

RESOLUTION NO. ____

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO,
STATE OF CALIFORNIA

RESOLUTION SETTING THE PARKLAND ACQUISITION
FEE AND PARK CONSTRUCTION FEE TO REFLECT
AMENDMENTS TO CHAPTER 8.67 TO MITIGATE THE
IMPACT OF NEW DEVELOPMENT ON PARK AND
RECREATIONAL FACILITIES PURSUANT CHAPTER 8.67
OF THE SOUTH SAN FRANCISCO MUNICIPAL CODE

WHEREAS, parks and recreational facilities are vital to the health and welfare of a community; and

WHEREAS, the City of South San Francisco (“City”) aims to provide sufficient levels of parks and recreational facilities for its residents and employees working in the City; and

WHEREAS, the City’s General Plan and Parks and Recreation Master Plan aims to provide three acres of parks and recreational facilities per 1,000 residents; and

WHEREAS, Guiding Policy 5.1-G-1 of the City’s General Plan provides that the City should “[d]evelop additional parkland in the city, particularly in areas lacking these facilities, to meet the standards of required park acreage for new residents and employees;” and

WHEREAS, Implementing Policy 5.1-1-2 of the City’s General Plan provides that the City should “[m]aintain parkland standards of 3.0 acres of community and neighborhood parks per 1,000 new residents;” and

WHEREAS, Goal #1 of the Parks and Recreation Master Plan provides that the City “should provide a minimum of 3 acres of developed park land per 1,000 residents”; and

WHEREAS, new development projects attract new residents and employees to the city, which generates increased demand for parks and recreational facilities and impacts existing park service levels; and

WHEREAS, in 2016, the City adopted an ordinance (“Park Fee Ordinance” or “Ordinance”) imposing a Parkland Acquisition Fee and a Park Construction Fee (“Park Fees” or “Fees”) to pay for the cost of acquiring and constructing park facilities needed to support new development under the authority of Sections 66000 et seq. of the California Government Code (“Mitigation Fee Act”); and

WHEREAS, such development impact Fees are not a “tax” as defined in Section 1, paragraph (e) of Article XIII C of the California Constitution (“Proposition 26”) because such Fees and charges are imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the

local government of providing the service or product, and/or such Fees and charges are imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product, and/or such Fees and charges are imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, enforcing agricultural marketing orders and the administrative enforcement and adjudication thereof; and/or such fees and charges are imposed as a condition of property development; and

WHEREAS, the Fees and charges set by this Resolution are not subject to the requirements of Article XIID of the California Constitution (“Proposition 218”) concerning property related assessments and fees pursuant to *Apartment Association of Los Angeles County v. City of Los Angeles* (2001) 24 Cal.4th 830, in that such Fees are not applicable to incidents of property ownership, but rather to actual use of and need for City services and/or facilities; and

WHEREAS, in accordance with Government Code Section 50076, fees and charges that do not exceed the reasonable cost of providing the service or regulatory activity for which the fees are charged and which are not levied for general revenue purposes are not special taxes as defined in Article 3.5 of the Government Code; and

WHEREAS, the City has determined that City park and recreation facilities are reaching capacity and refurbishing and expanding certain existing park facilities is a cost-effective and efficient way to serve future residents and employees, and to maintain existing levels of service; and

WHEREAS, the City commissioned an additional park fee analysis to supplement the 2016 study prepared by Municipal Resources Group supporting the adoption of the original Ordinance. Such additional park fee analysis was prepared in order to confirm the method for utilizing Park Fees for refurbishment and expansion projects, analyze the types of refurbishment and expansion projects that the City can utilize Park Fees for, restructure the existing Park Fee reduction factors to increase Park Construction Fees to fund refurbishment projects, and reduce Park Acquisition Fees commensurately, while not increasing the total amount of Park Fees, and to update the average construction cost per acre to reflect current market conditions (“2019 Supplemental Report”); and

WHEREAS, in furtherance of the goals of the 2019 Supplemental Report, the City Council adopted an amendment to the Ordinance (“Amendment”) in order to implement certain necessary refinements identified in the Report and to make other minor clarifications, additions, and refinements in order to ensure that the City is collecting the necessary funds to provide adequate park facilities needed to support new development; and

WHEREAS, the Ordinance states that the average fair market value for land in the City, the average per acre construction costs in the City, the administrative fees for administering the Fees under the Ordinance, and the annual adjustments of the Fees will be set by resolution of the City Council; and

WHEREAS, the Amendment states that any discount factor applied to the Fees shall be adopted by resolution of the City Council; and

WHEREAS, this Resolution includes the applicable discount factors to be applied to the Fees; and

WHEREAS, pursuant to the authority under Section 8.67.060(h), the City adopted an administrative fee of \$700 in 2018 in order to cover the cost of administering the Park Fee Ordinance; and

WHEREAS, as part of the adoption of the Ordinance in 2016, the City obtained an appraisal from Dana Property Analysis for the average fair market value of land per acre in the city, which assessed the value of land as \$3,000,000 per acre; and

WHEREAS, as part of the adoption of the Ordinance in 2016, the City obtained a professional assessment from Group 4 Architecture, Research + Planning, Inc. of the average per acre construction costs in the city, which determined that the average construction costs are \$981,250 per acre; and

WHEREAS, pursuant to Section 8.67.060(i), the average construction cost per acre was adjusted by Engineering Record New Construction Cost Index (CCI) for the San Francisco area in January of 2018 by 3.94 percent to \$1,019,911; and

WHEREAS, pursuant to Section 8.67.060(g), the City is authorized to obtain a comprehensive estimate of the average construction costs per acre to reflect changes in the cost of construction, but such estimate must be approved by resolution of the City Council and may not be conducted more than once per year. The City has not conducted a comprehensive construction cost estimate since 2016 and such costs have significantly increased since then; and

WHEREAS, the City compiled estimates obtained from SSA Landscape Architecture and Verde Design in May of 2018 for construction costs for six representative South San Francisco park construction projects. As part of the 2019 Supplemental Report, these estimates were used to formulate an updated construction cost per acre estimate. The 2018 cost estimates were escalated by an Engineering News Record – Construction Cost Index factor of 2.65% from May 2018 to May 2019. Group 4 Architecture Research + Planning Inc. recommended soft costs in the range of 20% to 30% of hard construction costs. In the updated construction cost per acre estimate, soft costs are assumed to be 30% of hard construction costs, to account for higher design and construction management costs related to refurbishment projects; and

WHEREAS, pursuant to the updated estimate, the average construction cost per acre in the City is \$2,526,395; and

WHEREAS, in accordance with Section 66019 of the Mitigation Fee Act, at least fourteen (14) days prior to the public hearing at which the Amendment was considered, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges; and

WHEREAS, in accordance with Government Code Section 66019, the 2019 Supplemental Report was available for public inspection, review, and comment for ten (10) days prior to the public hearing at which the Council considered the Amendment; and

WHEREAS, ten (10) days advance notice of the public hearing at which the Amendment was considered was given by publication in accordance with Government Code Section 6062a; and

WHEREAS, the action taken by the Amendment and this Resolution has no potential for physical effects on the environment because it involves an adoption of certain Fees and/or charges imposed by the City, does not commit the City to any specific project, and said Fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with the California Environmental Quality Act (“CEQA”) when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (See CEQA Guidelines, Section 15004(b)(1)). Therefore, approval of the fees and/or charges is not a “project” for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a “project” under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the Fees and/or charges may have a significant effect on the environment; and

WHEREAS, pursuant to the Mitigation Fee Act, the City seeks to adopt this Resolution to set the Fees under the Ordinance in order to mitigate the impacts caused by new development by providing for the payment of development impact fees necessary for the City to acquire property and construct, refurbish, and expand parks and recreational facilities to serve new residents and employees and to maintain desirable levels of parks and recreational facilities for new and existing residents and employees.

NOW THEREFORE, BE IT RESOLVED that City Council of the City of South San Francisco finds as follows:

I. FINDINGS

A. After considering the 2019 Supplemental Report, the testimony received at the noticed public meeting at which the Amendment and Resolution were considered, the accompanying staff report, the General Plan, the General Plan EIR, the Parks and Recreation Master Plan and all correspondence received at or prior to the public meeting (the “Record”), the Council approves and adopts the 2019 Supplemental Report; and the City Council further finds that the future development in the City will generate the need for the park and recreational facilities necessitating adoption of the Ordinance and this Resolution.

B. The City currently provides park and recreational facilities to the community and the Fees set forth in the Amendment and this Resolution will be used to maintain current levels and assist the City in meeting its stated goals for park and recreational facilities under the General Plan, Parks and Recreation Master Plan and other applicable plans. As such, the Parkland Acquisition Fee and Park Construction Fee adjusted under the Amendment and this Resolution as it relates to

development within the City is not a “project” within the meaning of CEQA (Pub.Res. Code §21080(b)(8)(D)).

C. In adopting the Amendment and this Resolution, the City Council is exercising its powers under Article XI, §§5 and 7 of the California Constitution, Chapter 5 of Division 1 of the Government Code (“Mitigation Fee Act”), commencing with Section 66000, collectively and separately.

D. The Record establishes:

1. In accordance with Section 66001, subdivision a, paragraph 1 of the Mitigation Fee Act, the purpose of the Parkland Acquisition Fee and Park Construction Fee, set forth in the Amendment and this Resolution, as specified in Chapter III of the Fee Study and the 2019 Supplemental Report, is to provide funding to achieve the City’s goal of maintaining existing service levels and to ensure adequate park and recreational facilities are provided in the future to meet the needs of South San Francisco residents and employees as established in the General Plan and Parks and Recreation Master Plan. Standards for the desired level of parks and recreational facilities have been identified which have been used as the basis to establish the Fees under the Amendment and this Resolution.

To the extent that the revisions provided for in the Amendment and this Resolution result in an increase in the Park Construction Fee, the City will continue to use the proceeds of the Park Construction Fee for the purpose of constructing new park facilities on new parkland acquired by the City and will also use the proceeds of the Park Construction Fee for the purpose of refurbishing and expanding existing park facilities to serve new residents and employees, to maintain the existing level of service for all residents and employees, and to ensure continued levels of service that are consistent with the General Plan.

2. In accordance with Section 66001, subdivision a, paragraph 2 of the Mitigation Fee Act, the Fees collected pursuant to this Resolution shall be used to acquire parkland and construct, refurbish, and expand park and recreational facilities, including expanding playgrounds, constructing improvements to sports fields and sports courts, adding passive park facilities such as picnic and sitting areas, installing night lighting, paths, grading, drainage and irrigation, and implementing other similar refurbishment and expansion projects, to maintain existing levels of service and meet the levels identified in the General Plan, Parks and Recreation Master Plan and the Fee Study.

3. In accordance with section 66001, subdivision a, paragraph 3 of the Mitigation Fee Act, there is a reasonable relationship between the Fees’ use (to pay for acquisition of parkland and construction, refurbishment, and expansion of park and recreational facilities) and the type of development for which the Fees are imposed in that the Fees will be applied to new development in the city, which will generate demands for park and recreational facilities.

To the extent that the revisions provided for in the Amendment and this Resolution result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee is levied upon new residential and non-residential (commercial) development projects. New residents in new residential development projects and new employees in new non-residential development projects will place additional demands on park and recreational facilities, which are near or at capacity. Expanding playgrounds, improving sports fields and sports courts, building passive park facilities, installing lighting, paths, grading, drainage and irrigation, and implementing other similar refurbishment and expansion projects will address and mitigate the additional impacts and demands created by future residential and nonresidential development projects.

4. In accordance with Section 66001, subdivision a, paragraph 4, there is a reasonable relationship between the need for the parkland acquisition and park construction and the types of development projects on which the Fees are imposed in that the Fees will be applied to new development in the city, which will attract new residents and employees that will place a greater demand on park and recreational facilities.

To the extent that the revisions provided for in the Amendment and this Resolution result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee is levied upon new residential development projects and new non-residential development projects, which generate new residents and new employees in the community. The refurbished and expanded park facilities will serve the needs of new residents in residential development projects and new employees in non-residential development projects by expanding active and passive park facilities and areas and by enhancing access and adding hours of use for residents and employees.

5. In accordance with Section 66001, subdivision b of the Mitigation Fee Act, there is a reasonable relationship between the amount of the Fees and the cost of providing the parkland and park and recreational facilities attributable to the development in the City upon which the Fees are imposed in that the Fees have been calculated by apportioning the cost of parkland acquisition and park facilities construction to the number of residents and employees attracted by each type of new residential unit and additional square footage in each type of new non-residential space.

To the extent that the revisions provided for in the Amendment and this Resolution result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee has been updated with 2019 estimated park construction costs specific to the types of park facilities and improvements to be undertaken by the City of South San Francisco.

The Park Construction Fees are calculated by apportioning the cost of constructing park facilities and improvements to the number of residents generated by each type of new residential unit and the number of employees generated per one-

thousand square feet of new space for each type of non-residential development project. Confirming that Park Construction Fee can be used for refurbishment and expansion construction projects does not alter the calculation of the Park Construction Fee and each new development project will be charged a Park Construction Fee commensurate with its impact on all park and recreational facilities.

6. The cost estimates set forth in the 2016 Study and the 2019 Supplemental Report provide reasonable estimates for the costs of acquiring parkland and constructing, expanding, and refurbishing park and recreational facilities and the Fees expected to be generated by future development will not exceed the projected cost of acquiring parkland and constructing, expanding, and refurbishing park and recreational facilities.

7. The method of allocation of the Fees to particular developments bears a fair relationship and is roughly proportional to each development's burden on and benefits from the park and recreational facilities to be funded by the Fees, in that the Fees are calculated based on the number of residents and employees each particular development will attract.

8. The 2019 Supplemental Report is a detailed analysis of how using Park Construction Fees to expand and refurbish parks and recreational facilities and services is an efficient and cost-effective way to address demands for such facilities generated by new development in the City and identifying the parks and recreational facilities necessary to accommodate that development.

9. The Fees are consistent with the General Plan and, pursuant to Government Code Section 65913.2, the City Council has considered the effects of the Fees with respect to the City's housing needs as established in the housing element of the General Plan.

10. The Fee amounts set forth in this Resolution include the fair and reasonable costs of administration for the Fee programs as determined by the Finance Director and are within the requirements of the Mitigation Fee Act and other applicable law.

11. The annual fee adjustments provided for in the Amendment and this Resolution reasonably approximate the fluctuations in market costs in that it allows for adjustments in accordance with the All Urban Consumers Consumer Price Index, San Francisco-Oakland-San Jose (AUC-CPI) and the Engineering News Record Construction Cost Index (CCI) for the San Francisco area.

12. The average fair market value of land in the city reflected in this Resolution is a fair and reasonable calculation of such fair market value as determined by a qualified appraiser in accordance with the requirements of the Ordinance.

13. The average per acre construction costs in the city as set by this Resolution is a fair and reasonable calculation of such construction as determined by a qualified architecture or construction firm in accordance with the requirements of the Ordinance.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of South San Francisco:

1. Parkland Acquisition and Park Construction Fee Updated and Imposed.

The Parkland Acquisition Fee and Park Construction Fee imposed pursuant to the Mitigation Fee Act and Chapter 8.67 of the South San Francisco Municipal Code, are hereby updated and shall be imposed at the revised rates outlined in this Resolution and shall be paid at the times and in the amounts and otherwise apply and be administered as prescribed in this Resolution and the Ordinance on each type of development set forth in the Ordinance.

2. Amount of Fees.

a. Residential Parkland Acquisition Fee. The amount of the Residential Parkland Acquisition Fee shall be determined by the calculation set forth in Section 8.67.060(b) of the South San Francisco Municipal Code and the following:

i. *Average Fair Market Value per Acre.* For purposes of Section 8.67.060(b) and (d), the average fair market value of land per acre in the city shall be set at **\$3,000,000**.

ii. *Discount Factor.* In accordance with Section 8.67.060(b) and 8.67.060(k), in calculating the Residential Parkland Acquisition Fee, such fee shall be reduced by a factor of **.904**.

iii. *Annual Adjustment.* Pursuant to Section 8.67.060(j), the Fee maybe adjusted annually in accordance with the All Urban Consumer Price Index, San Francisco-Oakland-San Jose (AUC-CPI).

b. Non-Residential Parkland Acquisition Fee. The amount of the Non-Residential Parkland Acquisition Fee shall be determined by the calculation set forth in Section 8.67.060(d) of the South San Francisco Municipal Code and the following:

i. *Average Fair Market Value per Acre.* For purposes of Section 8.67.060(b) and (d), the average fair market value of land per acre in the city shall be set at **\$3,000,000**.

ii. *Discount Factor.* In accordance with Section 8.67.060(d) and 8.67.060(k), in calculating the Non-Residential Parkland Acquisition Fee, such fee shall be reduced by a factor of **1.0**.

iii. *Annual Adjustment.* Pursuant to Section 8.67.060(j), the Fee maybe adjusted annually in accordance with the All Urban Consumer Price Index, San Francisco-Oakland-San Jose (AUC-CPI).

c. Residential Park Construction Fee. The amount of the Residential Park Construction Fee shall be determined by the calculation set forth in Section 8.67.060(c) of the South San Francisco Municipal Code and the following:

i. *Average Construction Cost per Acre.* Pursuant to Section 8.67.060(g), the average construction cost per acre in the city shall be set at **\$2,526,395**.

ii. *Discount Factor.* In accordance with Section 8.67.060(c) and 8.67.060(k), in calculating the Residential Park Construction Fee, such fee shall not be reduced by any factor and the full fee shall be charged.

iii. *Annual Adjustment.* Pursuant to Section 8.67.060(i), the Fee maybe adjusted annually in accordance with the Engineering News Record Construction Cost Index (CCI) for the San Francisco area (CCI).

d. Non-Residential Park Construction Fee. The amount of the Non-Residential Park Construction Fee shall be determined by the calculation set forth in Section 8.67.060(e) of the South San Francisco Municipal Code and the following:

i. *Average Construction Cost per Acre.* Pursuant to Section 8.67.060(g), the average construction cost per acre in the city shall be set at **\$2,526,395**.

ii. *Discount Factor.* In accordance with Section 8.67.060(e) and 8.67.060(k), in calculating the Non-Residential Park Construction Fee, such fee shall be reduced by a factor of **.602**.

iii. *Annual Adjustment.* Pursuant to Section 8.67.060(i), the Fee maybe adjusted annually in accordance with the Engineering News Record Construction Cost Index (CCI) for the San Francisco area (CCI).

e. Administrative Fee. Pursuant to Section 8.67.060(h) of the South San Francisco Municipal Code, the administrative fee for implementing the Ordinance and administering the Fees shall be **\$700**.

f. Posting of Discount Factor Resolution. In accordance with Section 8.67.060(k), this Resolution shall be posted on the City's website after adoption by the City Council.

3. Application

All development projects identified in Section 8.67.050 of the South San Francisco Municipal Code are subject to the Parkland Acquisition Fee and Park Construction Fee.

4. Use of Fees

Funds collected pursuant to the Parkland Acquisition Fee and the Park Construction shall only be used for the purposes outlined in Section 8.67.070 of the South San Francisco Municipal Code.

5. Periodic Review.

a. During each fiscal year, the City Manager, or his designee, shall prepare a report for the City Council, pursuant to Government Code Section 66006, identifying all information required by Section 66006, including the balance of all Fee revenues in the Fee accounts.

b. Pursuant to Government Code Section 66002, the City Council shall also review, as part of any adopted City Capital Improvement Plan each year, the approximate location, size, time of availability and estimates of cost for all park acquisition and park facilities construction, refurbishment, and expansion to be financed with the Fees. The City Council shall make findings identifying the purpose to which the existing Fee revenue balances are to be put and demonstrating a reasonable relationship between the Fee sand the purpose for which it is charged.

6. Administrative Guidelines.

The City Council may, by resolution, adopt administrative guidelines to provide procedures for administrative aspects of the Fees.

7. Effective Date

This Resolution shall become effective on the date of adoption of this Resolution. In accordance with Government Code Section 66017, the Fees set by this Resolution shall be effective 60 days from the effective date of this Resolution.

8. Severability.

Each component of the Fees and all portions of this Resolution are severable. Should any individual component of the Fees or other provision of this Resolution be adjudged to be invalid and unenforceable, the remaining component or provisions shall be and continue to be fully effective, and the Fees shall be fully effective except as to that component that has been judged to be invalid.

* * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the City Council of the City of South San Francisco at a special meeting held on the _____ day of _____, 2019 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST: _____

City Clerk

3233512.1