



## Staff Report

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Kristin Retherford, Urban Development Director

### **SUBJECT:**

Amendments to the Mill Creek Corporate Center Development District Order and Mill Creek Infrastructure Agreement to remove reference to annual adjustments, based on the indices adopted for system development charges

Ward(s): Ward 3

Councilor(s): Nanke

Neighborhood(s): SEMCA

### **ISSUE:**

Shall the City Council amend the Mill Creek Corporate Center Development District Order, and authorize the City Manager to execute an amendment to the Mill Creek Corporate Center Infrastructure Agreement with the State of Oregon to remove reference to annual fee adjustments, based on the indices adopted for System Development Charges?

### **RECOMMENDATION:**

Amend the Mill Creek Corporate Center Development District Order, and authorize the City Manager to execute an amendment to the Mill Creek Corporate Center Infrastructure Agreement with the State of Oregon to remove reference to annual fee adjustments, based on the indices adopted for System Development Charges.

### **SUMMARY AND BACKGROUND:**

The Mill Creek Corporate Center (MCCC) is located in the Mill Creek Industrial Park Urban Renewal Area which is bordered by Highway 22 to the north, Aumsville Highway SE, and Deer Park Drive SE

to the east, Turner Road SE to the south, and Kuebler Boulevard SE to the west. The Urban Renewal Area and Mill Creek Corporate Center Development District (Development District) were established in 2005 to finance public infrastructure projects necessary for the development of the vacant farm land owned by the State of Oregon. To date, the City of Salem, the City's Urban Renewal Agency, and the State of Oregon have invested more than \$20 million in transportation and utility improvements to render more than 190 acres development ready. MCCC is home to the Home Depot Rapid Deployment Center and FedEx, and there are numerous inquiries into various sites, including current proposals for development in Phase IA, Phase IB, and Phase IC (Attachment 1).

An intergovernmental agreement (IGA) between the City of Salem, the Urban Renewal Agency, and the State of Oregon (State) was created in 2005 and amended in 2012 to coordinate development activities for the MCCC. The IGA directed the City to establish a development district to fund development of infrastructure within the MCCC. On November 14, 2005, the Council adopted an order establishing the Mill Creek Corporate Center Development District (Development District), encompassing the entire 550 acre MCCC property.

The Development District imposes an infrastructure fee for new development within Mill Creek and serves a similar purpose to system development charges. System development charges are not applicable to the MCCC property due to the State ownership and the statutory requirement that system development charges be assessed to address the impacts from "new development" and not to correct existing deficiencies. The Development District Order establishes the mechanism for which infrastructure fees paid by developers within the MCCC can fund needed infrastructure. The Development District is implemented through an Infrastructure Agreement executed by the City and the State in 2006. The infrastructure fee is formalized in the City's fee schedule by inclusion in the annual Public Works Fee Schedule, adopted by City Council.

The Infrastructure Agreement states that the "Infrastructure Fee shall be increased or decreased at the same rate as the system development charges in the City of Salem, and shall be not more than, nor less than, the system development charges that would be charged for equivalent development outside the Development District." The Agreement and Order both contain details regarding the calculation and payment of the infrastructure fee, including reference to annual adjustments for inflation that are based on the indices adopted by the system development charges. Since 2006 when the Agreement was executed annual inflationary increases defined by the Consumer Price Index, have been applied to the fee. As a result, the infrastructure fee has increased from \$2.76 per square foot to \$3.72 per square foot. While some system development charges have increased at a

similar rate, not all have. This has created a significant cost differential between fees at MCCC and fees elsewhere in the City.

It was the intent of the Infrastructure Agreement and Development District Order were to adequately cover costs for infrastructure within MCCC and keep the fees in alignment with the system development charges elsewhere in the City. However since the infrastructure fee has escalated over time so that it is no longer in alignment with system development charges, staff recommends removal of references to annual increases. Instead, staff recommends that the Council and Implementation Committee review costs and fees annually. Additionally, staff recommends that the Council amend the FY 16-17 Public Works Fee Schedule to roll back the \$3.72 per square foot to the original \$2.76 fee, which will sufficiently fund future infrastructure projects. An evaluation by City staff determined that the remaining anticipated \$12 million in Development District infrastructure projects can be funded at the \$2.76 per square foot fee. This will bring the MCCC infrastructure fee into closer alignment with system development charges for equivalent development outside of the Development District.

## **FACTS AND FINDINGS:**

In June 2015 the Council amended the Development District Order and authorized amendment to the Infrastructure Agreement (Attachment 2), to allow for phased payment of the infrastructure fee and option to lock in the rate for the fee, with a signed Letter of Intent and as detailed in a Phased Payment Agreement.

Staff reviews the City's fees on an ongoing basis to ensure they are competitive with other municipalities. Similarly, staff regularly evaluates the infrastructure fee, required infrastructure improvements, and overall marketing of the MCCC. For the Home Depot and FedEx development at MCCC, the infrastructure fee paid was between 185 and 105 percent of the equivalent system development charge, if developed outside of the Development District. Removing reference to an automatic annual increase and rolling the infrastructure fee back to the original \$2.76 per square foot in place at the time the Order was created will bring the cost of development at MCCC closer to that of development elsewhere in the City and respond to concerns about this fee differential raised by developers interested in the MCCC. According to data provided by Group Mackenzie in 2012, the fees still remain lower than system development charges in Portland, Hillsboro, and Wilsonville.

### Development District Order

The proposed change to the Development District Order includes removing reference in *Section 3. Amount of Infrastructure Fee* and replacing that with reference to an annual review of fees by the Council and Implementation Committee (Attachment 3). The added text in Section 3 is underscored. Deleted text is marked with a ~~strikethrough~~.

The estimated total amount of infrastructure fees to be collected on behalf of the Developer within the Mill Creek Corporate Center District is \$18,695,222. The initial Infrastructure Fee to be charged within the Mill Creek Corporate Center District per EIDU shall be \$2.76 per gross square foot. The Infrastructure Fee shall be no less than systems development charges for equivalent development outside the Mill Creek Corporate Center District. ~~"The infrastructure fee shall increase or decrease at the same rate as systems development charges in the City of Salem, including but not limited to, increases for annual adjustments."~~ The Mill Creek Implementation Committee will review the infrastructure fee and cost of remaining infrastructure improvements annually to ensure fee generation is adequately covering infrastructure costs.

### Infrastructure Agreement

The proposed change to *Section 1.b.3 Calculation of Infrastructure Fee* is consistent with the proposed change to the Order (Attachment 4), including the total amount of the Infrastructure Fee collected may be more or less than the year 2004 estimate depending on the actual amount, size, and density of development within the Mill Creek Corporate Center Development District. The added text in Section 1.b.3 is underscored. Deleted text is marked with a ~~strikethrough~~.

~~The Infrastructure Fee Shall increase at the same rate as systems development charges in the City of Salem, including but not limited to annual adjustments for inflation, using the indices adopted for system development charges.~~ The Mill Creek Implementation Committee will review the infrastructure fee and cost of remaining infrastructure improvements annually to ensure fee generation is adequately covering infrastructure costs.

On June 30, 2016, the Mill Creek Corporate Center Implementation Committee approved of the Infrastructure Agreement amendments and recommended amendments to the District Development Order (Attachment 5). The IGA created the Implementation Committee, consisting of two members

from the City of Salem/Urban Renewal Agency and two members from Oregon Department of Administrative Services. The Implementation Committee has authority over the implementation of development, marketing and sale of property at MCCC, and the financing and construction of necessary infrastructure to serve development.

### Next Step

If the amendments are approved tonight staff recommends that the Council also amend the FY 16-17 Public Works fee schedule to replace the \$3.72 per square foot infrastructure fee with the original fee of \$2.76.

Annie Gorski  
Interim Economic Development Manager

### Attachments:

1. Mill Creek URA Map
2. First Amendment to the District Development Order and 2nd Amendment to the Infrastructure Agreement
3. Proposed Second Amendment to the District Development Order
4. Proposed Third Amendment to the Infrastructure Agreement
5. Implementation Committee Action Item 1605

06/24/2016