



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council
From: Jason Simpson, City Manager
Prepared by: Shannon Buckley, Assistant City Manager
Date: January 9, 2024
Subject: AB1600 Annual Report for Fiscal Year 2022-23

Recommendation

Receive and file the AB 1600 Annual Report and adopt the findings therein.

Background

The City of Lake Elsinore collects development impact fees for Traffic Infrastructure, City Hall and Public Works Facilities, Community Center Facilities, Lakeside Facilities, Animal Shelter Facilities, Fire Facilities, Library Facilities and Drainage Facilities.

The Mitigation Fee Act (AB 1600; Government Code Section 66000 et seq.) sets forth the requirements the City must follow in connection with such development impact fees, which are imposed to defray the cost of construction of public facilities related to development projects. Also, AB 1600 imposes certain accounting and comprehensive annual reporting requirements for the fees collected.

For accounting purposes, the development impact fees must be segregated from the general funds of the City and other funds or accounts containing fees collected for other improvements. Interest on each development fee fund or account must be credited to that special revenue fund or account and used for the purposes for which the fees were collected.

Government Code Section 66006 contains comprehensive annual reporting requirements for development impact fees. This statute requires the City to make the following information available to the public annually for each development impact fee:

- A brief description of the type of fee in the account.
- The amount of the fee.
- The beginning and ending balance of the account for the fiscal year.
- The dollar amount of fees collected.
- The interest earned.
- Identification of each public improvement on which fees from the account were expended, the dollar amount of expenditures on each improvement, and an identification of the percentage of the cost of the improvement that is being funded with impact fees.
- Identification of an approximate date by which construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete.
- Description of each inter-fund transfer or loan made from the account, including the public improvement for which the transferred or loaned fees will be expended.
- Findings, under Government Code section 66001(d) for portions of the fee account that are unexpended in the fifth fiscal year following the initial deposit in the account and every five years thereafter.
- The amount of any refunds made according to the statute.

Staff has compiled the attached AB 1600 Report for Fiscal Year 2022-23 in accordance with the Fee Mitigation Act. The report provides an annual accounting of the activity in each development impact fee special revenue fund for the fiscal year ending June 30, 2023, and a five-year history. The report also provides a plan for future uses of the unexpended special revenue fund balances. The report is available on the City's website and copies were sent to the Building Industry Association ("BIA") along with SCE and the Gas Co. for review as requested by them. Notice of the public hearing was posted at City Hall and published in the Press-Enterprise to further invite public comment.

In addition to the development impact fees reported in the attached AB 1600 Report, the City imposes the Western Riverside County Transportation Uniform Mitigation Fee (TUMF) and the local development fee for the Multiple Species Habitat Conservation Plan (MSHCP). These fees are a "pass-through" to WRCOG and RCA, respectively, through the City's participation in these specific regional programs. Evaluation and accounting of these regionally based fees are outside the scope of the City's AB 1600 Report.

Discussion

On June 27, 1989, City Council adopted Ordinance Number 860, establishing its first AB 1600 development fee for Library Facilities. Subsequently, the City Council adopted and updated various other development impact fees applicable to new development within the City. The purpose of development impact fees is to finance the design, construction, and acquisition of facilities and equipment necessary to accommodate future development within the City. Through the General Plan and fee studies, the City of Lake Elsinore has established the nexus between development, the capital improvements necessary to mitigate the effects of development, and approved fees to fund the mitigation measures.

Development impact fees that are collected are segregated and placed in special revenue funds, which earn interest. Those funds are held for the facilities for which the fees are collected, per Government Code Section 66006. As of June 30, 2023, the City had eight separate and distinct fees that are collected under AB 1600. Following is a summary listing of the fees, along with the balance for each fee account on June 30, 2023:

The AB1600 Report includes a detailed expenditure and revenue report for each development impact fee special revenue fund. The nature of the development impact fee special revenue funds is such that the timing of receipt of revenues and construction of the related capital projects rarely coincide. As a practical matter, revenues are collected over time and accumulated until a development-related project is needed; in years of construction, accumulated reserves will be used up. No inter-fund transfers or loans have been made from capital accounts and no refunds have been made.

In using the expenditure and revenue reports to determine whether the fees have been spent within five years of collection, the total expenditures and transfers-out over the five years must be added together, and then that total must be subtracted from the earliest fund balance. In several instances, this calculation shows that not only have fees collected five years ago been spent but depending on the fund, fees collected in ensuing years have also been spent.

Although AB1600 requires fees collected from developers to be expended or committed within five years, the law allows exceptions in recognition that some project costs can be of a magnitude that takes more than five years to accrue adequate funds; or matching funds may not be available within the five years. AB 1600 requires the City to make certain findings as to any unexpended development impact fee funds, whether committed or uncommitted, remaining after the fifth fiscal year following the first deposit and every five years thereafter.

The AB1600 excludes fees collected under development agreements adopted according to (Section 65864) from the definition of "fees" so it has been generally accepted that only fees collected as a condition of development for the cost of public facilities are subject to the AB1600 requirements.

However, the development agreement statutes require “for any development agreement entered into on or after January 1, 2004, a city, county, or city and county shall comply with Section 66006 for any fee it receives or cost it recovers.” The following six development agreements fall under this provision (see Exhibit B).

- Village at Lakeshore (aka Westlake) – Pay \$500/unit Development Agreement Fee and \$2.00/square foot Affordable Housing In-Lieu Fee in addition to fees covered in the AB1600 report.
- Sports Complex – Pay only fees covered in the AB1600 report.
- Laing (aka Summerly) – Pay \$4,500/unit for the Development Agreement Fee which is credited against the cost of the golf course and other improvements and \$1.30/sf Summerly Traffic Impact Fee in addition to fees covered in the AB1600 report.
- Mohr Affinity - Paid Initial Development Agreement Fee \$50,000; Pay \$2.50/sf Commercial Development Agreement Fee
- Alberhill Villages – Paid Initial Development Agreement Fee \$100,000; Pay Development Agreement Fee (subject to annual adjustment and subject to limited exemptions) \$4,500/Single Family unit, \$3,200/Multi-Family unit; \$2,500/Mixed Use unit; \$1.00/sf Commercial/Retail/Industrial Building and Private Institutional/Places of Worship (non-sanctuary); Pay \$2.00/sf Alberhill Park Fee in addition to fees covered in the AB1600 report.
- Tri Pointe Homes (Canyon Hills Estates) – Pay \$5,500/dwelling unit Development Agreement Fee in addition to fees covered in the AB1600 Report.

All development impact fee categories satisfy the provision of AB1600 that funds be expended within five years. Moreover, the City’s Five Year (2023/24-2027/28) Capital Improvement Program (CIP), adopted on June 27, 2023, provides detail regarding the sources, amounts, and approximate dates of funding anticipated over a five-year period that will be used to complete the financing of future capital projects such that all fund equity balances have been programmed to fund projects.

Fiscal Impact

Tracking of the fund activities, summarizing the activity for the AB 1600 Report, and preparation of the Report requires accounting and administrative resources. No funds were expended on outside sources to comply with this unfunded State mandate. This is a required reporting and compliance report per the California Government Code 66006.

Attachments

- Attachment 1 - AB1600 Annual Report
- Attachment 2 - Development Agreement Annual Report
- Attachment 3 - Development Impact & Mitigation Fee Schedule
- Attachment 4 – Proof of Publication / Public Notice