



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: November 5, 2018

Subject

Mitigation Fee Act - Annual and Five-Year Report – Fiscal Year 2017-2018.

Recommended Action

Accept the Five-Year and Annual Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 *et seq.*); and

Adopt Resolution No. 18-____ entitled "A Resolution of the City Council of the City of Cupertino, California, Approving the Five-Year and Annual Development Impact Fee Reports and Making Required Findings."

Description

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. The law also requires that the agency annually review and make available to the public a report accounting for the development impact fees held by the agency. Additional reporting is required at least every five years.

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

Discussion

The Mitigation Fee Act requires the City to make available to the public, on an annual basis, the following information concerning development impact fees each fiscal year:

- Type of fee
- Amount of the fee
- Beginning and ending balances of the account or fund
- Fees collected that year and interest earned
- An identification of each public improvement for which fees were expended and the amount of the expenditures related to each improvement (including the total percentage of the cost of the public improvement that was funded with in-lieu fees);

- An identification of an approximate date by which the construction of the public improvements will commence for those improvements where sufficient funds have been collected to complete financing of the improvement;
- A description of each inter-fund transfer or loan, if any, including the public improvement on which the transferred or loaned fees will be expended and the date upon which any loan will be repaid with the amount of interest on the loan; and,
- The amount of any refunds made pursuant to Government Code section 66001(e) and any allocations made pursuant to Government Code section 66001(f).

The City also must make certain findings with regard to unfinished improvements every five years 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 amount of the fee and the purpose for which it was used. The agency also must identify all sources and amounts of funding anticipated to complete the financing of incomplete improvements and designate the approximate dates on which 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, 2018 and 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. Although the City provided a five-year format as of last fiscal year, so a new five-year report is not required, the five-year format provides additional detail, so the City voluntarily provides such data to better inform the public.

Sustainability Impact

None

Fiscal Impact

As all of the subject fees were collected exclusively for a specific purpose of design and constructing certain improvements, as long as these fees are programmed they will be retained until used.

Prepared by: Chad Mosley, City Engineer

Reviewed by: Timm Borden, Director of Public Works

Approved for Submission by: Amy Chan, Interim City Manager

Attachments:

A - Developer In-Lieu Fee Report - Annual and Five-Year

B – Draft Resolution