



COUNCIL REPORT

DATE: November 12, 2024

CATEGORY: Consent

DEPT.: Finance and Administrative Services

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

RECOMMENDATION

Make available to the public the Fiscal Year 2023-24 Annual Compliance Report for Development Impact Fees and Capacity Charges; and Informational Reporting of Park Land Dedication Fees, and place the reports on the agenda for the December 10, 2024 Council meeting.

BACKGROUND

The City levies fees on new development within the City in order to fund public capital improvements necessitated by such development. The Mitigation Fee Act, commonly known as Assembly Bill (AB) 1600 (California Government Code Sections 66000 *et seq.*), regulates how public agencies collect, maintain, and expend these fees, also known as impact or development fees, imposed on developers for the purpose of defraying costs of public facilities related to the development. It also imposes certain accounting and reporting requirements on local agencies that collect development fees. The Mitigation Fee Act mandates that, for accounting purposes, development fees must be segregated from the general funds of the City and from other funds containing fees collected for other improvements. Interest on each development fee fund must be credited to that fund and used only for the purposes for which the fees were collected.

Over time, 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 Fee;
- Rental Housing Impact Fee;
- In-Lieu Parking Fee;
- North Bayshore Development Impact Fee (Transportation, Water, and Sewer)

- Water Development Impact Fee;
- Sewer Development Impact Fee; and
- Storm Development Fees Excess Capacity.

California Government Code (CGC) Section 66006(b)(1)(A-H) requires local agencies, within 180 days after the last day of each fiscal year, to make available to the public the following information about its development fees for the fiscal year:

- Brief description of the type of fee in the account or fund;
- Amount of fee;
- Beginning and ending balances of the account or fund, amount of fees collected, and interest earned;
- Identification of each public improvement on which fees were expended;
- Identification of approximate date by which construction will commence once sufficient funds have been collected;
- Description of each interfund transfer or interfund loan made from the fund; and
- Amount of refunds made.

Water Capacity Charges and Sewer Capacity Charges were adopted by the City Council effective July 1, 2015, and the reporting of these capacity charges are governed by California Government Code (CGC) Section 66013. Park Land Dedication Fees collected pursuant to the Quimby Act are governed by CGC Section 66477, and details related to these fees are provided for informational purposes only.

Attached are the City's Annual Compliance Report for Development Impact Fees (Attachment 1), Annual Compliance Report for Capacity Charges (Attachment 2), and Informational Reporting of the Park Land Dedication Fees (Attachment 3) for the fiscal year ended June 30, 2024, prepared in compliance with CGC Sections 66001, 66006, 66008, 66013, and 66477.

In addition, CGC Section 66006(b)(2) requires the information be made available to the public at the next regularly scheduled public meeting but not fewer than 15 days after this information is made available to the public. No Council action is required on this item at this time. The report will be placed on the agenda for consideration at the December 10, 2024 City Council meeting.

ANALYSIS

The attached reports provide the mandated detailed information for the development 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 findings related to the planned uses of remaining unexpended funds. As communicated in the attached reports, significant improvements and benefits have been achieved through use of these fees. In addition, the Informational Reporting of Park Land Dedication Fees provides detailed information regarding the Park Land Fund for Fiscal Year 2023-24.

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

There are no unexpended balances for the East Whisman Facilities Impact Fees (Transportation, Potable Water, Recycled Water, and Sewer) or for the Water Development Impact Fee and Storm Development Impact Fees Excess Capacity. As a result, these fees are not discussed in the Fiscal Year 2023-24 Annual Compliance Report for Development Impact Fees (Attachment 1).

Table 1: Summary of Unexpended/Available Balances by Fee/Fund Category

| 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

Making the information contained in this report and the attachments available to the public and placing them on the agenda for the December 10, 2024 City Council meeting has no fiscal impact, as impact fees and expenditures have already been approved as part of the City’s Adopted Budget. Reporting of this information and approving the annual compliance report at the December 10, 2024 City Council meeting satisfies the regulatory requirements for the City to continue to charge Development Impact Fees on new development.

ALTERNATIVES

1. Do not place the Annual Compliance Report on the December 12, 2024 Council agenda.
2. Provide other direction.

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