the County until expressly repealed or modified by resolution of the Board of Supervisors.

23C-19. Severability.

If any section, phrase, sentence, or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this Chapter.

23C-20. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and effect sixty (60) days after the date of its adoption by the Board of Supervisors.

23C-21. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News Press, a newspaper of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara,
State of California, this 22nd day of July, 1997, by the following vote:

AYES: Supervisors Schwartz, Graffy, Marshall, Staffel, Urbanske

NOES: None

ABSTAIN: None

Chair, Board of Supervisors
Tom Urbanske, Chair

ATEST:
Michael F. Brown
Clerk of the Board

By _____
Deputy

APPROVED AS TO FORM:
Stephen Shane Stark
County Counsel

APPROVED AS TO ACCOUNTING FORM:
Robert W. Geis
Auditor-Controller

By: _____
Deputy County Counsel

By _____
Deputy

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ORDINANCE NO. 4341

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING
CHAPTER 21 OF THE COUNTY CODE, ADDING CHAPTER 21, ARTICLE VII,
DIVISION 1 TO THE COUNTY CODE, ESTABLISHING A COMMERCIAL AND
INDUSTRIAL PARK AND RECREATIONAL FACILITY DEVELOPMENT IMPACT
FEE IN THE GOLETA PLANNING AREA

CASE NO. 98-OA-021

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA
ORDAINS AS FOLLOWS:

Section 1. Chapter 21 of the Santa Barbara County Code is amended, adding Article
VII, Division 1 to read as follows:

Article VII. Goleta Planning Area Development Impact Fees

Division 1: Commercial and Industrial Park and Recreational Facility Development
Impact Fees

Section

21-300	Findings.
21-301	Definitions.
21-302	Adoption of C/I Park and Recreational Facility Development Impact Fee.
21-303	Applicability of Fees.
21-304	Exemptions.
21-305	Timing of Fee Payment.
21-306	Fee Adjustments.
21-307	Fee Reduction for Beneficial Projects.
21-308	Fee Account.
21-309	Use of Funds.
21-310	Developer Construction of Facilities.
21-311	Conditions for Refunds.
21-312	Annual Report.
21-313	Automatic Annual Adjustments.
21-314	Fee Revision by Resolution.
21-315	Superseding Provisions.
21-316	Severability.
21-317	Effective Date.
21-318	Publication.

Section 21-300. Findings.

(a) In order to implement the goals and objectives of the Goleta Community Plan and
to mitigate impacts caused by new commercial and industrial development projects

within the Goleta Planning Area, a Park and Recreational Facility Development Impact Fee is necessary. The fee is needed to finance park and recreational facilities necessary to serve new commercial and industrial development and to assure new commercial and industrial development projects pay their fair share for these facilities.

(b) Sections 66000 et seq. of the California Government Code provide that Development Impact Fees may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:

- (1) New commercial and industrial development projects cause the need for construction, expansion and/or improvement of park and recreational facilities within the Goleta Planning Area.
- (2) Funds for construction, expansion and/or improvement of park and recreational facilities are not available to accommodate the needs caused by new commercial and industrial development projects, which will result in inadequate park and recreational facilities within the Goleta Community Planning Area.

(c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Commercial and Industrial Park and Recreational Facility Development Impact Fee for the construction, expansion and/or improvement of park and recreational facilities, the need for which is caused by new commercial and industrial development projects. In establishing a Commercial and Industrial Park and Recreational Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Goleta Community Plan.

(d) Pursuant to Title 14 California Code of Regulations, § 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-30L. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Goleta Community Plan" is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Goleta.
- (b) "Goleta Community Planning Area" or "Goleta Planning Area" is defined as that area of the County of Santa Barbara delineated by the Goleta Community Plan adopted by the Board of Supervisors on July 20, 1993 and as amended from time to time.

(c) "Development" or "Development Project" means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.

(d) "Commercial and Industrial" means any building used for retail commercial and/or non-retail commercial and industrial development as identified in Article II and III of the County Code, which includes, but is not limited to, retail stores, shops, and offices supplying commodities or performing services, excluding schools, governmental facilities, churches, non-profits, and special care facilities.

(e) "Retail Commercial" includes, but is not limited to, food stores, book stores and video rental stores, drug stores, laundry and cleaning establishments, barber shops and beauty parlors, repair shops for shoes, radios, TV and domestic appliances, professional services, studios and clinics, automotive service stations, vehicle maintenance and repair, banking, insurance and real estate services, restaurants, small bakeries, theaters, bowling alleys, and social clubs, discount stores, home supply stores.

(f) "Non-Retail Commercial and Industrial" includes, but is not limited to, buildings in which medical activities are conducted, warehouses and wholesale distribution, mini-warehouses, truck terminals, manufacturing, processing, fabricating, assembly, refining, repairing, packaging, or treatment of goods, material, or produce, sheet metal and welding shops, wholesale lumber yards, contractors yards, auto wrecking yards, canneries, commercial feed lots and stock yards, research and development, light industrial such as product assembly, laboratories, printing plants, and power stations, hotels and motels.

(g) "Fee" means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of park facilities related to the development project or subdivision.

(h) "Park and Recreational Facilities" include public park and recreation facilities, open space, riding and hiking trails, ancillary facilities, and any other capital park and recreation facility projects identified in the County's 5-year Capital Improvement Plan.

(i) "Park and Recreational Impact" means any commercial or industrial development project which generates an increased demand for park and recreational facilities within the Goleta Planning Area.

(j) "Capital Improvement Plan" means the plan for park capital improvements as identified in the County's 5-year Capital Improvement Plan or its successor as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.

(k) "Board of Supervisors" means the Board of Supervisors of the County.

(l) "County" means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-302. Adoption of Commercial and Industrial Park and Recreational Facility Development Impact Fees.

Pursuant to this ordinance, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Payment of such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new commercial and industrial development projects within the Goleta Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the park and recreational facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the park and recreational facility, or portion of the park and recreational facility; and
- (6) Establish a schedule of fees for commercial and industrial park and recreational facilities.

Section 21-303. Applicability of Fees.

(a) A Commercial and Industrial Park and Recreational Facility Development Impact Fee shall be charged upon approval for the following new development within the Goleta Planning Area:

1. The construction or installation of any new commercial or industrial buildings, including any additions to such existing buildings which add more than 500 square feet of floor area.

Section 21-304. Exemptions.

The following will be exempted from payment of Commercial and Industrial Park and Recreational Development Impact fees referenced herein:

- (a) Any development project that has no park and recreational facility impact, as defined by Section 21-301 (i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, improvement within the County.

Section 21-305. Timing of Fee Payment.

(a) Imposition of Fees

- (i) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits.
- (ii) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its park and recreational impact, or (2) the schedule of fees has been amended since the previous approval. In this event, the applicant shall pay the appropriate increase or decrease in the fees.
- (iii) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payor shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee

- (i) Except as set forth in section (ii) below, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be paid on the date the final inspection is approved.
- (ii) The county shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the county has adopted a proposed construction schedule or plan prior to final

inspection, or the fees are to reimburse the local agency for expenditures previously made.

- (iv) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-306. Fee Adjustments.

(a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Park and Recreational Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the park and recreational impacts of the project or subdivision and either the amount of the fee(s) charged or the type of park and recreational facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Park Director within 15 calendar days following determination of the fee amount.

(b) The Park Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-307. Fee Reduction for Beneficial Projects.

(a) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs may apply for fee reduction, adjustments, or waivers of Park and Recreational Facility Development Impact Fee(s). The applicability of this provision to individual projects shall be subject to a determination by the Board of Supervisors.

(b) Any reduction, adjustment or waiver of Commercial and Industrial Park and Recreational Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the park and recreational facilities can be constructed.

(c) Any Commercial and Industrial Park and Recreational Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the permit being sought. Any new permit shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-308. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Park and Recreational Facility Development Impact Fees pursuant to California Government Code 66006.
- (b) Park and Recreational Facility Development Impact Fees paid shall be held by the Park Department in a separate Park and Recreational Facility Development Impact Fee account to be expended for the purpose for which they were collected. The Park Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-309. Use of Funds.

- (a) Funds collected from Park and Recreational Facility Development Impact Fees shall be used to acquire, construct, and install park and recreational facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the park and recreational facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-310. Developer Construction of Facilities.

In lieu fee credit for the construction of park and recreational facilities and service improvements is allowable under the following conditions:

- (a) The costs of park and recreation facilities listed on, or exempted from, the applicable Park and Recreation Capital Improvement Plan, or County Comprehensive Plan / Land Use Element Recreation section, or the adopted Park, Recreation, and Trail Map (PRT-3), or other public park and recreation facilities approved by the Park Director or her/his designee, may be eligible for in-lieu credit.
- (b) With prior approval of the Park Director or her/his designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of park and recreational facilities provided by the developer.

(c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.

(d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Park Director.

(e) If an applicant is required, as a condition of approval for a discretionary permit, to construct any off-site park facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Park Director. The reimbursement agreement shall contain terms and conditions approved by the Park Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.

(f) Park and recreational facilities specifically serving the project exclusively may be eligible for partial in-lieu fee credit based on an adopted credit schedule.

(g) A developer seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Park Director to support the request for credit or reimbursement. The Park Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer if so eligible.

(h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.

(i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.

(j) Determination made by the Park Director pursuant to this section (21-310) may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within ten (10) working days of the determination of the Park Director.

Section 21-311. Condition for Refunds.

(a) If a permit expires without commencement of construction, the taxpayer shall be entitled to a refund of the Park and Recreational Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Park Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund shall

constitute a waiver of any right to a refund if the fee has been allocated to facility projects included in the County's 5-year Capital Improvement Plan.

(b) The Park Director shall report to the Board of Supervisors, once each fiscal year, any portion of Park and Recreational Facility Development Impact Fees remaining unexpended or uncommitted in an account five (5) or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code § 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the park and recreational facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.

(c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.

(d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fees are collected pursuant to Government Code § 66001 et seq. and that serves the project on which the fee was originally imposed.

Section 21-312. Annual report.

(a) At least once every year a proposed Capital Improvement Plan detailing the specific park and recreational facilities to be funded by Park and Recreational Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code § 65090 and § 66002, as they now exist or may be amended.

(b) Except for the first year that this ordinance is in effect, no later than sixty (60) days following the end of each fiscal year, the Park Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Park and Recreational Facility Development Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Park Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

(c) At a public hearing the Board of Supervisors shall review estimated costs of the park and recreational facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Park and Recreational Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-313. Automatic Annual Adjustment.

Each fee imposed pursuant to this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding twelve (12) months.

Section 21-314. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-315. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersedes any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-316. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-317. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect sixty (60) days after the date of its adoption by the Board of Supervisors.

Section 21-318. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

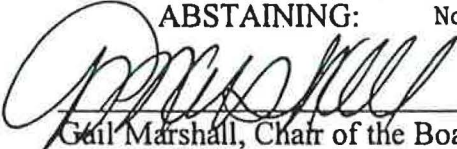
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara,
State of California, this 3rd day of Nov., 1998, by the following votes:

AYES: Supervisors Schwartz, Graffy, and Marshall.

NOES: Supervisor Gray.

ABSENT: Supervisor Urbanske.

ABSTAINING: None.



Gail Marshall, Chair of the Board of Supervisors,
County of Santa Barbara

ATTEST:

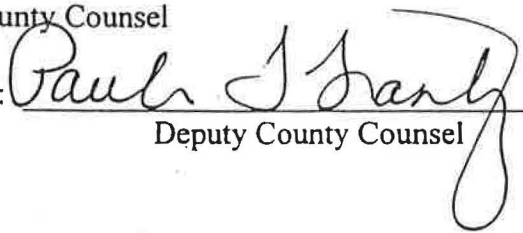
Michael F. Brown
Clerk of the Board of Supervisors

By: 

Deputy Clerk

Approved as to form:

Stephen Shane Stark
County Counsel

By: 

Deputy County Counsel

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○)

ORDINANCE NO. 4348

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING
CHAPTER 21 OF THE COUNTY CODE, ADDING CHAPTER 21, ARTICLE IV,
DIVISION 2 TO THE COUNTY CODE, ESTABLISHING A DEVELOPMENT
MITIGATION FEE PROGRAM FOR PARKS IN CONNECTION WITH
RESIDENTIAL DEVELOPMENT PROJECTS WHICH DO NOT INVOLVE THE
SUBDIVISION OF LAND

CASE NO. 98-OA-022

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA
ORDAINS AS FOLLOWS:

Section 1. Chapter 21 of the Santa Barbara County Code is amended, adding Article
IV, Division 2 to read as follows:

Article IV. Park and Recreation Dedication and Fees

Division 2: Development Mitigation Fees for Parks in Connection with Residential
Development Projects which do not involve the Subdivision of Land

Section

21-115	Findings.
21-116	Definitions.
21-117	Adoption of Development Mitigation Fee for parks.
21-118	Applicability of Fees.
21-119	Exemptions.
21-120	Timing of Fee Payment.
21-120.1	Fee Adjustments.
21-120.2	Fee Account.
21-120.3	Use of Funds.
21-120.4	Developer Construction of Facilities.
21-120.5	Conditions for Refunds.
21-120.6	Annual Report.
21-120.7	Automatic Annual Adjustments.
21-120.8	Fee Revision by Resolution.
21-120.9	Superseding Provisions.
21-120.10	Severability.
21-120.11	Effective Date.
21-120.12	Publication.

Section 21-115. Findings.

(a) In order to implement the goals and objectives of the Santa Barbara County Comprehensive Plan and to mitigate park impacts caused by new residential development projects which do not involve the subdivision of land within the unincorporated portions of Santa Barbara County, a Development Mitigation Fee for parks is necessary. The fee is needed to finance park and recreation facilities necessary to serve new residential development projects which do not involve the subdivision of land and to assure that new residential development projects which do not involve the subdivision of land pay their fair share for these facilities.

(b) Title 7, Chapter 5, § 66000 et seq. of the California Government Code provides that Development Mitigation Fees for parks may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:

- (1) New residential development projects which do not involve the subdivision of land cause the need for construction, acquisition, expansion and/or improvement of park and recreation facilities within the Recreation Demand Areas of the County of Santa Barbara.
- (2) Funds for construction, acquisition, expansion and/or improvement of park and recreation facilities are not available to accommodate the needs caused by new residential development projects which do not involve the subdivision of land, which will result in inadequate park and recreation facilities within the Recreation Demand Areas of the County of Santa Barbara.

(c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of Development Mitigation Fees for parks for the construction, acquisition, expansion and/or improvement of park and recreation facilities, the need for which is caused by new residential development projects which do not involve the subdivision of land. In establishing Development Mitigation Fees for parks, the Board of Supervisors finds the fees are (1) consistent with the Santa Barbara County Comprehensive Plan/Land Use Element, (2) compatible with current Quimby fee rates, and (3) based on the average household size for second units, mobile homes, apartments, and duplexes.

(d) Pursuant to Government Code section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.

(e) Pursuant to Title 14 California Code of Regulations, § 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-116. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Recreation Demand Areas" are defined as those areas in the County of Santa Barbara as delineated by the Santa Barbara County Recreational Element of the Land Use section of the Comprehensive Plan.
- (b) "Development" or "Development Project" means any residential project undertaken for the purpose of development which involves the issuance of a Santa Barbara County Permit for construction, reconstruction, or remodeling. The term "development" or "development project" shall also include the erection of manufactured buildings and building structures moved into the County.
- (c) "Residential", "Residential Development", or "Residential Unit" includes, but is not limited to condominiums, townhomes, duplexes, apartments, 2nd units, and mobile homes and other types of residential units which do not involve the subdivision of land.
- (d) "Fee" means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a residential development project that does not involve the subdivision of land for the purpose of defraying all, or a portion of, the cost of park facilities related to the residential development project.
- (e) "Park and Recreation Facilities" include public park and recreation facilities, open space, ancillary facilities, and any other capital park and recreation facility projects identified in the Santa Barbara County Recreational Element of the Land Use section of the Comprehensive Plan, Community Plans, or the County's park and recreation capital improvement plans, or other public park and recreation facilities considered by the park Director and approved by the Board of Supervisors.
- (f) "Park and Recreation Impact" includes any residential development project that does not involve the subdivision of land which requires a County permit and generates increased demand for park and recreation facilities within each Recreational Demand Area.
- (g) "Park and Recreation Capital Improvement Plans" means the plan for park and recreation capital improvements as identified in the County's 5-Year Capital Improvement Plan or its successor, as adopted or updated by the Board of Supervisors. The Park and Recreation Capital Improvement Plans indicate the approximate location, size, time of availability and estimated cost of capital improvements to be financed with development mitigation fees and appropriate money for capital improvement projects.
- (h) "Board of Supervisors" means the Board of Supervisors of the County.

(i) "County" means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-117. Adoption of Development Mitigation Fees for Parks.

(a) Pursuant to this ordinance, Development Mitigation Fees for parks shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing to address identified park and recreation facility impacts within each Recreation Demand Area. Such fee, when adopted, shall be a condition of the issuance of permits for new residential development which do not involve the subdivision of land within each Recreation Demand Area. Recreation Demand Areas of the County currently include:

1. South Coast East
2. South Coast West
3. Santa Ynez
4. Lompoc
5. Santa Maria
6. Orcutt

Recreation Demand Areas may be further defined, added, deleted or consolidated by resolution of the Board of Supervisors.

(b) In adopting the resolution the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of residential development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the park and recreation facility and the impacts from the type of residential development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the park and recreation facility, or portion of the park and recreation facility; and
- (6) Establish a schedule of fees for park and recreation facilities.

Section 21-118. Applicability of Fees.

(a) A Development Mitigation Fee for parks shall be charged as a condition of the issuance of permits for the following new residential development projects within each Recreation Demand Area:

1. The construction or installation of new residential units (i.e., second units, mobile homes, apartments, single family duplexes) which do not involve the subdivision of land.

(b) No County permit for any development project shall be issued unless and until the appropriate Development Mitigation Fee(s) have been paid to the County in accordance with Sections 66000 et seq. of the California Government Code, or unless and until the appropriate Development Mitigation Fee(s) for the development project have been exempted, adjusted or reduced as provided by Sections 21-119 or 21-120.1 of this ordinance.

Section 21-119. Exemptions.

The following will be exempted from payment of the Development Mitigation Fees for parks referenced herein:

(a) Any residential development project which do not involve the subdivision of land and has no park and recreation facility impact, as defined by Section 21-116 (f) of this ordinance.

(b) Any development project that does not require a County permit.

Section 21-120. Timing of Fee Payment.

(a) Imposition of Fees

(i) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.

(ii) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required, unless (1) the project has been changed in a way that alters its park and recreation impact, or (2) the schedule of fees has been amended since the previous approval. In this event, the appropriate increase or decrease in the fees shall be applied.

- (iii) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payor shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee

- (i) Except as set forth in section (ii) and (iii) below, Development Mitigation Fees for parks shall be paid on the date the final inspection is approved.
- (ii) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Park Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (iii) The county shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the county has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (iv) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be issued unless fees have been paid.

Section 21-120.1. Fee Adjustments.

(a) A developer of any project subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Development Mitigation Fee(s) based upon the absence of any reasonable relationship or nexus between the park and recreation impacts of the residential project and either the amount of the fee(s) charged or the type of park and recreation facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Park Director within 15 calendar days following determination of the fee amount.

(b) The Park Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the

residential project as approved shall invalidate the waiver, adjustment or reduction of the fee(s).

Section 21-120.2. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Development Mitigation Fees pursuant to California Government Code 66006.
- (b) Development Mitigation Fees for parks paid shall be held by the Park Department in a separate Development Mitigation Fee account for parks to be expended for the purpose for which they were collected. The Park Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-120.3. Use of Funds.

- (a) Funds collected from Development Mitigation Fees for parks shall be used to acquire, construct, and install park and recreation facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the park and recreation facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-120.4. Developer Construction of Facilities.

In lieu fee credit for the construction of park and recreation facilities and service improvements is allowable under the following conditions:

- (a) The costs of park and recreation facilities listed on, or exempted from, the applicable Park and Recreation Capital Improvement Plan, or County Comprehensive Plan / Land Use Element Recreation section, or the adopted Park, Recreation, and Trail Maps, or other public park and recreation facilities approved by the Park Director or her/his designee, may be eligible for in-lieu credit.

(b) With prior approval of the Park Director or her/his designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of park and recreation facilities provided by the developer.

(c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.

(d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same residential development, if such credit is determined to be appropriate and timely, and approved in advance by the Park Director.

(e) If an applicant is required, as a condition of approval for a development permit, to construct any off-site park facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Park Director. The reimbursement agreement shall contain terms and conditions approved by the Park Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.

(f) Park and recreation facilities specifically serving the residential project exclusively may be eligible for partial in-lieu fee credit based on the adopted credit schedule.

(g) A developer seeking credit and/or reimbursement for construction or improvements of park and recreation facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Park Director to support the request for credit or reimbursement. The Park Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer if so eligible.

(h) Any claim for credit must be made at or before the time of application for an approval permit. Any claim not so made shall be deemed waived.

(i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one residential project to another without the Board of Supervisors' approval.

(j) Determination made by the Park Director pursuant to this section (21-120.4) may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within ten (10) working days of the determination of the Park Director.

Section 21-120.5. Condition for Refunds.

(a) If a permit expires without commencement of construction, the taxpayer shall be entitled to a refund of the Development Mitigation Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Park Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.

(b) The Park Director shall report to the Board of Supervisors, once each fiscal year, any portion of Development Mitigation Fees remaining unexpended or uncommitted in an account five (5) or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code § 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the park and recreation facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.

(c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.

(d) If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fees are collected pursuant to Government Code § 66001 et seq. and that serves the project on which the fee was originally imposed.

Section 21-120.6. Annual report.

(a) At least once every year a proposed Park and Recreation Capital Improvement Plan detailing the specific park and recreation facilities to be funded by Development Mitigation Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code § 65090 and § 66002, as they now exist or may be amended.

(b) Except for the first year that this ordinance is in effect, no later than sixty (60) days following the end of each fiscal year, the Park Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Development Mitigation Fee

Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Park Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

(c) At a public hearing the Board of Supervisors shall review estimated costs of the park and recreation facilities described in the Park and Recreation Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Development Mitigation Fees to include additional projects not previously foreseen as being needed.

Section 21-120.7. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 2000, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding twelve (12) months.

Section 21-120.8. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-120.9. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersedes any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-120.10. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-120.11. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect sixty (60) days after the date of its adoption by the Board of Supervisors.

Section 21-120.12. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

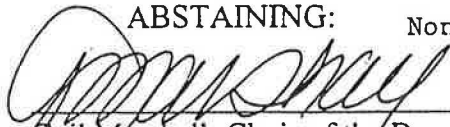
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara,
State of California, this 15th day of Dec., 1998, by the following votes:

AYES: Supervisors Schwartz, Graffy, and Marshall.

NOES: Supervisors Gray and Urbanske.

ABSENT: None.

ABSTAINING: None.



Gail Marshall, Chair of the Board of Supervisors,
County of Santa Barbara

ATTEST:

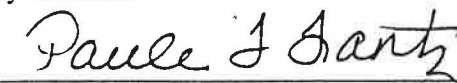
Michael F. Brown
Clerk of the Board of Supervisors

By: 

Deputy Clerk

Approved as to form:

Stephen Shane Stark
County Counsel

By: 

Deputy County Counsel

IN THE MATTER OF ADOPTING A)
TRANSPORTATION FEE REDUCTION)
PROGRAM FOR "BENEFICIAL" PROJECTS)
IN THE GOLETA PLANNING AREA,)
SECOND AND THIRD SUPERVISORIAL)
DISTRICTS.)

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Santa Barbara that:

1. The fee reduction program set forth in Exhibit "B", which is attached hereto and incorporated by reference is hereby adopted.
2. The program shall become effective 30 days from the date of the adoption of this resolution.

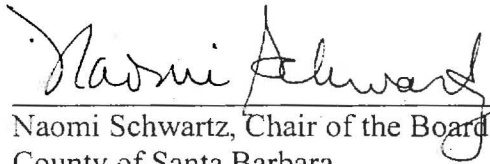
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 22nd day of June, 1999, by the following votes:

AYES: Supervisors Schwartz, Rose, Marshall, Urbanske

NOES: Supervisor Gray

ABSENT: None

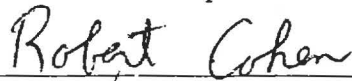
ABSTAINING: None



Naomi Schwartz, Chair of the Board of Supervisors,
County of Santa Barbara

ATTEST:

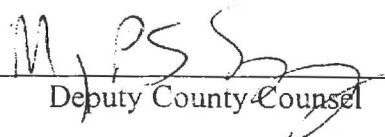
Michael F. Brown
Clerk of the Board of Supervisors

By: 

Deputy Clerk

Approved as to form:

Stephen Shane Stark
County Counsel

By: 

Deputy County Counsel

EXHIBIT "A"

TRANSPORTATION FEE REDUCTION BENEFICIAL PROJECT CATEGORY DEFINITIONS

Definitions

For purposes of the imposition of the "beneficial" project transportation fee reductions, the following terms shall be defined as set forth below:

(a) "Single and Two Family Dwellings": As presently defined, or may hereafter be amended, in the Article III of the County's Zoning Ordinance. Dwellings designed for and occupied exclusively by one (1) family alone or two (2) families alone that are a part of the County's affordable housing program.

(b) "Multi-Family": As presently defined, or may hereafter be amended, in Article III of the County's Zoning Ordinance. Multi-family dwellings include townhouses, condominiums, and apartments as defined below:

Multi-Family
~~Townhouse/Condominium~~: A multi-family development project with a density greater than 10.0 units per acre but less than 15.0 units per acre. All affordable units developed within this density range would automatically qualify for the transportation fee reductions.

Multi-Family
~~Apartment~~: A multi-family development project with a density greater than 15.0 units per acre. All units developed at 15.0 units/acre or above would automatically qualify for the transportation fee reductions.

(c) "Second Units": An attached or detached dwelling unit on a permanent foundation located in a single family, Residential Ranchette or Agriculture I zone district, which provides complete, independent living facilities for one or more persons in addition to a principal one-family dwelling. An Attached or Detached Residential Second Unit shall not be sold or financed separately from the principal dwelling, but may be rented or leased. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation, and shall be located entirely on the same lot which contains the principal dwelling.

(d) "Mobile Home": As presently defined, or may hereafter be amended, in Article III of the County's Zoning Ordinance. Fee reductions shall apply only to mobile homes developed or placed on existing vacant lots.

(e) "Mixed Use Housing": Mixed-use development shall be defined as a combination of residential and commercial land uses. The residential use shall be subordinate to a principal commercial land use. In no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial use.

(f) "Special Needs Facilities": A Special Needs Facility shall be defined as a living environment that provides certain amenities, physical attributes, and/or services to persons or groups of persons such as the disabled, elderly, single parent households, and homeless. Special needs facilities include, but are not limited to, single room occupancy facilities, special care homes, transitional homes, emergency shelters, sanitariums, hospices, and assisted living for the elderly.

(g) "Child Care Facility": As presently defined, or may hereafter be amended, in Article III of the County's Zoning Ordinance. These types of facilities shall provide non-medical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of the individual on less than a 24-hour basis. Child care facilities include family day care and non-residential child care centers.

(h) "Senior Care Facility": Any Senior Care Facility that provides non-medical care to the elderly in need of personal services, supervision, or assistance essential for sustaining the activities of the individual on less than a 24-hour basis.

(i) "Community Recreational Facilities": A for profit or non-profit commercial community recreational facility that provides public improvements and community amenities for the general public recreational benefit to residents of the community. Facilities may include public parks, playgrounds, swimming pools, tennis courts, picnic facilities, sport facilities, and any other park and recreational facility projects that may provide public recreation to the community.

(j) "Non-Profits": Any non-profit entity or governmental agency which provides public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs.

(k) "Commercial Redevelopment Projects": Any commercial redevelopment project on a parcel zoned C-2 (Retail Commercial) within redevelopment project area. Projects up to the first 15,000 square feet would automatically qualify for the fee reduction. This includes additions to existing buildings and new construction on vacant land.

Exhibit "B"

TRANSPORTATION IMPACT MITIGATION FEE REDUCTIONS FOR BENEFICIAL PROJECTS IN THE GOLETA PLANNING AREA

Section 1. All residential "beneficial" projects as defined in Exhibit "A" shall receive a 60% Transportation Impact Mitigation Fee reduction per unit.

Section 2. Child and Senior Day Care Centers as defined in Exhibit "A" shall receive an 85% Transportation Impact Mitigation Fee reduction per child or adult. The fee reduction shall apply to the applicable Transportation Impact Mitigation Fee.

Section 3. Transportation Impact Mitigation Fee reductions for Community Recreational Facilities as defined in Exhibit "A" shall be determined on a case by case basis by the Board of Supervisors. Any fee reductions granted by the Board of Supervisors shall not exceed a maximum of 75% of the fee per 1,000 square feet of building space.

Section 4. Non-Profit facilities as defined in Exhibit "A" shall receive a 75% Transportation Impact Mitigation Fee reduction per 1,000 square feet of building space up to a maximum 15,000 square feet of the project.

Section 5. Commercial Redevelopment Projects as defined in Exhibit "A" shall receive a 50% Transportation Impact Mitigation Fee reduction per 1,000 square feet of building space up to the first 15,000 square feet of the project.

Section 6. The reduced Transportation Impact Mitigation fees shall be charged, paid, collected and disbursed pursuant to Ordinance No. 4270.

Section 7. The Public Works Department shall report once every two years in conjunction with the biannual review of the Goleta Transportation Improvement Plan on fee reductions granted and grant revenues received.

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

**IN THE MATTER OF ADOPTING A)
PARK DEVELOPMENT MITIGATION)
FEE REDUCTION PROGRAM FOR)
"BENEFICIAL" PROJECTS IN THE)
SOUTH COAST WEST RECREATION)
DEMAND AREA. SECOND AND THIRD)
SUPERVISORIAL DISTRICTS.)** **RESOLUTION NO. 99-251**

WHEREAS, on December 15, 1998, the Board of Supervisors adopted Ordinance No. 4348 adding Article IV, Division 2 to Chapter 21 of the County Code establishing the authority for imposing development mitigation fees to mitigate park impacts associated with residential development that is not part of a subdivision of land in the South Coast West Recreation Demand Area; and

WHEREAS, on June 22, 1999, the Board of Supervisors amended Ordinance No.4348 authorizing the Board of Supervisors to establish by resolution categories of "beneficial" projects eligible for park development mitigation fee reductions as defined in Exhibit "A", attached hereto and incorporated herein, in the South Coast West Recreation Demand Area, if accompanied by a finding of substitute funds; and

WHEREAS, the purpose of establishing categories of "beneficial" projects is to identify types of development projects that reflect both county and community development priorities in the South Coast West Recreation Demand Area and need some level of relief in paying the park development mitigation fees; and

WHEREAS, the park development mitigation fee reductions shall be offset by, including but not limited to, state and federal park related grant revenues; and

WHEREAS, development projects defined as "beneficial" in Exhibit "A" shall qualify to receive the established park development mitigation fee reductions, as provided herein.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Santa Barbara that:

1. The fee reduction program set forth in Exhibit "B", which is attached hereto and incorporated by reference is hereby adopted.
2. The program shall become effective 30 days from the date of the adoption of this resolution.

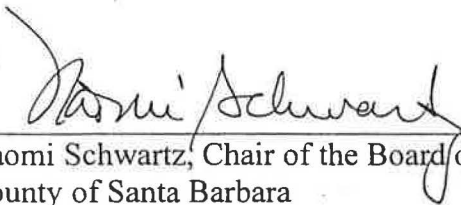
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara,
State of California, this 22nd day of June, 1999, by the following votes:

AYES: Supervisors Schwartz, Rose, Marshall, Urbanske

NOES: Supervisor Gray

ABSENT: None

ABSTAINING: None



Naomi Schwartz, Chair of the Board of Supervisors,
County of Santa Barbara

ATTEST:


Michael F. Brown
Clerk of the Board of Supervisors

By: 

Deputy Clerk

Approved as to form:

Stephen Shane Stark
County Counsel

By: 

Deputy County Counsel

EXHIBIT "A"

PARK DEVELOPMENT MITIGATION FEE REDUCTION BENEFICIAL PROJECT CATEGORY DEFINITIONS

Definitions

For purposes of the imposition of the "beneficial" project park development mitigation fee reductions, the following terms shall be defined as set forth below:

(a) "Multi-Family": As presently defined, or may hereafter be amended, in the Article III of the County's Zoning Ordinance. Multi-family dwellings eligible for a fee reduction are defined below:

Apartment: A multi-family development project with a density greater than or equal to 15.0 units per acre developed on 5.0 acres or less. All units developed at 15.0 units/acre or above would automatically qualify for the park development mitigation fee reductions.

(b) "Second Units": An attached or detached dwelling unit on a permanent foundation located in a single family, Residential Ranchette or Agriculture I zone district, which provides complete, independent living facilities for one or more persons in addition to a principal one-family dwelling. An Attached or Detached Residential Second Unit shall not be sold or financed separately from the principal dwelling, but may be rented or leased. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation, and shall be located entirely on the same lot which contains the principal dwelling.

(c) "Mobile Home": As presently defined, or may hereafter be amended, in the Article III of the County's Zoning Ordinance. Fee reductions shall apply only to mobile homes developed or placed on existing vacant lots.

(d) "Mixed Use Housing": Mixed-use development shall be defined as a combination of residential and commercial land uses. The residential use shall be subordinate to a principal commercial land use. In no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial use.

(e) "Special Needs Facilities": A Special Needs Facility shall be defined as a living environment that provides certain amenities, physical attributes, and/or services to persons or groups of persons such as the disabled, elderly, single parent households, and homeless. Special needs facilities include, but are not limited to single room occupancy facilities, special care homes, transitional homes, emergency shelters, sanitariums, hospices, and assisted living for the elderly.

Exhibit "B"

PARK DEVELOPMENT MITIGATION FEE REDUCTIONS FOR BENEFICIAL PROJECTS IN THE SOUTH COAST WEST RECREATION DEMAND AREA

Section 1. Apartments as defined in Exhibit "A" located on less than 5.0 acres of land with a density equal to or greater than 15.0 units per acre shall receive a 40% Park Development Mitigation Fee reduction per unit.

Section 2. Second Units as defined in Exhibit "A" shall receive a 60% Park Development Mitigation Fee reduction per attached unit and a 40% Park Development Mitigation Fee reduction per detached unit.

Section 3. Mobile Homes as defined in Exhibit "A" shall receive a 60% Park Development Mitigation Fee reduction per unit.

Section 4. Mixed -Use Housing as defined in Exhibit "A" shall receive a 40% Park Development Mitigation Fee reduction per unit.

Section 5. Special Needs Facilities as defined in Exhibit "A" shall receive an 80% Park Development Mitigation Fee reduction per unit.

Section 6. The reduced Park Development Mitigation fees shall be charged, paid, collected, and disbursed pursuant to the Park Development Mitigation Fee Ordinance (Ordinance No. ~~4363~~) and Fee Resolution (Resolution No. ~~251~~) for the South Coast West Recreation Demand Area.

Section 7. The Park Department shall report to the Board of Supervisors once every three years or once \$120,000 of fee reductions have been granted, whichever occurs first. The report shall identify the total amount of Park Development Mitigation fee reductions granted, park grant revenues received, and anticipated grant revenues. The Board of Supervisors shall determine at that time whether or not to continue the fee reduction program.

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

**IN THE MATTER OF ADOPTING A)
COMMERCIAL AND INDUSTRIAL)
PARK FEE REDUCTION PROGRAM FOR)
"BENEFICIAL" PROJECTS IN THE)
GOLETA PLANNING AREA. SECOND)
AND THIRD SUPERVISORIAL DISTRICTS.)**

RESOLUTION NO. 99-252

WHEREAS, the Goleta Community Plan adopted by the Board of Supervisors on August 5, 1993 includes policies encouraging the development of incentives for "beneficial" project development within the planning area; and

WHEREAS, on November 17, 1998, the Board of Supervisors adopted Ordinance No. 4341 adding Article VII, Division 1 to Chapter 21 of the County Code creating and establishing the authority for imposing Commercial and Industrial Park and Recreational Facility Development Impact Fees in the Goleta Planning Area; and

WHEREAS, the 1998 Commercial and Industrial Park Development Impact Fee Ordinance (Ord. No. 4341) established the Board of Supervisors' ability to adopt a resolution that would allow the Board of Supervisors to reduce commercial and industrial park fees for "beneficial" projects as authorized in the ordinance; and

WHEREAS, on June 22, 1999, the Board of Supervisors amended Section 21-307 of Ordinance No. 4341 allowing the Board of Supervisors to establish by resolution categories of "beneficial" projects eligible for fee reductions, as defined in Exhibit "A", attached hereto and incorporated herein, and if accompanied by a finding of substitute funds; and

WHEREAS, the purpose of establishing categories of "beneficial" projects is to identify types of development that reflect both county and community development priorities in Goleta and need some level of relief in paying the commercial and industrial park development impact fee; and

WHEREAS, the commercial and industrial park fee reductions shall be offset by other funds, including but not limited to, state and federal park related grant revenues; and

WHEREAS, development projects defined as "beneficial" in Exhibit "A" shall qualify to receive the commercial and industrial park fee reductions, as provided herein.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Santa Barbara that:

1. The fee reduction program set forth in Exhibit "B", which is attached hereto and incorporated by reference is hereby adopted.
2. The program shall become effective 30 days from the date of the adoption of this resolution.

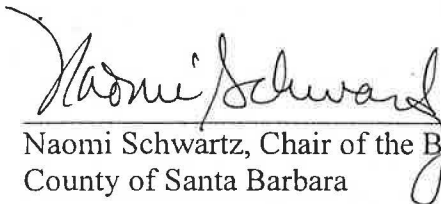
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 22nd day of June, 1999, by the following votes:

AYES: Supervisors Schwartz, Rose, Marshall, Urbanske

NOES: Supervisor Gray

ABSENT: None

ABSTAINING: None



Naomi Schwartz, Chair of the Board of Supervisors,
County of Santa Barbara

ATTEST:

Michael F. Brown
Clerk of the Board of Supervisors

By: 

Deputy Clerk

Approved as to form:

Stephen Shane Stark
County Counsel

By: 

Deputy County Counsel

EXHIBIT "A"

COMMERCIAL AND INDUSTRIAL PARK FEE REDUCTION BENEFICIAL PROJECT CATEGORY DEFINITIONS

Definitions

For purposes of the imposition of the "beneficial" project commercial and industrial park fee reductions, the following terms shall be defined as set forth below:

- (a) "Child Care Facility": As presently defined, or may hereafter be amended, in the Article III of the County's Zoning Ordinance. These types of facilities shall provide non-medical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of the individual on less than a 24-hour basis. Child care facilities include family day care and non-residential child care centers.
- (b) "Senior Care Facility": Any Senior Care Facility that provides non-medical care to the elderly in need of personal services, supervision, or assistance essential for sustaining the activities of the individual on less than a 24-hour basis.
- (c) "Non-Profits": Any non-profit entity or governmental agency which provides public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs.

Exhibit "B"

COMMERCIAL AND INDUSTRIAL PARK FEE REDUCTIONS FOR BENEFICIAL PROJECTS IN THE GOLETA PLANNING AREA

Section 1. Child and Senior Day Care Centers as defined in Exhibit "A" shall receive an 80% Commercial and Industrial Park Fee reduction per child or adult.

Section 2. Non-Profit facilities as defined in Exhibit "A" shall receive an 80% Commercial and Industrial Park Fee reduction per 1,000 square feet of building space up to the first 15,000 square feet of the project.

Section 3. The reduced Commercial and Industrial Park fees shall be charged, paid, collected and disbursed pursuant to the Commercial and Industrial Park Fee Ordinance (Ordinance No. 4341) and Fee Resolution (Resolution No. 458).

Section 4. The Park Department shall report to the Board of Supervisors once every three years or once \$120,000 of fee reductions have been granted, whichever occurs first. The report shall identify the total amount of Park Development Mitigation fee reductions granted, park grant revenues received, and anticipated grant revenues. The Board of Supervisors shall determine at that time whether or not to continue the fee reduction program.

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