



## PUBLIC WORKS DEPARTMENT

CITY HALL  
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### CITY COUNCIL STAFF REPORT

Meeting: December 7, 2021

#### Subject

Consider the Mitigation Fee Act, the Annual and Five-Year Report for Fiscal Year (FY) 2020-2021

#### Recommended Action

1. Accept the Annual and Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 et seq.); and
2. Adopt Resolution No. 21-\_\_\_\_ entitled "A Resolution of the Cupertino City Council Approving the Annual and Five-Year Development Impact Fee Report for FY Ending June 30 and Making Required Findings."

#### Discussion

The Mitigation Fee Act (Government Code Section 66000 et seq.) requires public agencies to account for and make findings when imposing development impact fees as a condition of development approval. Government Code Section 66006(b) also requires that public agencies report accounting for development impact fees held by the agency for annual review, making it available to the public. Additional reporting is required at least every five years.

There are several impact fees that the City requires as a condition of development approval in lieu of requiring construction of certain public improvements. These fees are subject to annual and five-year reporting requirements. Most of these fees were imposed to mitigate development impacts and were based on the development's fair share of a larger public improvement project.

Each fiscal year, pursuant to Section 66006(b), the City is required to make available to the public the following information concerning development impact fees:

- A brief description of the type of fee in the account or fund;
- Amount of the fee;
- Beginning and ending balances of the account or fund;
- The amount of fees collected, and interest earned;

- Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with in-lieu fees;
- Identification of an approximate date by which the construction of the public improvement will commence, if the local agency determines that sufficient funds have been collected to complete the public improvement and the public improvement remains incomplete;
- A description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended. In the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan; and
- The amount of any refunds made pursuant to Government Code section 66001(e), including any allocations made pursuant to Government Code section 66001(f).

Every five years, under Section 66001(d), the City must also make certain findings regarding unfinished improvements following the first deposit of impact fees into a fund. The agency must identify the purpose for which the fee was expended and demonstrate a reasonable relationship between the fee and the purpose for which it was used. The agency must also identify all sources and amounts of funding anticipated to complete the financing of incomplete improvements and to designate approximate dates when this funding is expected to be deposited into the account. Fees received through a development agreement are exempt from the five-year report.

The attached report includes the annual report for the fiscal year ending June 30 (Attachment A), including a five-year report for all fees. All construction projects listed have or will commence within the next five years, as shown in the report. Since the City provided a five-year report last fiscal year, a new five-year report is not required. However, the five-year report provides additional detail, so the City voluntarily provides such data to better inform the public.

#### Sustainability Impact

Some of the mitigation improvements are related to sustainability priorities listed in the Climate Action Plan, such as improved bicycle lane and pedestrian infrastructure.

#### Fiscal Impact

The subject fees were collected for specific purposes of design and construction of certain public improvements. Accepting these annual and five-year reports will program the fees and ensure they are retained by the City until used.

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Prepared by: Jennifer Chu, Senior Civil Engineer

Reviewed by: Chad Mosley, Assistant Director of Public Works

Reviewed by: Dianne Thompson, Assistant City Manager

Approved by: Greg Larson, Interim City Manager

Attachments:

A – Annual and Five-Year Report for the Fiscal Year ending June 30, 2021

B – Draft Resolution