

**RESOLUTION NO. 2736-10**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
AMENDING RESOLUTION NO. 2392-08 ACCEPTING THE UPDATES TO THE  
TRAFFIC IMPACT FEE REPORT FOR FUTURE DEVELOPMENT WITHIN  
THE TOWN OF WINDSOR**

**RECITALS**

**WHEREAS**, the General Plan ("General Plan") of the Town of Windsor ("the Town") was adopted March 13, 1996; and amended on July 17, 1996, by Resolution 538-96; on April 2, 1997, by Resolution 622-97; on January 6, 1998, by Resolution 679A-98; on September 15, 1999, by Resolution 842-99; on September 15, 1999, by Resolution 843-99; on September 15, 1999, by Resolution 844-99; on March 15, 2000 by Resolution No. 889-00; on August 7, 2002, by Resolution 1250-02; on August 7, 2002, by Resolution 1251-02; on February 19, 2003, by Resolution 1344-03; on February 19, 2003, by Resolution 1345-03; on February 19, 2003, by Resolution 1346-03; on March 19, 2003, by Resolution 1358-03; on July 20, 2005, by Resolution 1787-05; on March 3, 2009, by Resolution 2437-09; and

**WHEREAS**, the General Plan applies to a Planning Area which includes the Town and land outside the Town in unincorporated Sonoma County which must also be considered to properly plan for the Town's future; and

**WHEREAS**, the Town Planning Area encompasses approximately 13,200 acres, 4,660 of which are within the Town and 8,540 of which are outside the Town in unincorporated Sonoma County; and

**WHEREAS**, the General Plan outlines future land uses for approximately 4,660 acres within the Town; and

**WHEREAS**, the General Plan area is shown on the Land Use Map contained in the General Plan; and

**WHEREAS**, General Plan Policy *D.4* requires new development to pay its fair share of the cost of future transportation improvements and Implementation Program D.7 and Chapter 8.E provide for collection of a Traffic Impact Fee; and

**WHEREAS**, a Program Environmental Impact Report ("EIR ") was prepared for the General Plan pursuant to the California Environmental Quality Act ("CEQA") and certified by the Town Council on March 13, 1996, by Resolution Number 505-96; and

**WHEREAS**, the Town of Windsor Code establishes a traffic impact fee applicable to development within the Town; and

**WHEREAS**, the Town Council adopted Design Standards by Resolution 696.1-97A on December 1, 1997; and revised them on January 19, 2005, by Resolution 1722-05; and

**WHEREAS**, on November 19, 2008, the Town of Windsor adopted a new Traffic Impact Fee structure based on a report prepared by Whitlock & Weinberger Transportation, Inc. (W-Trans) dated September 15, 2008, and entitled *Traffic Impact Fee Update* (hereafter the "W-Trans Report"); and

**WHEREAS**, the W-Trans Report lists certain public facilities that are necessary to accommodate future development in the Town, and

**WHEREAS**, the W-Trans Report provided current estimates of the need for and cost of Town public facilities needed to accommodate new development; and

**WHEREAS**, W-Trans has prepared an updated analysis ("Update") addressing additional improvements needed to accommodate development not anticipated when the W-Trans Report was prepared; and

**WHEREAS**, the funds that would be accrued through collection of fees associated with this development are sufficient to offset the new improvements; and

**WHEREAS**, the Town Council has adopted an ordinance creating and establishing the authority for imposing and charging Traffic Impact Fees to pay for Town-owned transportation facilities within the jurisdictional limits of the Town; and

**WHEREAS**, in accordance the Government Code, at least 14 days prior to the public hearing at which this Resolution was adopted, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the Town for mailed notice of meetings on new or increased fees or service charges; and

**WHEREAS**, in accordance with the Government Code, the Update to the W-Trans Report was available for public review and comment for ten days prior to the public hearing at which this Resolution was adopted; and

**WHEREAS**, ten days advance notice of the public hearing at which this Resolution was adopted was given by publication in accordance with Section 6062a of the Government Code; and

## **FINDINGS**

**WHEREAS**, the Town Council finds as follows:

- A. The purpose of the Traffic Impact Fee set forth in this Resolution is to finance public facilities to reduce the impacts caused by future development in the Town. Such facilities are described in the W-Trans Report, together with amended Pages 20-24 described in the Update.
- B. The Traffic Impact Fee collected pursuant to this Resolution shall be used to finance the public facilities described in the W-Trans Report, as amended and/or alternative facilities in accordance with this Resolution.
- C. After considering the W-Trans Report and Update, the testimony received at noticed public hearings, the agenda statements, the General Plan, the EIR, the Background Documents to the agenda report for this resolution and all correspondence received (together, "Record"), the Town Council approves the amendments to the W-Trans Report and incorporates such amendments herein and further finds that further development in the Town will generate the need for the public facilities described in the Update to the W-Trans Report and that such public facilities are consistent with the General Plan.
- D. Adoption of the Traffic Impact Fee set forth in this Resolution as it relates to development within the Town is intended to obtain funds for capital projects necessary to maintain service within existing Town service areas. The Town currently provides transportation facilities to accommodate the Level of Service Standard identified in the General Plan (Policy D.2.6 and Implementation Program D.4), and the Traffic Impact Fee set forth in this Resolution will be used to maintain current service levels. As such, such fee as it relates to development within the Town is not a "project" within the meaning of CEQA (Pub. Res. Code § 21080(b)(8)(D)).
- E. In adopting the Traffic Impact Fee set forth in this Resolution, the Town Council is exercising its powers under Article XI, Section 7 of the California Constitution.
- F. The Record establishes that:
  - 1. There is a reasonable relationship between the use of the Traffic Impact Fee set forth in this Resolution (payment for certain listed public facilities) and the type of development projects on which such fee is imposed in that all development in the Town – both residential and non-residential – generates or contributes to the need for the facilities listed in the W-Trans Report; and
  - 2. There is a reasonable relationship between the need for the facilities listed in the Update to the W-Trans Report and the type of development projects on which the Traffic Impact Fee set forth in this Resolution is imposed in that new development in the Town – both residential and non-residential – will generate persons who live, work and/or shop in Windsor and who generate or contribute to the need for the facilities listed in the Update to the W-Trans Report; and

3. There is a reasonable relationship between the amount of the Traffic Impact Fee set forth in this Resolution and the cost of the facilities listed in the Update to the W-Trans Report or that portion of such facilities attributable to the development on which such fee is imposed in that such fee is calculated based on the number of vehicle trips generated by specific types of land uses, the total cost of construction of such facilities, and the percentage by which new development within the Town contributes to the need for such facilities; and
  4. The cost estimates in the Update to the W-Trans Report are reasonable estimates for the cost of the public facilities in the Update to the W-Trans Report, and the fees expected to be generated by future development will not exceed the projected cost of such public facilities; and
  5. The method of allocation of the fee set forth in this Resolution to a particular development bears a fair relationship, and is roughly proportional, to each development's burden on, and benefits from, the public facilities to be funded by such fee, in that such fee is calculated based on the number of vehicular trips each particular land use will generate.
- G. The W-Trans Report is a detailed analysis of how public services will be affected by development in the Town and the public facilities required to accommodate that development.

#### **ADOPTION OF FEE**

**NOW, THEREFORE,** the Town Council of the Town of Windsor does resolve as follows:

1. Definitions.
  - a. "Facilities" shall include those facilities that in the Update to the W-Trans Report and in the Findings, above. "Facilities" shall also include comparable alternative facilities should later changes in projections of development in the region necessitate construction of such alternative facilities; provided that the Town Council later determines in accordance with applicable law (1) that there is a reasonable relationship between Development within the Town and the need for alternative facilities (2) that the alternative facilities are comparable to the facilities listed in the W-Trans Report, and (3) that revenue from fees charged pursuant to this Resolution will be used only to pay new Development's fair and proportionate share of the alternative facilities.
  - b. "Fee" shall mean the charge or charges imposed on Development to fund the Facilities to ensure that such Development pays its fair share of facility needs generated by such Development pursuant to this Resolution and applicable law.

2. Subsequent Analysis and Revision of the Fee.

- a. The Fee was adopted and implemented by the Town Council in reliance on the Record identified above. Based on further study and analysis, the basis of that Fee, but not the Fee itself, is revised to include additional improvements as identified in the Update to the W-Trans Report.

3. Effective Date.

This Resolution shall become effective immediately.

4. Severability.

Each component of the Fee and all portions of this Resolution are severable. Should any individual component of the Fee or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining Fee components and/or Resolution portions shall be and continue in full force and effect, except as to those Fee components and/or Resolution portions that have been adjudged invalid. The Town Council of the Town of Windsor hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase, and other portion thereof, irrespective of the fact that one or more section, subsection, clause, sentence, phrase, or other portion may be held invalid or unconstitutional.

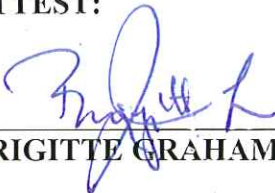
**PASSED, APPROVED AND ADOPTED this 15<sup>th</sup> day of September, 2010, by the following vote:**

**AYES: COUNCILMEMBERS FUDGE, GOBLE AND VICE MAYOR ALLEN**  
**NOES: NONE**  
**ABSTAIN: NONE**  
**ABSENT: MAYOR SALMON AND COUNCILMEMBER SCHOLAR**



**STEVE ALLEN, VICE MAYOR**

**ATTEST:**



**BRIGITTE GRAHAM, DEPUTY TOWN CLERK**