



COUNCIL REPORT

DATE: December 10, 2024

CATEGORY: Consent

DEPT.: Finance and Administrative Services

TITLE: **Fiscal Year 2023-24 Annual Compliance Reports for Development Impact Fees and Capacity Charges, and Informational Reporting of Park Land Dedication Fee**

RECOMMENDATION

1. Review the Fiscal Year 2023-24 Annual Compliance Report for Development Impact Fees (Attachment 1 to the Council report).
2. Review the Fiscal Year 2023-24 Annual Compliance Report for Capacity Charges (Attachment 2 to the Council report).
3. Review the Fiscal Year 2023-24 Informational Reporting for the Park Land Dedication Fund (Attachment 3 to the Council report).

BACKGROUND

Development Impact Funds

California Government Code Section 66006(b)(1)(A)-(H)¹ requires local agencies, within 180 days after the last day of each fiscal year, to make available to the public certain information for the fiscal year, and Section 66006(b)(2) requires the information be made available to the public at least 15 days prior to the City Council's consideration of the report. Attachment 1 discusses various fee programs, including Citywide Transportation Impact, East Whisman Impact Fees (Transportation, Portable Water, Recycled Water, and Sewer); Housing Impact, Rental Housing Impact, and In-Lieu Parking fees; North Bayshore Development Impact (Transportation, Water, and Sewer), Water Development Impact, Sewer Development Impact, and Storm Development Fees Excess Capacity. Section 66001(d)(1) requires local agencies to make findings with respect to fees and investment earnings remaining unexpended, whether committed or uncommitted, for the fifth year following receipt of the first fee deposited and every five years thereafter.

¹ Unless otherwise noted, all references are to the California Government Code.

The City has adopted various impact fees subject to the Mitigation Fee Act:

- Citywide Transportation Impact Fee;
- East Whisman Facilities Impact Fee (Transportation, Portable Water, Recycled Water, and Sewer);
- Housing Impact Fees;
- Rental Housing Impact Fee;
- In-Lieu Parking Fee;
- North Bayshore Development Impact Fees (Transportation, Water, and Sewer);
- Water Development Impact Fee;
- Sewer Development Impact Fee; and
- Storm Development Fees Excess Capacity.

Capacity Charges

In addition, Section 66013(d) requires local agencies that establish Water and Sewer Capacity Charges to make certain information available to the public within 180 days after the last day of each fiscal year. Attachment 2 provides the required information and discusses Water and Sewer Capacity Charges.

Park Land Dedication Fee

As defined in Section 66000(b), “fee” does not include fees specified in Section 66477 (Quimby Act), which governs the City’s Park Land Dedication (PLD) Fee and does not require annual reporting. The PLD Fund is included in Attachment 3 for informational purposes only.

ANALYSIS

The Fiscal Year 2023-24 Annual Compliance Reports for Development Impact Fees and Capacity Charges, and Informational Reporting of the PLD Fee, Attachments 1 through 3, were made available to the public on November 7, 2024, with the agenda for the November 12, 2024 City Council public meeting. The reports provide detailed information about each of the Impact Fees and Capacity Charges, including a description and amount of the fee or charge, beginning and ending balances, public improvements funded by the fee or charge, and any required findings. As communicated, significant improvements and benefits have been achieved using these fees. The spending of these funds is consistent with the established fees/charges and is within the spending timeline requirements. With the initial public meeting held on November 12, the City is within reporting requirements, having made this report available to the public at least 15 days prior to review.

The development impact funds discussed in Attachment 1 comply with the requirements of Section 66000, *et seq.*, for annual reporting regarding the collection and use of development fees. There are no required findings to be made as of June 30, 2024.

The Water and Sewer Capacity Charges discussed in Attachment 2 comply with Section 66013 for annual reporting regarding the collection and use of capacity charges. The PLD Fund in Attachment 3 complies with Section 66477(a)(6)(A) regarding the commitment of fees within five years of receipt.

The following table provides a fund summary of available balances illustrated in the more detailed compliance reports in Attachments 1 through 3.

| FEE/FUND CATEGORY | UNEXPENDED/AVAILABLE FUND BALANCE June 30, 2024* |
|---|--|
| Development Impact Fees (Attachment 1) | |
| Citywide Transportation Impact Fund | \$2,140,247 |
| East Whisman Facilities Impact Fund—Transportation | — |
| East Whisman Facilities Impact Fund—Potable Water | — |
| East Whisman Facilities Impact Fund—Recycled Water | — |
| East Whisman Facilities Impact Fund—Sewer | — |
| Housing Impact Fund | \$21,172,844 |
| Rental Housing Impact Fund | \$2,552,623 |
| In-Lieu Parking Fund | \$8,654,201 |
| North Bayshore Development Impact Fund—Transportation | \$3,793,195 |
| North Bayshore Development Impact Fund—Water | \$5,165,405 |
| North Bayshore Development Impact Fund—Sewer | \$1,008,389 |
| Water Development Impact Fund | — |
| Sewer Development Impact Fund | \$69,520 |
| Storm Development Impact Fees Excess Capacity | — |
| Capacity Charges (Attachment 2) | |
| Water Capacity Charges Fund | \$1,911,666 |
| Sewer Capacity Charges Fund | \$8,904,285 |
| Park Land Dedication Fees (Attachment 3) | |
| Park Land Dedication Fund | \$44,085,152 |

* Balances are net of committed Council funds for future projects.

LEVINE ACT

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a “license, permit, or other entitlement for use” if the official has received a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant in the proceeding within the last 12 months. A city official is similarly prohibited from accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant to any proceeding involving a license, permit, or other entitlement for use for 12 months after a final decision is rendered in said proceeding.

Please refer to the “X” in the checklist below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

SUBJECT TO THE LEVINE ACT

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

EXEMPT FROM THE LEVINE ACT

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

For more information about the Levine Act, please see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html.

FISCAL IMPACT

There is no direct fiscal impact associated with this report. The fees are available for the purposes indicated and discussed in Attachments 1 through 3.

ALTERNATIVES

1. Provide other direction.
2. Take no action, resulting in noncompliance with the California Government Code.

PUBLIC NOTICING—Agenda posting.

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- Attachments:
1. [Fiscal Year 2023-24 Annual Compliance Report for Development Impact Fees](#)
 2. [Fiscal Year 2023-24 Annual Compliance Report for Capacity Charges](#)
 3. [Fiscal Year 2023-24 Informational Reporting of Park Land Dedication Fees](#)