

LIVERMORE

CALIFORNIA

CITY COUNCIL AGENDA REPORT

TO: Honorable Mayor and City Council
FROM: *Marc Roberts*
Marc Roberts, Community Development Director
SUBJECT: Amendments to the Municipal Code, Chapter 12.32, regarding Downtown Revitalization Fee to Update Fee Nexus Study

RECOMMENDED ACTION

Staff recommends the City Council conduct a public hearing and:

1. adopt the 2009 Downtown Revitalization Fee Nexus Study;
2. adopt a resolution revising the fee rates; and
3. introduce an ordinance amending Chapter 12.32 Downtown Revitalization Fee of the Municipal Code.

SUMMARY

The Downtown Revitalization Fee funds capital improvement projects located within the Downtown Specific Plan area that are necessary for new development and are not otherwise funded by another development fees. Staff has updated the fee nexus study to be consistent with new development projections and improvements included in the recent update to the Downtown Specific Plan approved by the City Council on March 30, 2009. The updated Downtown Revitalization Fee rates have been recalculated using the updated study, which has resulted in a lower fee.

DISCUSSION

The Downtown Revitalization Fee was originally adopted by the City Council on February 14, 2005 (Ordinance 1757) and amended on November 24, 2008 (Ordinance 1854) to allow use of Redevelopment Agency credits towards residential development. The fee was based on preliminary estimates of growth and planned improvements in the Downtown Specific Plan area. The Downtown Specific Plan was originally adopted on February 9, 2004 with the latest amendment on March 30, 2009, which increased the amount of non-residential development projected at buildout and modified some

MEETING DATE:

6-22-09

AGENDA ITEM:

5.04

improvements. To be consistent with the revised Downtown Specific Plan, staff has updated the fee nexus study (Attachment 1), which includes the revised land use projections and also revised projects and cost estimates for the planned infrastructure covered by this fee. Revisions are shown in the table below.

	Original estimate	Revised estimate
Cost of infrastructure	\$28,610,000	\$24,370,000
New non-residential construction within the Downtown Specific Plan	200,000 square feet	690,782 square feet

Based on these new estimates, and using the formulas and methodology outlined in the original nexus study (prepared by JR Structural Engineering, dated December 20, 2004 and amended by staff on June 5, 2009), the proposed fees would be as follows:

	Existing fee	Proposed fee
Per residential dwelling unit	\$5,612	\$4,524
Per square foot of non-residential	\$38.00	\$13.94

The fee would continue to be adjusted annually by the Engineering News Record 20-City Construction Index.

Staff provided outreach on the proposed fee adjustments to the Chamber of Commerce Economic Development/Government Affairs Committee, and held an outreach meeting for the development community.

FISCAL AND ADMINISTRATIVE IMPACTS

The Downtown Revitalization Fee will generate approximately \$24 million by buildout of the downtown. These funds will be used to construct improvement projects in the Downtown Specific Plan area, which would otherwise be unfunded. This fee allows for the orderly development of the downtown and provides a funding source for the City to construct catalyst public improvement projects to continue the revitalization of downtown.

The Redevelopment Agency provided an approximately \$8 million loan to pre-fund portions of downtown improvements including First Street Streetscape Phase 1, Flagpole Plaza, and LVC Plaza. Redevelopment Agency monies used to pre-fund the improvements can be used, subject to limitations identified in LMC Section 12.32.040 B10, as fee credit against both residential and non-residential development's Downtown Revitalization Fee. Based on the development projects that have already been allocated Downtown Revitalization Fee Credits, there is approximately \$5.3 million in remaining credit that can be applied towards future downtown projects, including the proposed Regional Performing Arts Center (up to approximately 400,000 square feet of non-

residential or about 1,200 residential units). Once the credits have been depleted, it will be necessary to collect this fee from all projects.

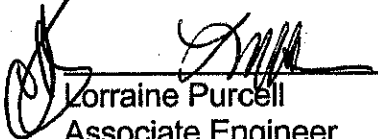
The City's General Fund also provided a \$5 million loan to prefund portions of the First Street Streetscape Phase 1. Downtown Revitalization Fees collected are being used to repay the loan from the General Fund. To date approximately \$500,000 has been collected against the loan.

This fee requires minimal administration time from the Community Development, Economic Development and Finance Departments, similar to the other development impact fee programs currently in place in the City.

ATTACHMENTS


1. Downtown Revitalization Fee Nexus Study, dated June 5, 2009
2. Resolution Adopting Study and Fee
3. Ordinance Amending Downtown Revitalization Fee, Chapter 13.32

Prepared by:



Lorraine Purcell
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Approved by:



Linda Barton
City Manager

City of Livermore Downtown Revitalization Fee Nexus Study

December 20, 2004
Prepared by JR Structural Engineering, Inc.
4305 Hacienda Drive, Suite 530
Pleasanton, California 94588

Updated June 5, 2009
Update prepared by
City of Livermore
Community Development Department

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Executive Summary

The purpose of this study is to support implementation of a Downtown Revitalization Fee (Fee) related to new development within the Downtown Specific Plan Area (Downtown). The fee will be used to fund Downtown improvements, which support and are consistent with the goals of the Livermore General Plan and Downtown Specific Plan, both adopted in February 2004. The Downtown Specific Plan has been periodically updated most recently in 2009 in which the future development projections and improvements were reexamined.

The Livermore City Council adopted policies to support 3,259 new residential units and approximately 691,000 square feet of office and retail construction, which includes the regional performing arts center, at build out of the Downtown. This fee study is being updated to be consistent with the new land use projections and improvements. The Fee will be assessed to all new residential and non-residential development, including additions, in the Downtown, as described in the Downtown Specific Plan.

One of the primary goals of the Downtown Specific Plan is to revitalize Downtown as the most public district in the City, reestablishing it as the heart of the Community. In order to accomplish this goal, the Downtown Specific Plan has provided general guidelines for the overall visual character and to increase activities in the Downtown with various improvements and amenities. Improvements to the Downtown will support and help encourage new investment in both retail/office uses and residential development.

The identified Downtown improvement projects, which are included in the Downtown Revitalization Fee, are consistent with the goals, policies, objectives, and actions of the City's General Plan (2004), Downtown Specific Plan (2009), and the Bikeways and Trails Master Plan (2001). Only the portions of the project costs having no other identified funding source have been included in the calculation of the Downtown Revitalization Fee. Further, no other development fee revenue source will be used for the Downtown improvements identified in this study.

The scope of work and cost estimates for the Downtown improvements included in this study was updated. Two new Downtown projects were substituted for the Railroad Avenue project, which had been completed using other funding. Portions of the following projects are to be funded by the Fee:

- First Street Streetscape (Phases 1, 2 and 3), Inman Street to S Street
- Flagpole Plaza
- LVC Plaza
- Lizzie Fountain Improvements (partial funding)
- Iron Horse Trail (partial funding)
- Downtown Pedestrian Transit Connection (new, partial funding)
- Regional Theater Plaza (new)

The City has secured grant funding for a portion of the Lizzie Fountain and Downtown Pedestrian Connection to Transit projects. The amount of the grants has been subtracted from the gross project costs in the Fee calculation. In addition, only the proportion of the cost of the Iron Horse Trail attributed to Downtown generated use is included in the Fee. The net project costs being funded by the Fee is approximately \$24,370,000, which include one percent for program administration. These costs are apportioned to new residential construction and non-residential development as follows:

- All projects costs except the Iron Horse Trail are apportioned 58 percent to residential and 42 percent to non-residential uses, based on the proportional traffic generation for each of these uses.
- For the Iron Horse Trail, 19.4 percent of the projected users would have an origin or destination in the Downtown, so only 19.4 percent of the total cost of the improvements is included in the Fee. This cost is spread to residential and non-residential uses based on the methodology used in the City of Livermore's Park Fee Study (November 18, 2004) that apportions park and trail uses to residential and non-residential users based on equivalent service population resulting in 18.5 percent and 0.9 percent of the total cost being spread to residential non-residential uses respectively.

The Fee calculation results in a reduction of the current Fee rates:

Land Use	Existing Fee (6/09)	Proposed Fee
Residential	\$5,612/unit	\$4,524/unit
Non-residential	\$ 38.00/square foot	\$13.94/square foot

A. Introduction

This analysis provides the technical basis for establishing the required nexus between anticipated future development within the downtown area of the City of Livermore and the need for certain downtown improvements. The specific downtown improvements planned for funding by the Downtown Revitalization Fee are:

- First Street Streetscape (Phases 1, 2 and 3), Inman Street to S Street
- Flagpole Plaza
- LVC Plaza
- Lizzie Fountain Improvements (partial funding)
- Iron Horse Trail (partial funding)
- Downtown Pedestrian Transit Connection (new, partial funding)
- Regional Theater Plaza (new)

The Downtown Livermore Revitalization Fee would assist in implementing policies contained in the following adopted planning documents:

1. The City of Livermore General Plan (2004)
2. The City of Livermore Downtown Specific Plan (2009 update)
3. The City of Livermore Bikeways and Trails Master Plan (2002) and Trails Design Guidelines and Best Practices (2001)

Some of the anticipated benefits for the residential units within the downtown are improved overall quality of life, convenience of close proximity to restaurants, shops, theatre, transportation facilities, bike trails and a pedestrian friendly and active downtown. Plazas and streetscape provide venues for various events.

The anticipated benefits for the non-residential developments of the downtown improvements are: increased revenues from dedicated customer base with the proposed downtown residential developments; increased pedestrian activity and potential draw from the Tri-valley area with the downtown improvements and beautification; improved ambiance; and the flexibility to use a portion of their store street frontage as either customer parking or expanded retail serving space. Plazas and streetscape provide venues for special events which help expand the customer base for Downtown businesses. Downtown theaters benefit from the improved ambiance, parking improvements, and expanded Downtown businesses and restaurants resulting from revitalization.

B. Definitions

Buildout - Full implementation of all development as outlined in the Downtown Specific Plan, (March 30, 2009).

Development Fee - A one-time fee imposed on new development. Authorized by the State Mitigation Fee Act (California Government Code Section 66000 through Section 66025).

Downtown - The Downtown encompasses all Plan Areas as delineated by the Livermore Downtown Specific Plan (March 30, 2009, Figure 4-2 Land Use Plan Areas).

Iron Horse Trail - The Iron Horse Trail is a twenty foot wide regional multi-use trail that follows the Southern Pacific Railroad Right-of Way connecting residential, retail areas, business parks, schools, public transportation (BART, ACE & County Connection), parks and community facilities. The portion of trail ultimately proposed to be completed though the City of Livermore is six miles long spanning from the east at Greenville Road, to Isabel Ave. connecting to the existing Stanley Boulevard Trail to the west. There is approximately 9,000 linear feet of this trail within the Downtown Specific Plan area.

Lizzie Fountain – Fountain and plaza located on the northwest corner of the intersection of First Street and Livermore Avenue.

Office - Refers to parcels containing structures which are used to conduct business, but do not contain a retail component.

Flag Pole Plaza and Fountain - Improvements to the southwest corner of the intersection of First Street and Livermore Avenue as described in the Downtown Specific Plan.

Retail - Retail uses are concentrated in the Downtown and along major streets including First Street and refers to parcels used for the purposes of buying or selling goods and services (e.g., food markets, restaurants, banks and car dealerships). Service commercial uses and lodging are also included in this category.

C. Downtown Specific Plan

In 2004 the City of Livermore approved the Downtown Specific Plan and updated it most recently in 2009. The primary objective of the Downtown Specific Plan is to re-establish Downtown as the Center of the City. The purpose of the Plan is to transform the Downtown area into a viable City neighborhood and community center. The Downtown Core will become a defined center, meeting both retail/office and recreational needs, with adjoining areas encouraging and permitting uses that are supportive of this center. Each Plan Area will encompass complementary uses, forms and activities, to create an overall cohesive character and recognizable identity. Each Plan Area will serve a distinct purpose in the greater downtown, working to meet various community needs such as the supply of new housing, new places to eat and shop, local places to work, and nearby open space for community recreation.

To enable restructuring and to insure that separate public and private sector actions contribute equally towards the development of the downtown, the following Plan Areas were established:

Downtown Core - The Downtown Core is centered on the City's historic crossroads, at the intersection of First Street and Livermore Avenue. Its northern boundary is Railroad Avenue from M Street to Livermore Avenue. At Livermore Avenue, the boundary extends north to the south side of the Union Pacific right-of-way. Its southern boundary includes all of the properties on the south side of Second Street from L Street to Livermore Avenue, as well as the southeast corner of Second Street and Livermore Avenue (currently occupied by the U.S. Post Office). Its western edge is M Street from Second to Railroad. Its eastern edge is formed by Maple Street and the triangular site currently occupied by the ACE/LAVTA Downtown Transit Center.

Downtown Boulevard Gateway - The Downtown Boulevard Gateway is centered along the spine of First Street, to the west of the Downtown Core. Its northern boundary is formed by Railroad Avenue from S to P Street. Its southern boundary is formed by the properties on the northern side of Second Street from S to Q Street, then the boundary jogs south to incorporate the properties on the southern side of Second Street from Q to M Street. Its western boundary is Holmes Street, and its eastern boundary is M Street, from midway between First and Railroad Avenue to midway between Second Street and Third Street.

Downtown Transit Gateway - The Downtown Transit Gateway is also centered along the spine of First Street, to the east of the Downtown Core, and includes the ACE/LAVTA and Greyhound stations. Its northern boundary begins at Maple Street, following the edge of the transit station property and the Union Pacific right-of-way east to the overpass of First Street. Its southern boundary is created by Fourth Street, from Church to School Street, and its western edge includes the properties fronting Church Street between First and Third Streets.

Downtown Neighborhood North Side - This northern neighborhood Plan Area includes properties on the both sides of the Union Pacific right-of-way. Its northern edge is formed by Chestnut Street. Its southern edge follows Railroad Avenue for the most part, but does also include properties on the southern side of Railroad Avenue from just west of O Street extending east all the way to M Street. It is bounded on the west by P Street north of the tracks and Murrieta Boulevard south of the tracks; and bounded on the east by North and South Livermore Avenue.

Downtown Neighborhood -South Side - The southern neighborhood Plan Area is bounded on the north by the Downtown Boulevard Gateway and the Downtown Core Plan Areas. The northern boundary falls approximately 100-feet south of Second Street and generally follows Second Street except for a one block area between L and M Street where the boundary extends north to Second Street. The Plan Area extends south to encompass the properties on the south side of Fourth Street from L Street, where it jogs north to follow Fourth Street for a block, and then again encompasses properties on the south side of Fourth Street for a block, and then again encompasses properties on the south side of Fourth Street from K to I Street. The southern boundary continues along Fourth Street to South Livermore Avenue, and includes the properties on the south side of Fourth Street from South Livermore to McLeod Street. Its western edge is formed by N Street, and its eastern edge continues up McLeod from Fourth to midblock between Second and Third Streets, to encompass the south side properties along Second to Maple as well as the southeast corner of Maple and Second Streets.

Since the Downtown Specific Plan was adopted in February 2004, the City has already seen strong evidence of redevelopment and revitalization: a 10 screen downtown cinema, a 500-seat performing arts theater, and a mixed use project with office and ground floor retail space and two new townhouse developments directly adjacent to the downtown Core have been completed. A 2000 seat regional performing art center and mixed use high-density housing developments at the center of downtown are planned.

D. Downtown Improvements

1. First Street Improvements (Phases 1, 2 and 3)

First Street Improvements (Inman Street to S Street) are generally described in the Downtown Specific Plan. Improvements include pavement, curb & gutter, sidewalk, median, landscaping, flex zones and trellises, irrigation, street lighting, pedestrian crossings, traffic and utility improvements. Phase 1 has been completed. Phase 1 was prefunded by loans from the Redevelopment Agency and the City's General Fund.

2. Flagpole Plaza

The Plaza located at the southwest corner of the intersection of First Street and Livermore Avenue, as described in the Downtown Specific Plan. Improvements include, but are not limited to decorative sidewalk, curb & gutter, pedestrian ramps, decorative fountain, arbor, landscaping and irrigation, utility improvements, planter boxes and benches. These improvements have been completed. The project was prefunded by a loan from the Redevelopment Agency and the City's General Fund.

3. LVC Plaza

The Plaza located in front of the Bankhead Theater, as described in the Downtown Specific Plan functions as an outside amphitheater and plaza. Improvements include, but are not limited to decorative sidewalk, curb & gutter, pedestrian ramps, decorative fountain, landscaping and irrigation, hardscape, lighting, utility improvements, planter boxes and benches. This project was prefunded by a loan from the Redevelopment Agency.

4. Lizzie Fountain

Improvements to the existing Lizzie Fountain located on the northwest corner of the intersection of First Street and Livermore Avenue include but are not limited to trellises, seat wall bench, upgraded fountains, curb and gutter, landscape and irrigation. The City has received a grant to partially fund this project.

5. Iron Horse Trail

The City's 2001 Master Plan for Bikeways and Trails incorporates a Multi-Use Trail within the downtown, more commonly known as the Iron Horse Trail. This is a proposed Regional trail extending from the boundary of Livermore/Pleasanton to the San Joaquin County Line. The trail is also included on the East Regional Park Districts' (EBRPDJ1997) Master Trail Plan. EBRPD is proposing to extend the trail from the existing Stanley Boulevard trail east to the north side of the railroad right-of-way and continuing along the railroad right-of-way through Downtown Livermore. This project includes approximately 9,150 linear feet of trail, within the downtown area, from the First Street over crossing to Murrieta Boulevard. This project includes both land and improvements including four pedestrian bridge crossings at Livermore Avenue, L Street, P Street and Murrieta Boulevard.

This trail, when complete, will provide an important regional and local connection from the outskirts of and through the Downtown to residential, cultural and open space uses. It will also provide a connection to existing and future transit facilities in the Downtown.

6. Downtown Pedestrian Transit Connection

This project will construct a pedestrian pathway from the Regional Theater and Livermore Village mixed use development site to the Downtown Transit Center, and includes sidewalk, landscaping, signage, and traffic control devices. The City has received a grant to partially fund this project.

7. Regional Theater Plaza

This project will construct a public plaza in front of the regional performing arts center on the west side of South Livermore Avenue between Railroad Avenue and First Street. The plaza will include landscape, hardscape, fountains, trellises and other amenities.

8. Cost Summary

Table 1

Project	Total Cost (millions)	Grant Funding (millions)	To be funded by Fee (millions) ¹
Downtown Pedestrian Transit Connection	\$ 1.58	\$ 1.38	\$ 0.20
First Street Phase 1	\$ 9.72	\$ -	\$ 9.72
First Street Phase 2	\$ 2.65	\$ -	\$ 2.65
First Street Phase 3	\$ 1.96	\$ -	\$ 1.96
Flag Pole Plaza	\$ 1.74	\$ -	\$ 1.74
Regional Theater Plaza	\$ 2.50	\$ -	\$ 2.50
LVC Plaza	\$ 3.46	\$ -	\$ 3.46
Lizzie Fountain	\$ 1.51	\$ 1.00	\$ 0.52
Subtotal	\$ 25.13	\$ 2.38	\$ 22.75
Iron Horse Trail (Downtown Portion)	\$ 8.37	\$ -	\$ 8.37
Portion attributed to Citywide	\$ (6.74)	\$ -	\$ (6.74)
Subtotal	\$ 1.62	\$ -	\$ 1.62
Total	\$ 26.75	\$ 2.38	\$ 24.37

¹ Project costs include 1 percent for program administration costs.

E. Method of Apportionment

The Downtown Specific Plan included a number of public improvements required to facilitate the revitalization of Livermore's Downtown. These improvements will provide a benefit to the downtown property owners. As the primary beneficiary of the proposed improvements, the benefiting properties new development, including expansion to add additional floor area to existing buildings, are required to pay their proportionate share of the funding for the improvements. The mechanism to provide this funding is the Downtown Revitalization Fee.

1. Land Use Projections

In order to properly apportion the cost of improvements to new development, there are several factors to consider. One of the primary factors is amount of property to be developed and the type of development that is likely to occur. The following are the anticipated level of residential and non-residential downtown development:

Table 2

<u>Residential Land Use</u>	<u>units</u>
Existing units (2004)	341
Projected new construction	3,259
Total units at buildout	3,600

Table 3

<u>Non-residential Land Use</u>	<u>square feet</u>
Existing development (2004)	1,486,000
Anticipated demolition	(743,000)
Projected new construction	690,782
Total non-residential development at buildout	1,443,782

2. Apportionment of Streetscape and Plaza Costs

The primary factor in determining the apportionment of streetscape and plaza costs to residential and non-residential development is relative benefit of the improvements to these uses. The benefit of the Downtown improvements is generally proportional to the amount of use of the facilities. The amount of use generated by new Downtown development can be apportioned to residential and non-residential development in proportion to the expected trip generation for those land uses, because trip generation is a measure of activity level. Those uses with higher trip generation are more likely to utilize and therefore benefit from the improvements than those uses with lower trip generation. Using the development projections of 3,259 new residential units and 691,000 square feet of new non-residential construction and the average of the AM and PM peak hour traffic generation for residential, office and retail uses, 58 percent of the Downtown traffic will be generated by new residences and 42 percent will be generated by new non-residential uses. These percentages are applied to apportion the Fee between residential and non-residential development for all improvements except the Iron Horse Trail.

3. Apportionment of Iron Horse Trail Costs

The factors for determining the distribution of costs for the Iron Horse Trail are calculated differently than the streetscape and plaza improvements. A significant percentage of the ultimate users of the Iron Horse Trail will not have an origin nor a destination in the downtown. Therefore, the methodology for trail use accounts for the regional usage. To approximate the trip characteristics of Iron Horse Trail users, traffic modeling information for the adjacent and parallel roadway was used. The model results show that 20 percent of the peak hour trips have an origin or destination within the Downtown. Therefore, 20 percent of the cost to construct the Downtown segments of the Iron Horse Trail is assessed to Downtown development. The Downtown share of the cost of the Iron Horse Trail is then divided between residents and employees (and their customers?) based on the anticipated hours of exposure for each user, consistent with the methodology applied in the City of Livermore's Park Fee Study (November 18, 2004). Based on anticipated exposure, each employee is weighted at 19 percent of each resident. With this methodology, a downtown employee is estimated to use park and trail facilities at a rate that is approximately one-fifth the rate of a resident. Finally, using typical employee and resident densities, the cost is converted to a fee per residential unit and a fee per square foot of non-residential development.

The land use projects for the 2009 Downtown Specific Plan indicates that there would be 1,626 new jobs created in the Downtown at buildout. With census and employment data, a service population can be calculated as the sum of the number of residents plus the weighted number of employees. The projected total of residential units is 3,259. The average number of residents per unit is 2, for a total of 6,518 ($3,259 \times 2 = 6,518$). The projected total of non-residential development is 691,005 square feet. The average area per employee is 350 square feet for office and 500 square feet for retail. Since the new growth may be either office or retail, an average of 425 square feet per an employee is used. The projected total number of employees is 1,626 ($691,005 / 425 = 1,626$); weighted at 19 percent of a resident, the number of equivalent residents is 309 ($1,626 \times 0.19 = 309$). Thus the total service population is 6,827 ($6,518 + 309$). The residential proportion is equal to 95.4 percent and the non-residential proportion is 4.6 percent of the total service population. The local portion of the Iron Horse Trail is therefore, spread to residential and non-residential development using these proportions resulting in the Downtown residential and non-residential development responsible for 18.5 percent and 0.9 percent of the total cost of the Downtown portion of the Iron Horse Trail, respectively.

4. Residential Fee Calculation

The Downtown Revitalization Fee for Residential units was calculated as follows:

Table 4: Residential Fee

	Cost	Share	Total
Downtown Improvement Costs	\$22,750,000	58%	\$13,195,000
Iron Horse Trail (Downtown Portion)	\$ 8,370,000	18.5%	\$ 1,548,000
Total			\$14,743,000

Each residential unit developed within the downtown area would, therefore, be assessed \$4,524 per unit (\$14,743,000 divided by 3,259 units).

The total Residential fee is, therefore, \$4,524 per unit.

5. Non-residential Fee Calculation

The Downtown Revitalization Fee for retail/office development was calculated as follows:

Table 5: Non-residential Fee

	Cost	Share	Total
Downtown Improvement Costs	\$22,750,000	42%	\$ 9,555,000
Iron Horse Trail (Downtown Portion)	\$ 8,370,000	0.9%	\$ 75,000
Total			\$ 9,630,000

Each non-residential development within the downtown area would, therefore, be assessed \$13.94 per square foot (\$9,630,000 divided by 690,782 square feet).

The total Non-residential fee is, therefore, \$13.94 per square foot.

4. No Overlap Fees

The improvements included in the Downtown Revitalization fee are for projects not included in any other City development impact fee programs. The projects are separate and distinct from other development impact fee projects such as citywide sewer connection and citywide traffic impact fees. Downtown projects are specifically oriented to benefit new downtown development by providing amenities specific to the downtown uses whether the improvements are parking, flex zones, plazas or fountains.

improvements. The specific, downtown improvements include: transforming First Street to a pedestrian friendly environment with new pavement, curb gutter and sidewalk, angle parking and flexible pavement zones, new intersection signals, lighted pedestrian crosswalks, landscaping and irrigation, lighting, and utility improvements; new plazas and fountains; improvements to Lizzie fountain; other street; curb and sidewalk improvements; Iron Horse trail; and utility improvements.

A primary purpose of these improvements to the downtown is to help attract people to Downtown businesses by providing parking and outdoor dining opportunities, and provide activity areas for residents and special events in the Downtown. These investments will revitalize both residential and non-residential development in the Downtown as the heart of the City.

2. Use of Fee Revenues

For the second finding the City must:

Identify the use to which the fee is to be put. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities or improvements for which the fee is charged. (§66001(a)(2))

Planned facilities are described in the introduction of this report and are also identified in the following documents:

- City of Livermore two-year capital improvement budget
- City of Livermore Downtown Specific Plan
- City of Livermore General Plan
- City of Livermore 2001 Bikeways and Trails Master Plan

Specific Projects to be funded by the Fee are:

- First Street Streetscape (Phases 1, 2 and 3), Inman Street to S Street
- Flagpole Plaza
- LVC Plaza
- Lizzie Fountain Improvements (portions)
- Iron Horse Trail (portions)
- Downtown Pedestrian Transit Connection (portions)
- Regional Theater Plaza

The City would restrict fee revenues to the acquisition of trail land, design and construction of trail improvements, downtown improvements and financing costs, if any, associated with these expenditures.

3. Benefit of Relationship

For the third finding the City must:

5. Annual Adjustment

The City has identified appropriate inflation indexes in the fee ordinance and adopted an automatic inflation adjustment to the fee annually. The City has selected to adjust the rate of fee annually based on the Engineering News Record 20-city construction cost index, as published by McGraw-Hill Publishing Company.

6. Use of Fees; Fund

A fund, designated the Downtown Revitalization Fee fund, has been established by the City's Finance Department. Revenues and expenditures from and to the Downtown Revitalization Fee program shall be accounted for in this fund.

F. Mitigation Fee Act Findings

The Mitigation Fee Act requires that the City make findings prior to adoption of a public facility fee. The Act, contained at California Government Code Sections 66000 through 66025, establishes requirements on local agencies for the imposition and administration of development fees. The Act requires local agencies to make five findings when adopting a fee.

The five statutory findings required for adoption of the maximum justified Fee rates documented in this report are presented below. All statutory references are to the Act.

1. Purpose of Fee

For the first finding the City must:

Identify the purpose of the fee. (§66001(a)(1))

The policy of the City of Livermore is that new development will not burden existing development with the cost of street, park or infrastructure improvements required to accommodate growth. In 2004, the city approved the Downtown Specific Plan, with the primary objective of re-establishing the downtown as the dynamic center of the city. This Plan is updated periodically. The Specific Plan envisions transforming the downtown area into a viable city neighborhood and community center. The downtown core will become a defined center, supporting office, retail, residential and recreational activity. Each plan area will encompass complementary uses, including new residences, places to eat and shop, local places to work, and nearby open space for community recreation.

For this transformation to occur, both public and private efforts will be necessary to be implemented in a coordinated fashion. The City has already adopted new master plans for transportation, sewer and storm drainage, and parks and trail improvements, and has adopted new financing structures for improvements to sewer, water, storm drains, city streets and public parks. But specific, additional improvements are needed for the downtown area, and the city will require private development to share in the cost of those

Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. (§66001(a)(3))

Downtown improvements funded by the fee would provide public infrastructure commensurate with a Downtown being the heart of the City and center of public activity. This will help spur revitalization of the Downtown including new residential and non-residential development. The infrastructure will serve new development with new streetscapes, increased public parking supply, outdoor dining areas in the flex zones, plazas in which to gather for recreation and entertainment, landscaping and lighting for improved aesthetics, and the Iron Horse Trail to enhance pedestrian and bicycle travel within Downtown. Thus, there is a reasonable relationship between the use of fee revenues and the benefit to residential and non-residential types of new development that would pay the fee.

4. Burden Relationship

For the fourth finding the City must:

Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. (§66001(a)(4))

The public facilities funded by this fee will fulfill a need for both residential and non-residential development within the Downtown. Increased vitality of the Downtown requires additional improvements to support the higher level of activity. New development more urban in nature requires special improvements such as pedestrian oriented streetscapes and plazas. New residents and businesses have a need for improved roadways, parking facilities, and trails to enhance access to Downtown housing and businesses. Residents and businesses also need the recreational and entertainment opportunities that will take place in the public plazas. The Iron Horse Trail also provides a public facility for recreation and exercise that will benefit both Downtown residents and Businesses. These improvements will increase the desirability to live and work in the Downtown, and will enhance property values.

5. Proportionality

For the fifth finding the City must;

Determine how there is a reasonable relationship between the amount of the fee and the cost of the streetscape, trail and infrastructure improvements, or portions of these facilities attributable to the development on which the fee is imposed. (§66001(b))

The benefit of the Downtown improvements is generally proportional to the amount of expected use of the facilities by residential and non-residential land uses. Trip generation is used as a proxy for activity level. The amount of use generated by new Downtown development can be approximated by the expected amount of traffic generated by new residential and non-residential developments. Using the development projections of 3,259 new residential units and 690,782 square feet of new non-residential construction and the

average of the AM and PM peak hour traffic generation for residential, office and retail uses, 58 percent of the Downtown traffic will be generated by new residences and 42 percent will be generated by new non-residential uses. These percentages are applied to spread the Fee, for all projects except the Iron Horse Trail, between residential and non-residential development.

The Iron Horse Trail is a regional trail. The Iron Horse Trail costs will be offset by 80.6 percent to account for users with neither an origin nor destination in the Downtown. This 80.6 percent will be funded by grants or other funding sources. The remaining 19.4 percent of the Iron Horse Trail costs will then be spread between the Downtown residential and non-residential developments. The number of expected residents and employees and the hours of proximity to the Iron Horse Trail provide an indicator of the demand for trail facilities to accommodate growth. The total demand for trail facilities is calculated based on residents (for residential development), employees (for nonresidential development) and service hours in the Downtown, consistent with the methodology adopted with the Parks Facilities Impact Fee for trail facilities outside of Downtown. Using this methodology, one employee is weighted as 0.19 resident based on an analysis of the relative demand for public facilities by land use type. Specifically, residential developments will contribute 18.5 percent of the Iron Horse Trail costs, while non-residential developments will contribute only 0.9 percent of the costs.