

From: [Lee Kolligian](#)
To: [cityclerk](#)
Cc: [Flores, Kim](#); [Espinosa, Kim](#); [Rick Telegan](#)
Date: Tuesday, January 18, 2022 1:45:22 PM
Attachments: [20220117091513682.pdf](#)

To : Mayor Serratto and Honorable City Council Members :

In April, 2006, the City of Merced, Bright Development and three (3) of our limited liability companies entered into a Pre-Annexation Development Agreement (“PADA”) for property located along the east side of “G” Street between Bellevue and Cardella Roads. PADA required us to sell to the City of a portion of one (1) our properties for a future Community Park (not yet improved). The City later requested, and we agreed, that the amount of the Impact Fee relating to Park land to be charged for our planned single-family subdivision be deducted from the Purchase Price and credited towards the Park land fee for our proposed subdivision. The amount of fee credit for our subdivision (in effect, pre-paid in 2007) is in excess of \$900,000. We are requesting that the City, as a part of this process to modify, change and/or update the Impact Fee Program as it relates to Parks, acknowledge our fee credit that was established in PADA and pre-paid for our City approved (June, 2020) 140-lot Vesting Tentative Subdivision Map # 1312 [see the attached pertinent pages].

Also, for clarification purposes, what is the definition of an "Institutional" use and why are they no longer included?

Please make this email a part of the official record. Thank you for your attention to this matter.

Best Regards,

Lee J. Kolligian

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Details Reports

File #:	22-004	Version: 1	Name:	
Type:	Report Item		Status:	Agenda Ready
File created:	12/20/2021		In control:	City Council/Public Finance and Economic Development Authority/Parking Authority
On agenda:	1/18/2022		Final action:	

Title: SUBJECT: Report and Public Meeting on Update of the City's Public Facilities Financing Plan and Impact Fee Program REPORT IN BRIEF The City Council will receive a report on the Update of the City's Public Facilities Financing Plan and Impact Fee Program and hold a public meeting in advance of the public hearing on the same item scheduled for February 7, 2022. RECOMMENDATION The City Council should provide direction regarding any additions or changes to the Public Facilities Financing Plan and Impact Fee Program so staff can prepare the draft Ordinance for a public hearing and possible introduction on February 7, 2022.

Attachments: 1. [History of City's Public Facilities Impact Fee Levels \(1998-2022\)](#), 2. [Draft Nexus Report \(December 2021\)](#), 3. [Current Public Facilities Impact Fee Ordinance \(MMC 17.62\)](#), [Parks & Recreation Fee Ordinance \(MMC 17.38\)](#), and [Park Dedication Ordinance \(MMC 18.40\)](#), 4. [Presentation](#)

History (0) Text

Report Prepared by: Kim Espinosa, Planning Manager, Development Services Dept

Title

SUBJECT: Report and Public Meeting on Update of the City's Public Facilities Financing Plan and Impact Fee Program

REPORT IN BRIEF

The City Council will receive a report on the Update of the City's Public Facilities Financing Plan and Impact Fee Program and hold a public meeting in advance of the public hearing on the same item scheduled for February 7, 2022.

RECOMMENDATION

The City Council should provide direction regarding any additions or changes to the Public Facilities Financing Plan and Impact Fee Program so staff can prepare the draft Ordinance for a public hearing and possible introduction on February 7, 2022.

Body

ALTERNATIVES

1. Provide direction to staff on the preparation of the Draft Ordinance; or,
2. Continue the matter to a future Council meeting (date and time to be specified in motion).

AUTHORITY

Government Code 66106 through 66018 (AB 1600) established procedures for adoption or modification of development impact fees by local jurisdictions. Merced Municipal Code Section 17.62 (Public Facilities Impact Fees) and Administrative Policy A-32 spell out the implementation of the City's Impact Fee program.

CITY COUNCIL PRIORITIES

Public Facilities Fee Program Update was mentioned in the FY 2020-21 City Council goals and priorities but was not mentioned in the FY 2021-22 version although many projects listed such as the police station, fire stations, park upgrades, etc., can be partially financed through the Public Facilities Impact Fees.

DISCUSSION

Status of Public Facilities Financing Plan and Impact Fee Program Update

Background

The City's Public Facilities Financing Plan and associated Public Facilities Impact Fee Program were first adopted in 1998; revised in 2003, 2004, 2006, 2009, and 2010; and comprehensively updated in 2012. The impact fees are used to fund capital facilities and infrastructure generated by new development over the next 20 years...

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into this ____ day of April, 2007, by and between the City of Merced, a California Charter Municipal Corporation ("Buyer"), Absolute, LLC, a California Limited Liability Company, and Leeco, LLC, a California Limited Liability Company, (collectively, "Seller").

WITNESSETH

WHEREAS, Buyer, Seller, Bright Development, and BP Investors, LLC have previously entered into a Pre-Annexation Development Agreement that provides, among other provisions, for the acquisition by Buyer from Seller of a 11.3 gross acre Community Park and a 1.1 gross acre Neighborhood Park in the City of Merced, State of California, more fully described in Exhibit "A" and shown in Exhibit "B," both attached hereto and incorporated herein by reference (the "Absolute-Leeco Park Land"); and,

WHEREAS, Neither Bright Development nor BP Investors own or control any land designated as a community park or neighborhood park in the Development Plan for the Project referenced in the Pre-Annexation Development Agreement; and,

WHEREAS, In addition to the Absolute-Leeco Park Land, Buyer desires to purchase, and Seller desires to sell to Buyer, a 2.76 gross acre linear park property near the Absolute-Leeco Park Land, more fully described in Exhibit "C" and shown in Exhibit "D," both attached hereto and incorporated herein by reference. The Absolute-Leeco Park Land and the linear park property are collectively referred to as the "Park Property;" and,

WHEREAS, The sale of the Park Property represents full and complete satisfaction of Seller's park impact fee obligation in connection with Seller's portion of the Project under the Pre-Annexation Development Agreement. This transaction does not limit, reduce, or otherwise decrease the obligations of Bright Development and BP Investors, LLC for their portion of the Project.

Calculation of Payment for parkland per Section 8.3 of the PreAnnexation Development Agreement between the City of Merced and Absolute LLC, Leeco LLC and BP Investors.
February 24, 2006

Parkland		
11.3 gross acres for Community Park plus		
1.1 gross acres for Neighborhood Park		
Equals 12.4 total gross acres		
12.4 (\$290,000) =		\$3,596,000
Power Line Corridor Easement		
2.76 acres (NW/SE Trending Easement)		
BP		
2.76 (\$290,000) = \$800,400		
Linear Parks are reimbursed by the City at 25% of cost		
0.25(\$800,400) =		\$200,100
Subtotal:		\$3,796,100
Less Impact Fee Debit		
SFR Lots: 155 lots @ \$6,090 = \$943,950 (Absolute Leeco)		
Impact Fee Subtotal		\$943,950
*		
Total		\$2,852,150

Deleted: 64

Deleted: plus

Deleted: 47 acre (SW/NE Trending Easement)

Deleted: Equals 3.11 total acres of power line corridor easement

Deleted: 3.11

Deleted: 901,900

Deleted: 901,900

Deleted: \$225,475

Deleted: \$3,821,475

Deleted: Village Residential*: 80 units @ \$6,090 = \$487,200

Deleted: \$1,431,150

Deleted: Net acreage of 8.07 and assumes SFR "small lot" development

Deleted: \$2,390,325

reasonable costs incurred in the processing of this Agreement. Owner agrees to take all steps reasonably necessary to support annexation to the City, including voting in favor of annexation. Owner shall assist City in preparing the Plan of Services required by LAFCO.

8.2 City's Duty to Cooperate. City shall cooperate and assist in the processing of the Annexation before LAFCO by timely taking the following actions:

- (a) Providing all information reasonably required or requested by LAFCO with respect to the Annexation including, without limitation, a Plan of Services providing information to LAFCO with respect to the provision of municipal services to the Annexation Property by the City; and,
- (b) Providing a written statement of support for the Annexation to LAFCO prior to the LAFCO public hearing on the Annexation.

8.3 City to Purchase Park Land upon Annexation. City agrees to purchase from Absolute, LLC and Leeco, LLC ("Absolute-Leeco") the park land designated as a community park and the area designated a neighborhood park on the Development Plan for the Projects owned or controlled by Absolute-Leeco ("Absolute-Leeco Park Land") containing 11.3 acres of land (gross) of community park and 1.1 acres of land (gross) of neighborhood park. The City shall pay Absolute-Leeco One Hundred Eighty Thousand and No/100th Dollars (\$180,000.00) per acre (gross) based upon the City's current determination of Fair Market Value of the City's Park Service Areas and adjusted as amended thereafter by the City until such obligation is paid. The total purchase price shall be Two Million Three Hundred Twelve Thousand and No/100th Dollars (\$2,312,000.00), as adjusted as set forth herein for the Absolute-Leeco Park Land, plus credit for the Linear Park/Tower Transmission Line Easement and less Absolute-Leeco's obligation for impact fees for parks under the City's impact fee schedule in effect at such time according to the final number of lots approved for the Absolute-Leeco tentative map. City shall pay Absolute-Leeco the total purchase price in U.S. Dollars at such time as the tentative map for Absolute-Leeco is approved. Neither Bright Development nor BP Investors, LLC owns or controls any land designated as a community park or neighborhood park on the Development Plan for the Project. For purposes of calculating park impact fees for the Projects within the

liability under the indemnification and hold harmless provisions. Owner agrees to promptly pay any invoice submitted.

19.8 Survival. The provisions of this Section 19 shall survive the termination of this Agreement.

20. Public Benefits, Public Improvements and Facilities.

20.1 Intent. The parties acknowledge and agree that this Agreement confers private benefits on the Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on the Owner by providing more fully for the satisfaction of the public needs resulting from development of the Project, as set forth on Exhibit "D" attached hereto and incorporated herein by this reference. Owner agrees to provide all public benefits identified in said Exhibit "D" in such manner and within such timeframe as provided therein.

20.2 Development Fees. Owner shall also pay all other customary and typical development exactions, for a Project of this size and nature, in existence as of the Effective Date and throughout the term of this Agreement, including but not limited to, Fire, Traffic Signal Mitigation, Public Facility Financing Plan Impact Fees, School Impact Fees (SB50), sewer and water connection fees, and permit fees pursuant to the provisions of City ordinances and resolutions in existence at the time of payment, including any periodic adjustments provided by said ordinances and resolutions. Notwithstanding any other language to the contrary herein, Absolute, LLC and Leeco, LLC shall not be required to pay to the City any Park Fees.

20.3 Public Works. If Owner is required by this Agreement, or any other obligation, to construct any public works facilities which will be dedicated to City or any other public agency upon completion, and if required by applicable laws to do so, Owner shall perform such work in the same manner and subject to the same requirements as would be applicable to City or such other public agency should it have undertaken such construction.

20.4 Sewer Facility-Capital Expansion Improvement Bond. The City anticipates (i) forming one or more Financing Districts to finance the expansion of its sewer facilities and system to upgrade the City's sewer treatment facility to accommodate the additional sewer capacity required for growth attributable to the Project, and (ii) issuing sewer facility capital expansion improvement bonds or

CITY OF MERCED
NOTICE OF PUBLIC MEETING & PUBLIC HEARING REGARDING MODIFICATION
OF CITY PUBLIC FACILITIES IMPACT FEES, REPEAL OF THE PARK AND
RECREATION FACILITIES FEES AND PARK DEDICATION ORDINANCE, AND
INTRODUCTION OF ORDINANCE REGARDING SAME

NOTICE IS HEREBY GIVEN that on Tuesday, January 18, 2022, at 6:00 p.m., or as soon thereafter as may be heard in the Council Chambers located at City Hall, 678 W. 18th Street, Merced, CA, the City Council of the City of Merced will hold a public meeting regarding the modification of the City’s Public Facilities Impact Fees. On Monday, February 7, 2022, at 6:00 p.m., the City Council will hold a public hearing regarding the modification of the City’s Public Facilities Impact Fees and will consider the introduction of an Ordinance entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING CHAPTER 17.62, “PUBLIC FACILITIES IMPACT FEES,” AND REPEALING CHAPTER 17.38 “PARK AND RECREATION FACILITIES FEE” AND CHAPTER 18.40, “PARK DEDICATION,” OF THE MERCED MUNICIPAL CODE.”

If adopted, this Ordinance would modify the Public Facilities Impact Fees on new development within the City and would repeal the Park and Recreation Facilities Fees and Park Dedication Ordinance, which will now be incorporated into the Public Facilities Impact Fees. The maximum justified fee for each land use category is spelled out below; the City Council may elect to adopt less than the maximum justified fee, phase the increase in over time, or other options.

The maximum justified fees are set forth as follows:

Land Use Category	Max. Justified Fees	Current Fees (Jan. 2022)	Unit of Growth
Single Family Residential	\$11,671	\$5,938	Dwelling unit
Multi-Family Residential	\$8,520	\$4,107	Dwelling unit
Institutional	n/a	\$4,079	1,000 sq. ft.
Retail – Less Than 50,000 SF	\$13,940	\$11,927	1,000 sq. ft.
Retail – More Than 50,000 SF	\$13,940	\$8,996	1,000 sq. ft.
Office Commercial	\$12,420	\$7,810	1,000 sq. ft.
Industrial	\$5,400	\$2,233	1,000 sq. ft.
Lodging	\$3,293	\$4,107/Room (60% of Rooms Only)	Room

The data required by Government Code Section 66016 as well as a copy of the full text of the proposed Ordinance is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street,