

# Memorandum

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**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**SUBJECT: SETTLEMENT OF LAWSUIT  
FILED BY SANTA CLARA  
UNIFIED SCHOOL DISTRICT**

**FROM:** Nora Frimann  
Jim Shannon

**DATE:** May 12, 2022

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## **SUPPLEMENTAL**

### **REASON FOR SUPPLEMENTAL**

As part of Item 2.7 on the May 17, 2022 City Council agenda, the City Council will consider approval of the proposed settlement agreement between Santa Clara Unified School District and City of San José related to the North San José Traffic Impact Fees. The purpose of this supplemental memorandum is to recommend for City Council approval the necessary appropriation actions to fund the settlement.

### **RECOMMENDATION**

Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Construction Excise Tax Fund:

- (1) Decrease the North San Jose Traffic Impact Fees Reserve appropriation by \$3,417,389; and
- (2) Establish the North San Jose Traffic Impact Fee Settlement appropriation to the Transportation Department in the amount of \$3,417,389.

### **OUTCOME**

Approval of the appropriation actions will allow the City to retain \$1,500,000 in fees previously paid by Santa Clara Unified School District and return \$3,417,389 pursuant to the proposed settlement agreement.

### **ANALYSIS**

As explained in the memorandum from the City Attorney's Office dated May 2, 2022, the City Council will consider a proposed settlement agreement with the Santa Clara Unified School District whereby the City of San José will retain \$1,500,000 in traffic mitigation fees previously

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paid by Santa Clara Unified School District and return \$3,366,432 plus interest in the amount of \$50,957. If approved by City Council, the appropriation actions will allow City staff to return the total of \$3,417,389 to the Santa Clara Unified School District.

## **CONCLUSION**

Staff recommends the City Council approves the appropriation action as described above.

## **EVALUATION AND FOLLOW-UP**

If the City Council approves Item 2.7 on the May 17, 2022 City Council agenda, City staff will immediately process a check to return \$3,417,389 to the Santa Clara Unified School District.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

## **COORDINATION**

This supplemental memorandum was coordinated with the Transportation Department.

## **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

## **COST SUMMARY/IMPLICATIONS**

The recommendations in the memorandum will appropriate funds from the North San Jose Traffic Impact Fee Fund, which is budgeted within the Construction Excise Tax Fund, to process the settlement to the Santa Clara Unified School District. The initial fees were collected and deposited within the North San Jose Traffic Impact Fee Fund and set aside in a reserve. The recommended actions will reallocate funds from the reserve and into an expense appropriation.

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### **BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the settlement recommended as part of this memo.

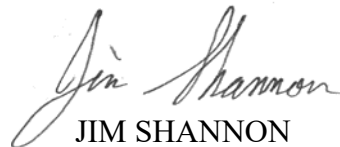
Fund #	Appn #	Appn. Name	Total Appn	Recommended Actions	2021-2022 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
465	8262	North San Jose Traffic Impact Fees Reserve	\$22,877,060	(\$3,417,389)	856	10/19/2021, Ord. No. 30682
465	NEW	North San Jose Traffic Impact Fee Settlement	\$0	\$3,417,389	N/A	N/A

### **CEQA**

Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and City of San José Page 25 Printed on 5/9/2022 City Council Agenda May 17, 2022 Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617).

/s/

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