CITY OF
NEWPORT BEACH
City Council Staff Report

November 18, 2025
Agenda Item No. 14

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Annual Reports on Development Impact Fees and Development Agreements

ABSTRACT:

Pursuant to the Mitigation Fee Act (Government Code Section 66000 et seq.), the City of Newport Beach (City) is required to report on the receipt and use of development impact fees. In accordance with Government Code Section 65865(e) governing development agreements, the City must also comply with the reporting requirements outlined in Government Code Section 66006 for any fees received or costs recovered.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Receive, review and file the annual reports on development impact fees and development agreements.

DISCUSSION:

The Mitigation Fee Act (Act) requires local agencies that impose development impact fees to produce an annual report each fiscal year, and a five-year report as needed, detailing specific information about the collection and use of such fees. Fees collected must be placed in separate accounts and not commingled with other sources of general revenues. Interest on each account must be credited to that account and used only for the purpose for which the fees were collected. The Act also requires that the City make periodic findings in order to justify continued receipt of unexpended funds, or possibly be subject to refunding a portion of such funds.

Although the Act does not apply to development agreements, the reporting requirements on both the development impact fees and development agreements are the same and fall under California Government Code Section 66006.

Section 66006(b) of the Act requires that within 180 days after the close of the fiscal year, the City must make available to the public a brief description of the fee, amount of the fee, beginning and ending balances of the account or fund for the fiscal year, amount of fees collected, and the interest earned. The Act also requires identification of each public improvement on which the fees were expended and the amount of the expenditures on each improvement, an approximate date by which the construction of the public improvement will commence, a description of each interfund transfer or loan made from the account or fund, and the amount of any refunds made due to the inability to expend impact fees. Section 66001(d) provides that, for the fifth fiscal year following the first deposit into the account or fund and every five years thereafter, the City shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. These findings must identify the purpose to which the fee is to be put, demonstrate a reasonable relationship between the fee and the purpose for which it is charged, identify all sources and amounts of funding anticipated to be utilized to complete incomplete improvements, and designate the approximate dates on which the anticipated funding is expected to be received. A five-year report is not required at this time.

Historically, the only fees collected by the City subject to the Act were the Fair Share Traffic Fees collected from developers for transportation improvements, which are an Orange County Transportation Authority requirement to participate in the Measure M2 funding program. However, on November 12, 2024, City Council adopted a new Development Impact Fee Program to support new development impacts on recreation (e.g., community centers), police, fire, water and sewer facilities. The City has not yet collected any fees related to the new Development Impact Fee Program, but the attached annual report includes information for these fees to comply with the reporting requirements of the Act. Relative to all six fees, the City is in conformance with the Act and is not subject to any refunding requirements.

Regarding Development Agreements, only the Newport Uptown Agreement is reportable for Fiscal Year 2024-25 as new deposits related to this agreement were received during the fiscal year and an unexpended balance remained at the end of the fiscal year.

Attachments A and B provide additional narrative and all the required information related to the annual review and accounting of applicable development impact fees and Development Agreements, as well as periodic findings concerning unexpended funds.

FISCAL IMPACT:

There is no direct fiscal impact related to this item. Compliance with the Act is required to avoid the possibility of a requirement to refund fees paid by developers.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA

Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – City of Newport Beach Development Impact Fee Report Fiscal Year 2024-25
Attachment B – City of Newport Beach Development Agreements Report Fiscal Year 2024-25