

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

AGENDA ITEM #: **05**

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY



## **BOARDS OF DIRECTORS**

SEPTEMBER 10, 2020

FILE NUMBER: 2020S-006

### **DEVELOPMENT IMPACT FEES: MEMBER AGENCY AUDITS AND MITIGATION FEE ACT**

#### **RECOMMENDATION**

##### **San Joaquin Hills Transportation Corridor Agency Recommendation:**

1. Receive and file the member agency audits for the County of Orange and the Cities of Aliso Viejo, Costa Mesa, Irvine, Laguna Woods, and San Clemente for the period of January 1, 2019 through December 31, 2019.
2. Direct staff to include the County of Orange and the Cities of Dana Point, Irvine, Laguna Niguel, and Mission Viejo in the next audit cycle covering the period of January 1, 2020 through December 31, 2020.
3. Receive and file the Mitigation Fee Act information regarding collection, beginning and ending balances, and expenditure of development impact fees during Fiscal Year 2020 (July 1, 2019 – June 30, 2020).

#### **SUMMARY**

Pursuant to the Second Amended and Restated Joint Exercise of Powers Agreement creating the San Joaquin Hills Transportation Corridor Agency (SJHTCA), the Board may authorize an audit of a member agency to determine whether it has accurately collected and remitted development impact fees to SJHTCA. The audits are performed by or at the direction of the SJHTCA's Internal Audit Department.

During this audit period, an exception was noted in one of the six member agency audits. The audits identified one underpayment of \$1,853 due to using the wrong rate to calculate fees due. The SJHTCA is working with the member agency to collect the outstanding amount due.

Pursuant to the Mitigation Fee Act, California Government Code section 66006(b), the SJHTCA is required to review certain information annually regarding development impact fees, including the type and amount of fee imposed, beginning and ending balance of fees on deposit, the amount of fees collected, interest earned and expenditures during the fiscal year. The information required by the Mitigation Fee Act is provided in this report.

#### **COMMITTEE DISCUSSION**

This item was presented to the Joint Finance and Investment Committee on August 26, 2020. Staff provided an overview of the Agency's development impact fee program and the results of the member agency audits. The Committee unanimously voted to recommend approval of this item at the September 10, 2020 Joint Boards of Directors Meeting.

## **BUDGET**

N/A

## **BACKGROUND**

Section 66484.3 of the California Government Code authorizes the SJHTCA, through its member agencies, to require by ordinance, the payment of a development impact fee (DIF) as a condition of approval of a final map or as a condition of issuing a building permit, for the purpose of defraying the actual or estimated cost of constructing the San Joaquin Hills Transportation Corridor (State Route 73). The SJHTCA Major Thoroughfare and Bridge Fee Program (Development Impact Fee Program) was established by the County of Orange in 1985 and adopted by the member agencies through the Joint Exercise of Powers Agreement. SJHTCA was able to construct the roads in advance of collection of the DIFs by issuing toll revenue bonds that will be repaid with the tolls and DIFs collected. Therefore, the fees are to be used to repay the indebtedness incurred to construct the San Joaquin Hills Transportation Corridor that has already been built, as well as to pay the cost of future anticipated improvements and ongoing planning and environmental requirements.

The program collects fees on new residential dwellings, or new non-residential square footage in areas identified as the area of benefit surrounding the corridor. If this is a replacement property for a property that had been assessed a fee, a credit is applied so that the fee is only paid once. Fees are collected by member agencies when a building permit is issued within the area of benefit. Fees are assessed on a per unit basis for single family and multi-family dwellings, and on a per square foot basis for non-residential buildings. In 1997, the SJHTCA Board of Directors adopted a set rate of increase for the fees. Each July 1, rates for the SJHTCA increase by 2.667 percent.

Pursuant to the Second Amended and Restated Joint Exercise of Powers Agreement creating the SJHTCA, the Board may authorize an audit of a member agency to determine whether it has accurately collected and remitted development impact fees to SJHTCA. For agencies selected for audit, typically all building permits are reviewed for the period audited. The member agencies are selected for audit based on volume of fees, rotation of the audit cycle and results of the previous year's audits. Due to the volume of building permits processed, the County of Orange and the City of Irvine are audited each year, with the other member agencies audited on a rotational cycle. The audits are performed by or at the direction of the SJHTCA's Internal Audit Department.

Six member agencies, including the County of Orange and the Cities of Aliso Viejo, Costa Mesa, Irvine, Laguna Woods, and San Clemente, were selected for audit for the period of January 1, 2019 through December 31, 2019.

## DISCUSSION

### Member Agency Audits

#### County of Orange

1. All permits issued for the audit period were tested. A total of 29 permits, generating \$79,462 in fees collected and remitted to the Agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. Staff recommends including the County of Orange in the next cycle of audits due to the anticipated volume of permits.

#### City of Irvine

1. All permits issued for the audit period were tested. A total of 35 permits generating \$3,903,766 in fees collected and remitted to the Agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. Staff recommends including the City of Irvine in the next cycle of audits due to the anticipated volume of permits.

#### City of Aliso Viejo

1. All permits issued for the audit period were tested. A total of 167 permits generating \$882,344 in fees collected and remitted to the agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. Staff recommends excluding the City of Aliso Viejo in the next cycle of audits.

#### City of Costa Mesa

1. All permits issued for the audit period were tested. A total of 111 permits generating \$402,760 in fees collected and remitted to the Agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. Staff recommends excluding the City of Costa Mesa in the next cycle of audits.

#### City of Laguna Woods

1. All permits issued for the audit period were tested. A total of 193 permits were reviewed. No discrepancies were identified.
2. No fees were due on any of the permits tested.
3. Staff recommends excluding the City of Laguna Woods in the next cycle of audits.

City of San Clemente

1. All permits issued for the audit period were tested. A total of 144 permits generating \$405,458 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment of \$1,853 due to using the wrong rate in calculating fees due.
2. All tested permits were traced to remittances to SJHTCA with one exception noted above.
3. Staff recommends excluding the City of San Clemente in the next cycle of audits.

**Mitigation Fee Act Information**

Pursuant to the Mitigation Fee Act, California Government Code section 66006(b), the Agency is required to review the following information annually regarding development impact fees: a brief description of the type and amount of the fee imposed; the beginning and ending balance of fees on deposit with the Agency; the amount of fees collected and interest earned during the fiscal year; an identification of the public improvement(s) on which fees were expended, the amount of fees expended on such improvement(s), and the total percentage of the cost of the improvement(s) funded with such fees. As required by section 66006(b), that information, which is contained in this staff report, was made available to the public 15 days in advance of the September 10, 2020 Board meeting. The information was posted on the Agency's website and physically in front of the Agency premises.

Information Regarding Development Impact Fees for the Fiscal Year Ended June 30, 2020

Development impact fees are collected for the purpose of planning, designing, financing and constructing the San Joaquin Hills Transportation Corridor (State Route 73), including repayment of debt issued to finance construction of the road, as authorized by section 66484.3 of the Government Code and the provisions of the Major Thoroughfare and Bridge Fee Program for San Joaquin Hills Transportation Corridor and Foothill/Eastern Transportation Corridors (the "Fee Program").

The development impact fee rates during Fiscal Year 2020 were as follows:

San Joaquin Hills Transportation Corridor Agency

## Zone A:

Single Family	\$5,740/unit
Multi-Family	\$3,343/unit
Non-Residential	\$7.69/sq. ft.

## Zone B:

Single Family	\$4,448/unit
Multi-Family	\$2,595/unit
Non-Residential	\$5.68/sq. ft.

The following is an accounting of development impact fees during Fiscal Year 2020:

Balance of fees on deposit as of 7/1/19:	\$43,426,694
Fees collected 7/1/19 – 6/30/20:	\$7,588,127
Interest earned on fees 7/1/19 – 6/30/20:	\$1,991,287
Amount of fees expended on San Joaquin Hills Corridor 7/1/19 – 6/30/20:	\$2,871,911

Percentage of 7/1/19 – 6/30/20 total corridor capital expenditures, including debt service, paid with fees:	2.6%
Balance of fees on deposit as of 6/30/20:	\$50,134,196

Consistent with the language in the statute, as of the end of Fiscal Year 2020, sufficient funds had not been collected to complete financing of the San Joaquin Hills Transportation Corridor (State Route 73).

During Fiscal Year 2020, there were no loans or transfers made from the account in which development impact fees were deposited for any project other than the San Joaquin Hills Transportation Corridor, and no refunds made pursuant to Government Code section 66001(e).

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**REVIEWED BY:**

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**APPROVED BY:**

/s/ Samuel Johnson  
Samuel Johnson, Interim Chief Executive Officer

Attachment: None