

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

AGENDA ITEM #: **06**

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY



Transportation Corridor Agencies™

BOARDS OF DIRECTORS

October 11, 2018

FILE NUMBER: 2018S-008

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 Dana Point, Irvine, Laguna Niguel, and Mission Viejo 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, Laguna Hills, Newport Beach, San Juan Capistrano, and Santa Ana 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 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, exceptions were noted in three of the five-member agency audits. The audits identified four underpayments totaling \$11,350 due to non-collection of fees for new enclosed non-residential square footage, not charging for a single-family unit, using the wrong rate for a single-family unit, and not charging for a multi-family unit. The SJHTCA is working with the member agencies to collect the outstanding amounts due. The audits also identified two overpayments totaling \$5,730 due to charging the single-family rate for the multi-family unit. The SJHTCA has refunded the over payments to the developers.

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 San Joaquin Hills Transportation Corridor Agency (SJHTCA), 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 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. The fees are to be used to repay the indebtedness incurred to construct the San Joaquin Hills Transportation Corridor, 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 corridor. 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 San Joaquin Hills Transportation Corridor Agency Board of Directors adopted a set rate of increase for the fees. Each July 1, rates for the SJHTCA increase by 2.667%.

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.

Five member agencies, comprising the County of Orange and the Cities of Dana Point, Irvine, Laguna Niguel, and Mission Viejo, 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 50 permits, generating \$217,122 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment of \$2,216 due to charging the single-family rate for a multi-family unit.
2. All tested permits were traced to remittances to SJHTCA with one exception noted above.
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 43 permits generating \$2,273,635 in fees collected and remitted to the agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA without exception.
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 140 permits generating \$160,811 in fees collected and remitted to the agency were reviewed. The audit revealed two underpayments totaling \$8,120 due to not charging fees on added non-residential square footage and a single-family unit. The audit also revealed one overpayment of \$3,514 due to charging the single-family rate for a multi-family unit.
2. All tested permits were traced to remittances to SJHTCA with three exceptions noted above.
3. Staff recommends excluding the City of Dana Point in the next cycle of audits.

City of Laguna Niguel

1. All permits issued for the audit period were tested. A total of 93 permits generating \$546,369 in fees collected and remitted to the agency were reviewed. The audit revealed one underpayment of \$3,089 due to not charging fees on a multi-family unit.
2. All tested permits were traced to remittances to SJHTCA with one exception noted above.
3. Staff recommends excluding the City of Laguna Niguel in the next cycle of audits.

City of Mission Viejo

1. All permits issued for the audit period were tested. A total of 2 permits generating \$56,012 in fees collected and remitted to the agency were reviewed. No discrepancies were identified.
2. All tested permits were traced to remittances to SJHTCA without exception.
3. Staff recommends excluding the City of Mission Viejo in 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 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 2018 were as follows:

San Joaquin Hills Transportation Corridor Agency

Zone A:

Single Family	\$5,446/unit
Multi-Family	\$3,171/unit
Non-Residential	\$7.30/sq. ft.

Zone B:

Single Family	\$4,219/unit
Multi-Family	\$2,462/unit
Non-Residential	\$5.39/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:	\$33,893,520
Fees collected 7/1/17 – 6/30/18:	\$6,797,668
Interest earned on fees 7/1/17 – 6/30/18:	\$576,300
Amount of fees expended on San Joaquin Hills Corridor 7/1/17 – 6/30/18:	\$3,915,135
Percentage of 7/1/17 – 6/30/18 total corridor capital expenditures, including debt service, paid with fees:	3.5%
Balance of fees on deposit as of 6/30/18:	\$37,352,353

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 San Joaquin Hills Transportation Corridor (State Route 73).

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 San Joaquin Hills Transportation Corridor, and no refunds made pursuant to Government Code section 66001(e).

Report Written By:

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REVIEWED BY:



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APPROVED BY:



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