

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA APPROVING
THE TELEGRAPH CANYON DRAINAGE CHANNEL
UPDATED NEXUS STUDY AND AMENDING ORDINANCE
NO. 2384 ACCORDINGLY

WHEREAS, in 1990, the City Council enacted Ordinance No. 2384, approving the “City of Chula Vista, California, Telegraph Canyon Drainage Plan,” dated June 6, 1990, Telegraph Canyon Drainage Plan (“Drainage Plan”) as the plan for construction of planned local drainage facilities for the Telegraph Canyon Drainage District and establishing the Telegraph Canyon Drainage Fee (“TC Drainage Fee”) to fund the construction of the required drainage facilities within the Telegraph Canyon Basin, as identified in the Drainage Plan; and

WHEREAS, the Drainage Plan was based upon regulatory environmental requirements and City design standards in place at the time of adoption; and

WHEREAS, due to changes in those requirements and standards, certain drainage facilities contained in the Drainage Plan cannot be completed as originally contemplated in the Drainage Plan and remain to be constructed; and

WHEREAS, as a result, it is appropriate to reanalyze and reevaluate the remaining facilities to be built to ensure their design and construction meets current standards and regulatory requirements; and

WHEREAS, consistent with California Government Code Sections 66000, *et seq.*, the City Council recently caused a study to be conducted to reanalyze and reevaluate the adequacy of the existing Telegraph Canyon Channel facilities to accommodate the surface and storm water runoff resulting from development of properties within the Telegraph Canyon Basin and to identify remaining facilities to be built to serve the same purpose, and benefit the same land, for which the TC Drainage Fee was collected; and

WHEREAS, the study was prepared by Atkins North America, Inc. and is entitled “Telegraph Canyon Channel Nexus Study,” dated November 24, 2015, (“Updated Nexus Study”); and

WHEREAS, the Updated Nexus Study identifies planned drainage improvements to accomplish serve the same purpose and benefit the same TC Drainage Fee benefit area properties as the facilities identified in the original Drainage Plan; and

WHEREAS, the Updated Nexus Study supports, and staff recommends, the use of TC Drainage Fees to fund the planned drainage facilities identified in the Updated Nexus Study, which are required to mitigate the impacts of development within the Telegraph Canyon Basin; and

WHEREAS, the Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (“CEQA”) and has determined that

the proposed ordinance is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Findings.

The City Council of the City of Chula Vista hereby makes the following legislative findings and determinations:

A. Development of the Telegraph Canyon Drainage Basin has necessitated the construction of drainage facilities, as identified in the "City of Chula Vista, California, Telegraph Canyon Drainage Plan," dated June 6, 1990, and approved by Ordinance No. 2384 ("Drainage Plan"); the City has been unable to complete certain of those improvements due to changed circumstances, including design standards and regulatory requirements.

B. In order to complete construction of drainage facilities necessary to meet the needs of the Telegraph Canyon Basin, the City has caused an updated study to be prepared by Atkins North America, Inc., dated November 24, 2015 (the "Updated Nexus Study"), which identifies facilities to be constructed which serve the same purpose as the original Drainage Plan and benefit the same properties which were included in the Telegraph Canyon Drainage Fee.

C. The Updated Nexus Study, in the form presented and on file in the Office of the City Clerk, updates the list of planned drainage facilities needed to accommodate development of the Telegraph Canyon Basin benefit area. The Updated Nexus Study is hereby approved as the plan for construction of the remaining planned local drainage facilities required within the Telegraph Canyon Basin.

D. The Updated Nexus Study is consistent with the City's General Plan and will ensure that increased surface and storm water runoff resulting from or attributable to new development within the drainage basin will be removed in a manner which furthers the public health, safety and welfare. In addition to participation in the construction of drainage facilities as set forth in the Study, developers of property within the benefit area will be required to construct other on and off site drainage facilities as a condition of development pursuant to existing laws and policies of the City.

Section II. Ordinance Amendment.

Ordinance No. 2384 is hereby amended as follows:

A. Section I.B. is amended to read as follows:

"A report entitled, "City of Chula Vista, California, Telegraph Canyon Drainage Plan," dated June 6, 1990, and on file with the City Clerk, establishes the boundaries of the Telegraph Canyon Drainage Basin, the boundaries of the Telegraph Canyon Drainage Improvement District and the boundaries of the area of benefit of the Telegraph Canyon Drainage Improvement, the extent of the additional drainage facilities needed to accommodate new development in the Drainage District and a proposed allocation of fees to pay for the drainage facilities. The Telegraph Canyon Drainage Plan, is hereby approved as the plan for construction of planned local drainage facilities for the Telegraph Canyon Drainage District,

including the facilities identified in the “Telegraph Canyon Channel Nexus Study,” dated November 24, 2015, (“Updated Nexus Study”).”

B. Section I.C. is amended to add the following to the end of the section:

“The Updated Nexus Study is consistent with the City’s General Plan and will ensure that increased surface and storm water runoff resulting from or attributable to new development within the drainage basin will be removed in a manner which furthers the public health, safety and welfare. In addition to participation in the construction of drainage facilities as set forth in the Study, developers of property within the benefit area will be required to construct other on and off site drainage facilities as a condition of development pursuant to existing laws and policies of the City.”

C. Section I. D. is hereby amended to read as follows:

“The development of property within the Telegraph Canyon Drainage Basin will require the construction of those drainage facilities described in the Telegraph Canyon Drainage Plan, the Updated Nexus Study, and other on and off site drainage facilities. Properties within the Drainage District shown in the Drainage Plan benefit by construction of the drainage facilities set forth in the Plan to the extent that payment of the fee and construction of the drainage facilities will allow the properties to be developed according to the general plan.”

D. Section I.E. is hereby amended as follows:

1. In the first sentence, add “, and the Updated Nexus Study,” after the word “Plan” on the second line;
2. In subsection 1., add “, and the Updated Nexus Study,” after the word “Plan” on the second line, and on the eighth line.

E. Section X. is hereby amended as follows:

In subsection F., add “and the Updated Nexus Study” after the word “Plan.”

F. Except as specifically amended in this ordinance, Ordinance No. 2384 shall remain in full force and effect.

Section III. California Environmental Quality Act Findings for Statutory Exemption

The City Council of the City of Chula Vista does hereby find that the planned drainage facilities as described in the Study are necessary to maintain service within the Basin. The

proposed activity does not involve any commitment to any specific "Project" as defined under Section 15378 of the State CEQA Guidelines which may result in a potentially significant physical impact on the environment. Therefore, the City finds that the adoption of this ordinance is statutorily exempt under the provisions of CEQA Guidelines Section 15060(c)(3).

Section IV. Time Limit for Protest and Judicial Action

Any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be brought within the period as established by law.

Section V. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section VI. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section VII. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VII. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Richard A. Hopkins
Director of Public Works

Glen R. Googins
City Attorney