

## RESOLUTION NO. 2009-15

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING NEXUS STUDY, ESTABLISHING THE AMOUNT OF FEES AND PROVIDING FOR OTHER MATTERS RELATIVE TO MEASURE A TRANSPORTATION DEVELOPMENT IMPACT FEES**

**WHEREAS**, November 2, 2004, the voters in Sacramento County approved an extension of the one-half of one percent Measure A transportation sales tax (“new Measure A” and hereafter referred to as Measure A), to become effective on April 1, 2009, and approved the Measure A Expenditure Plan; and

**WHEREAS**, STA Ordinance No. 04-01, adopted on July 29, 2004, requires each jurisdiction in the county to adopt the Measure A development impact fees as a condition of receiving the new Measure A sales tax proceeds consistent with the Measure A Mitigation Fee Program; and

**WHEREAS**, January 14, 2009, the City Council introduced Ordinance No. 1-2009, Adding Chapter 16.96 to the City of Elk Grove Municipal Code to Establish Development Impact Fees for Measure A Transportation Improvements for Citywide Benefit District (“Measure A Ordinance”); and

**WHEREAS**, the Measure A Ordinance: (1) created the authority for imposing the “Measure A development impact fees” to provide funding for public facilities to benefit new development within the City; (2) created the authority for imposing the “Measure A administration fee” for the cost of collection, deposit, investment, accounting, remittance and reporting of the Measure A development impact fee, and (3) enabled the City Council by resolution to set forth the specific amount of these fees in reliance on the Measure A Expenditure Plan, and the Measure A Nexus Study; and

**WHEREAS**, the Measure A Expenditure Plan, the Measure A Nexus Study, along with the studies and reports (i) establish the need, costs and financing of the public facilities needed to mitigate the impacts of and to serve new development within the City and Sacramento County, and (ii) represent a reasonable basis to establish fees under the Measure A Ordinance because those studies and reports establish the relationship between new development, the needed public facilities to serve that new development, the estimated cost of those public facilities, and the amount of the Measure A development impact fees; and

**WHEREAS**, the foregoing items, and all other additional studies and reports including, without limitation, transportation studies and capital improvement programs presented to the City Council now or in the past, along with the studies, reports and data each may reference or be based upon, and any and all amendments thereto made after their initial adoption, together with staff reports and other matters presented to the City Council by City staff, STA staff or interested parties, whether in writing or orally, constitute the record before the City Council for purpose of adoption of this resolution

("Legislative Record"); and

**WHEREAS**, the Measure A Ordinance further provides that the City Council may, by resolution, set forth exemptions and specific limitations which will apply to credits, reimbursements, and deferrals in payment of the Measure A development impact fees and the Measure A administrative fees. However, the STA Agreement on Operating Protocols ("Protocols Agreement"), to be approved by this resolution, limits the City Council from granting certain exemptions, credits and reimbursements of Measure A development impact fees, which are to be remitted to STA for allocation in accordance with the Measure A Expenditure Plan; and

**WHEREAS**, the Measure A Ordinance permits imposition of the Measure A administration fee, and the amount of this fee does not exceed the estimated reasonable costs of the collection, deposit, investment, accounting, remittance and reporting of the Measure A development impact fee; and

**WHEREAS**, in accordance with the Mitigation Fee Act (Government Code Section 66000 *et seq.*) a public hearing was held on the adoption of the Measure A Ordinance and this resolution, at which written and oral presentations were made as part of a regularly scheduled City Council meeting. The date, time and place of this public hearing was duly noticed in accordance with Government Code Sections 66018 and 6062a, and notice was mailed to any interested party who requested notice of adoption of new fees. The Measure A Expenditure Plan and the Measure A Nexus Study were available for public inspection for a period of at least ten (10) days prior to said public hearing. Materials supplementing these studies and reports and all background data referenced therein was made available to interested parties upon request to the City Public Works Director's Office at least ten (10) days prior to the date of said hearing.

**NOW, THEREFORE BE IT RESOLVED**, the City Council of the City of Elk Grove hereby approves as follows:

- 1. Protocols Agreement:** This Resolution approves the Protocols Agreement, which provides for the City to remit to the Sacramento Transportation Authority (STA) the Measure A development impact fees and authorizes the City Manager to sign the Protocols Agreement. STA will subsequently allocate the Measure A development impact fees collected by the City for construction of the public facilities included in the Measure A Expenditure Plan which are located within or otherwise benefit the City.
- 2. Incorporation of the Nexus Study:** This Resolution adopts the Measure A Nexus Study, which is based on the Measure A Expenditure Plan. The Measure A Expenditure Plan is incorporated herein by this reference. The Measure A Nexus Study, along with the studies and reports each may reference or be based upon in whole or in part, and together with any amendments thereto and any supplemental or implementation actions pursuant thereto made after their initial

adoption, establish the need, costs and financing of public facilities arising out of development within the citywide benefit district area, and present a reasonable basis on which to establish the Measure A development impact fees under this Resolution. The Measure A Nexus Study establishes the reasonable relationship between the need for the public facilities set out in the Measure A Expenditure Plan and the impacts of the various types of new development contemplated by the City's General Plan, for which the corresponding Measure A development impact fee is to be charged.

3. **Measure A Development Impact Fees:** The amounts of the Measure A development impact fees established and imposed pursuant to the Measure A Ordinance are hereby established at the levels set out in Measure A Nexus Study and the Protocols Agreement. The applicable Measure A development impact fees by land use category, which the City Council of the City of Elk Grove hereby adopts, are attached as Exhibit "A" and incorporated herein by this reference.
4. **Measure A Administrative Fee:** The amount of the Measure A administrative fee established and imposed pursuant to the Measure A Ordinance is hereby established at the level to off-set the actual reasonable costs for the collection, deposit, investment, accounting, remittance and reporting of the Measure A development impact fees. The Measure A administrative fee, which is the same for all land use categories and which the City Council hereby adopts, is included in Exhibit "A," which is attached are incorporated herein.
5. **Adjustments:** The Measure A development impact fees shall not be adjusted prior the fiscal year that includes July 1, 2010. The adjustment shall be based on a factor equal to the percentage increase, if any, of the following index: The Construction Cost Index as published by Engineer News Record/McGraw-Hill Construction Weekly for the 20-City Construction Cost Index during the twelve (12) months ending on the preceding March 1st.
6. **Construction of Resolution:** The provisions of this Resolution are subject and subordinate to the provisions of the Measure A Ordinance and shall at all times be constructed and applied consistent therewith as the same presently exists or may from time to time hereafter be amended.
7. **Effective Date:** This Resolution shall be effective upon Ordinance No. 1-2009, which adds Chapter 16.96 to the Elk Grove Municipal Code taking effect but in no case shall this Resolution take effect sooner than April 1, 2009.
8. **Severability:** If any section, phrase, sentence, or other portion of this Resolution for any reason is held or found to be invalid, void, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

If any fee established by this Resolution for any reason is held or found to be invalid, void, unenforceable, or unconstitutional by a court of competent jurisdiction, such fee shall be deemed a separate, distinct and independent fee, and such holding shall not affect the validity of the remaining fees established by this Resolution.

If any fee established by this Resolution is held or found to be invalid, void, unenforceable or unconstitutional by a court of competent jurisdiction based upon an insufficient nexus to a specific public facility for which the revenue generated from such fee may be expended pursuant to this Resolution, said fee as it relates to such specific public facility shall be deemed a separate, distinct and independent fee, and such holding shall not affect the validity of the fee as it relates to other public facilities.

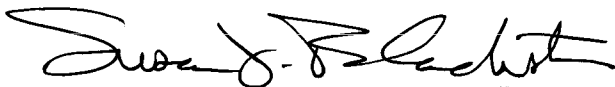
- 9. Annual Report and Review of Fees:** No later than one hundred eighty (180) days following the end of the fiscal year that includes June 30, 2010, the City Manager, or his or her designee, shall prepare a report for the City Council in compliance with Government Code Section 66006. The report may include and rely upon the annual report prepared by STA as referenced in the Protocols Agreement.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 14<sup>th</sup> day of January 2009.



PATRICK HUME, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

## EXHIBIT A

Effective as of April 1, 2009

### Measure A Development Impact Fees

Single Family Residential	\$	1,000	per unit
Senior Single Family Residential	\$	800	per unit
Multi-Family Residential	\$	700	per unit
Senior Multi-Family Residential	\$	600	per unit
Office Use	\$	1,200	per 1,000 gross square feet
Retail Use	\$	3,705	per 1,000 gross square feet
Industrial Use	\$	800	per 1,000 gross square feet
Hotel/Motel	\$	580	per sleeping room
Golf Course	\$	833	per acre
Movie theater	\$	1,904	per screen
Religious Center	\$	932	per 1000 sq ft
Hospital	\$	1,678	per 1000 sq ft
Service Station	\$	1,300	per fueling pump
Supermarket	\$	2,110	per 1000 sq ft
Warehouse/self-storage	\$	250	per 1000 sq ft

Mixed Use Projects - The amount of the fee shall be based on the predominate use of each building, which is defined as 80% or more of the total gross building square footage. If no one use comprises 80% or more of the total gross building square footage, then the amount of the fee shall be proportionally determined based on those uses that constitute 25% or more of the total gross building square footage. For mixed residential and non-residential development projects, the amount of the fee will be proportionally determined based on the number of dwelling units and the amount and type of non-residential gross building square footage.

### Measure A Administrative Fee

Per building permit 2 %

Timing of Payment - The fees established by the Measure A Ordinance and Resolution shall be paid at the time of the issuance of a building permit for a development project. However, for a residential development project under a fee payment contract as specified in Section 66007 of the Government Code: (i) the fee payment may be deferred to the issuance of the final inspection or certificate of occupancy, and (ii) the fee may be paid on a pro rata basis for each dwelling unit when it receives its final inspection or certificate of occupancy.

Protest – In accordance with the Measure A Ordinance and Government Code Section 66020(d), a protest of the imposition of the Measure A development impact fee must be filed no later than 90 days from the date of approval of the development project or issuance of the building permit, whichever date is earlier.

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2009-15**

STATE OF CALIFORNIA            )  
COUNTY OF SACRAMENTO        )        ss  
CITY OF ELK GROVE                )

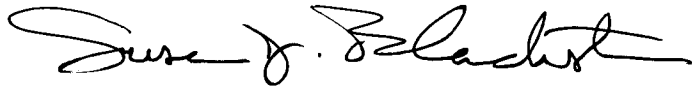
*I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 14, 2009 by the following vote:*

**AYES :**        **COUNCILMEMBERS:**        *Hume, Scherman, Cooper, Davis, Detrick*

**NOES:**        **COUNCILMEMBERS:**        *None*

**ABSTAIN :**    **COUNCILMEMBERS:**        *None*

**ABSENT:**     **COUNCILMEMBERS:**        *None*



---

**Susan J. Blackston, City Clerk  
City of Elk Grove, California**