

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

AGENDA ITEM #: **10**

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY



BOARDS OF DIRECTORS

October 11, 2018

FILE NUMBER: 2018F-022

DEVELOPMENT IMPACT FEES: MEMBER AGENCY AUDITS AND MITIGATION FEE ACT

RECOMMENDATION

Foothill/Eastern Transportation Corridor Agency Recommendation:

1. Receive and file the member agency audits for the County of Orange and the Cities of Dana Point, Irvine, Lake Forest, Mission Viejo, Orange, and Yorba Linda for the period of January 1, 2017 through December 31, 2017.
2. Direct staff to include the County of Orange and the Cities of Irvine, Rancho Santa Margarita, San Juan Capistrano, Santa Ana, and Tustin in the next audit cycle covering the period of January 1, 2018 through December 31, 2018.
3. Receive and file the Mitigation Fee Act information regarding collection, beginning and ending balances and expenditure of development impact fees during Fiscal Year 2018 (July 1, 2017 – June 30, 2018).

SUMMARY

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

During this audit period, exceptions were noted in six of the seven-member agency audits. The audits identified four overpayments totaling \$9,990 due to charging the single-family rate for multi-family units. The F/ETCA has refunded the overpayments to the developer. The audit also identified five underpayments totaling \$12,588 due to not charging fees on multi-family units, not charging for a single-family unit, or not charging for new enclosed non-residential square footage. The F/ETCA is working with the member agencies to collect the outstanding amounts due.

Pursuant to the Mitigation Fee Act, California Government Code section 66006(b), the Agency 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.

BUDGET

San Joaquin Hills: N/A

Foothill/Eastern: N/A

Contractor/Consultant: N/A

COMMITTEE REVIEW

Staff presented this item to the Finance and Investment Committee on September 26, 2018. Staff presented an overview of the Development Impact Fee (DIF) Program, discussed the results of the annual DIF audits, and provided recommendations for member agencies to be audited for the 2018 calendar year. Discussion included the basis for audit selection, resolution of findings including collection of underpayments, and how DIF rates are determined. Staff also presented information required to be reported annually in accordance with the California Mitigation Fee Act regarding collection of fees, beginning and ending balances and expenditures during Fiscal Year 2018.

The Committee approved to recommend this item to the San Joaquin Hills Board of Directors for their consideration at the October 11, 2018 meeting.

MOTION: Voigts
 SECOND: Shea
 VOTE: Unanimous

BACKGROUND

Section 66484.3 of the California Government Code authorizes the Foothill/Eastern Transportation Corridor Agency (F/ETCA), through its member agencies, to require by ordinance the payment of a development impact fee 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 Foothill/Eastern Transportation Corridors (State Routes 133, 241 and 261). The F/ETCA 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. The fees are to be used to repay the indebtedness incurred to construct the Foothill/Eastern Transportation Corridors, and to pay the cost of future anticipated improvements, as identified in the Capital Improvement Plan approved by the Agency on June 14, 2018.

The program collects fees on new dwellings, or new non-residential square footage in areas identified as the area of benefit surrounding the corridors. 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 Foothill/Eastern Transportation Corridor Agency Board of Directors adopted a set rate of increase for the fees. Each July 1, rates for the F/ETCA increase by 2.206%.

Pursuant to the second Amended and Restated Joint Exercise of Powers Agreement creating the F/ETCA, the Board may authorize an audit of a member agency to determine whether it has accurately collected and remitted development impact fees to the F/ETCA. 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 F/ETCA's Internal Audit Department.

Seven member agencies, comprising the County of Orange and the Cities of Dana Point, Irvine, Lake Forest, Mission Viejo, Orange, and Yorba Linda, were selected for audit for the period of January 1, 2017 through December 31, 2017.

DISCUSSION

I. MEMBER AGENCY AUDITS

County of Orange

1. All permits issued for the audit period were tested. A total of 821 permits generating \$5,452,432 in fees collected and remitted to the agency, collected and remitted to escrow, paid in fee credits, and deferred were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to F/ETCA without exception.
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 2,070 permits generating \$20,047,304 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment totaling \$2,303 due to not collecting fees on a multi-family unit.
2. All tested permits were traced to remittances to F/ETCA with one exception noted above.
3. Staff recommends including the City of Irvine in the next cycle of audits due to the anticipated volume of permits.

City of Dana Point

1. All permits issued for the audit period were tested. A total of 2 permits generating \$3,312 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment for \$3,312 due to not assessing fees for a multi-family unit.
2. All tested permits were traced to remittances to F/ETCA with one exception noted above.
3. Staff recommends excluding the City of Dana Point from the next cycle of audits.

City of Lake Forest

1. All permits issued for the audit period were tested. A total of 855 permits generating \$3,321,761 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment for \$946 due to not assessing fees for enclosed non-residential square footage.
2. All tested permits were traced to remittances to F/ETCA with one exception noted above.
3. Staff recommends excluding the City of Lake Forest from the next cycle of audits.

City of Mission Viejo

1. All permits issued for the audit period were tested. A total of 70 permits generating \$262,361 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment for \$1,989 due to not assessing fees for enclosed non-residential square footage.
2. All tested permits were traced to remittances to F/ETCA with one exception noted above.
3. Staff recommends excluding the City of Mission Viejo from the next cycle of audits.

City of Orange

1. All permits issued for the audit period were tested. A total of 70 permits generating \$173,070 in fees collected and remitted to the agency were reviewed. The audit revealed four overpayments totaling \$9,990 due to charging the single-family rate for multi-family units.
2. All tested permits were traced to remittances to F/ETCA with four exceptions noted above.
3. Staff recommends excluding the City of Mission Viejo from the next cycle of audits.

City of Yorba Linda

1. All permits issued for the audit period were tested. A total of 91 permits generating \$521,127 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment for \$4,037 due to not charging fees for a single-family unit.
2. All tested permits were traced to remittances to F/ETCA with one exception noted above.
3. Staff recommends excluding the City of Yorba Linda from the next cycle of audits.

II. 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 October 11, 2018 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, 2018

Development impact fees are collected for the purpose of planning, designing, financing and constructing the Foothill/Eastern Transportation Corridors (State Routes 133, 241 and 261), including repayment of debt issued to finance construction of the roads, 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 2018 were as follows:

Foothill/Eastern Transportation Corridor Agency**Zone A:**

Single Family	\$5,672/unit
Multi-Family	\$3,312/unit
Non-Residential	\$7.89/sq. ft.

Zone B:

Single Family	\$4,037/unit
Multi-Family	\$2,354/unit
Non-Residential	\$4.57/sq. ft.

The following is an accounting of development impact fees during Fiscal Year 2018:

Balance of fees on deposit as of 7/1/17:	\$117,548,124
Fees collected 7/1/17 – 6/30/18:	\$24,754,012
Interest earned on fees 7/1/17 – 6/30/18:	\$1,751,761
Amount of fees expended on Foothill and Eastern Corridors 7/1/17 – 6/30/18:	\$14,984,375
Percentage of 7/1/17 – 6/30/18 total corridor capital expenditures, including debt service, paid with fees:	10.4%
Balance of fees on deposit as of 6/30/18:	\$129,069,522

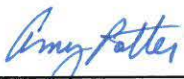
Consistent with the language in the statute, as of the end of Fiscal Year 2018 sufficient funds had not been collected to complete financing of the Foothill/Eastern Transportation Corridors (State Routes 133, 241 and 261).

During Fiscal Year 2018, there were no loans or transfers made from the account in which development impact fees were deposited for any project other than the Foothill/Eastern Transportation Corridors, and no refunds made pursuant to Government Code section 66001(e).

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REVIEWED BY:



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APPROVED BY:



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