



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	Approve and Authorize the City Manager to execute Amendment No. 1 to the Fee Reimbursement Agreement with Anton Milpitas 730 LLC and Anton Milpitas 750 LLC for reimbursement for the actual cost of crosswalk improvements on E. Capitol Avenue, and approve the budget appropriation of \$145,000 from TASP to the non-departmental operating budget.
<b>Category:</b>	Consent Calendar-Community Development
<b>Meeting Date:</b>	4/20/2021
<b>Staff Contact:</b>	Steve Erickson, 408-586-3301
<b>Recommendation:</b>	Approve and authorize the City Manager to execute Amendment No. 1 to the Fee Reimbursement Agreement with Anton Milpitas 730 LLC and Anton Milpitas 750 LLC for reimbursement for the actual cost of crosswalk improvements on E. Capitol Avenue, and approve the budget appropriation of \$145,000 from TASP to the non-departmental operating budget.

### **Background:**

On June 6, 2017 the City Council approved the public improvement plans and the Improvement Agreement ("Agreement") for the Anton Development Project located at 730 and 750 East Capitol Avenue by Anton Milpitas 730 LLC and Anton Milpitas 750 LLC ("Developer") within the Transit Area Specific Plan (TASP) Area.

The Project is within the TASP area and is required to pay TASP Development Impact Fees (TASP Fee) to be used for the design and construction of certain public facilities and improvements. In addition to the construction of the required TASP improvements for the project, the City requested the Developer also construct crosswalk improvements across East Capitol Avenue at the intersection of South Milpitas Boulevard to provide better access to the Milpitas Transit Station. The developer will be reimbursed for the actual cost to construct the new crosswalk, which is estimated not to exceed \$145,000, from the TASP Fund.

Amendment No. 1 to the Fee Reimbursement Agreement is proposed to allow for the reimbursement against the TASP Fund paid by the Developer for construction of the crosswalk improvements, and the Amendment to the Fee Reimbursement Agreement has been reviewed by the City Attorney as to form.

### **Analysis:**

Staff recommends the City Council approve and authorize the City Manager to execute the Fee Reimbursement 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 \$145,000.

### **Policy Alternatives:**

#### **Alternative 1:**

Do not approve and authorize the City Manager to execute Amendment No. 1 to the Fee Reimbursement Agreement to allow for reimbursement to the Developer for City requested crosswalk improvements.

Pros: None

Cons: The City has determined the need for the additional crosswalk improvements on East Capital Avenue near South Milpitas Boulevard, and the Amendment No. 1 to the Fee Reimbursement Agreement Amendment is the mechanism required to reimburse the Developer from TASP funds for the requested crosswalk improvement.

Reason not recommended: The Developer has agreed to construct the additional crosswalk improvements with the understanding reimbursement from TASP funding will be provided. If Amendment No. 1 the Fee Reimbursement Agreement is not approved, the crosswalk improvements may not be completed.

**Fiscal Impact:**

Amendment No. 1 to the Fee Reimbursement Agreement to allow for TASP reimbursement to the Developer is required for construction of the additional crosswalk improvements. The actual amount of reimbursement will be based upon the actual cost for design and construction of the improvements. The maximum reimbursement amount is not to exceed \$145,000. A budget appropriation of \$145,000 from TASP into the non-departmental operating budget will be required.

**California Environmental Quality Act:**

The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Recommendation:**

Approve and authorize the City Manager to execute Amendment No. 1 to the Fee Reimbursement Agreement with Anton Milpitas 730 LLC and Anton Milpitas 750 LLC for reimbursement for the actual cost of crosswalk improvements on E. Capitol Avenue, and approve the budget appropriation of \$145,000 from TASP to the non-departmental operating budget.

**Attachments:**

- 1) Amendment No, 1 Fee Reimbursement Agreement
- 2) Exhibit A – Site Plan
- 3) Exhibit B – Cost Estimate
- 4) Signed Fee Reimbursement Agreement
- 5) Budget Appropriation Sheet