

**City of Milpitas, California**

**BUDGET CHANGE FORM**

Type of Change	From*		To*	
	Account	Amount	Account	Amount
<b>Check one:</b>  <input checked="" type="checkbox"/> <b>Budget Appropriation</b>  <input type="checkbox"/> <b>Budget Transfer</b>	<b>350-3718</b>	<b>\$242,000</b>	<b>350-9104237</b>	<b>\$242,000</b>

Authorize the City Manager to Execute the Fee Credit Agreement Amendment for Transit Area Specific Plan Public Facilities and Public Improvements at the 1425 S Milpitas Blvd Project by Pulte Homes Corporation, and approved the budget appropriation of \$242,000 from TASP to a non-departmental operating budget.

**Background:**

On September 30, 2014 the City Council approved the public improvement plans and the Subdivision Improvement Agreement ("Agreement") for the Milpitas Station Project located at 1401 South Milpitas Boulevard by Milpitas Station (San Jose), L.L.L.P., a Delaware limited liability partnership ("Developer") within the Transit Area Specific Plan (TASP) Area.

On July 8, 2015 an Assignment of Subdivision Improvement Agreement ("Transfer Agreement") was entered into between the Milpitas Station LLLP and Pulte Homes Corporation, a Michigan corporation. The Transfer Agreement between Milpitas Station and Pulte Homes reassigned the requirements and obligations of the City Subdivision Improvement Agreement to Pulte Homes Corporation (Developer).

Projects within the TASP area are required to pay TASP Development Impact Fees (TASP Fee) to be used for the design and construction of public facilities and improvements within the TASP area. At the request of City, the Pulte reconstructed additional curb, gutter, and roadway pavement adjacent to the Union Pacific Railroad (UPRR) crossing as required to complete required road widening and rail crossing signal improvements. This additional work was outside the scope of what Pulte was originally required to construct. The actual cost of the additional curb, gutter and roadway pavement work constructed is \$242,000, and it is recommended that Pulte Homes Corporation be reimbursed for the cost of these improvements from TASP. A Fee Credit Agreement Amendment is proposed to allow for the reimbursement against the TASP Fee paid by the Developer for construction of public facilities and improvements, and the Fee Credit Agreement Amendment has been reviewed by the City Attorney as to form.

**Analysis:**

Staff recommends the City Council grant authorization to the City Manager to execute the Fee Credit Agreement Amendment for the construction of the TASP public improvements. The Developer will be reimbursed for the actual cost to construct the new public improvements, which is estimated not to exceed \$242,000.

**Policy Alternative:**

**Alternative 1:**

**Do not approve granting authorization to the City Manager to approve the Fee Credit Agreement Amendment.**

**Pros: None**

**Cons:** If the Fee Credit Agreement Amendment is not authorized the City would have to find other means to reimburse the developer for constructing the crosswalk or have to construct the improvements ourselves. The City has determined that there will be greater efficiency achieved if Developer constructs the additional Roadway Widening Improvements concurrently with construction of the UPRR widening improvements.

**Reason not recommended:** Granting acceptance of installed public improvements would allow the City to own and maintain the improvements and would ensure the City is in compliance with the terms of the agreement.

**Fiscal Impact:**

The fee reimbursement for the public improvements would be funded by TASP Fees. The actual amount of the reimbursement will be based upon the actual cost for design and construction of the improvements. The estimated reimbursement amount is not to exceed \$242,000. A budget appropriation of \$242,000 from TASP into the non-departmental operating budget will be required.

**California Environmental Quality Act:**

Granting authorization to the City Manager to approve the Fee Credit Agreement Amendment. Is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

**Recommendations:**

Authorize the City Manager to execute the Fee Credit Agreement Amendment with Pulte Homes Corporation for reimbursement of the actual cost of new public improvements to be constructed on South Milpitas Boulevard, and approved the budget appropriation of \$242,000 from TASP to a non-departmental operating budget.

**Attachments:**

1. Fee Credit Agreement Amendment
2. Budget Appropriation

☐ **Check if City Council Approval required.**

**Meeting Date:** April 20, 2021

<b>Requested by:</b>	<b>Department Head:</b> Steve Erickson	<b>Date:</b> April 20, 2021
<b>Reviewed by:</b>	<b>Finance Director:</b> Lauren Lai	<b>Date:</b> April 20, 2021
<b>Date approved by City Council, if required:</b>		<b>Confirmed by:</b>