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### REPORT TO COUNCIL

#### SUBJECT

Receive and File the FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees and Adopt a Resolution Approving Findings Regarding Unspent Impact Fees (Exempt from CEQA pursuant to Section 15378(b)(4) of the CEQA Guidelines

#### BACKGROUND

To ensure that mitigation fees are spent in a timely manner and on projects for which they were being collected, the State Legislature passed the Mitigation Fee Act (AB 1600). This bill applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act (California Government Code Section 66000 et seq.) requires local agencies to present an annual, consolidated report showing the receipt and use of all development impact fees that are subject to the Act collected by the agency. The Annual Status Report must be reviewed by Council within 180 days after the close of the fiscal year.

The Mitigation Fee Act also requires that the local agency make certain findings every five years regarding any unspent impact fees. Previously, the City's impact fees have been on two separate reporting timetables. As new fees are adopted, the complexity of complying with the Mitigation Fee Act's reporting requirements will increase. Many agencies have opted to make the required five-year findings for all impact fees every year when the annual report is presented. This increases efficiency and public transparency and eliminates the possibility that a deadline will be missed. Consequently, commencing with the FY 2015/16 Report, the Council resolution included the required five-year findings for all impact fees. The attached FY 2017/18 resolution follows this format and this format will be used in future Council resolutions regarding the Annual Status Report.

The City assesses four development impact fees - the Housing Mitigation/Impact Fee; the Sense of Place Fee; the Transportation Impact Fee; and the Park Dedication In-lieu Fee (referred to as Park Dedication Fees in this report). The first three are subject to the Mitigation Fee Act, while only a portion of the City's Park Dedication Fee is subject to the Mitigation Fee Act. Specifically, Park Dedication Fees assessed pursuant to the Quimby Act (California Government Code Section 66477) and codified by the City in the Sunnyvale Municipal Code Chapter 18.10 (Subdivisions - Parks and Open Space Dedication) are exempt from the reporting requirements included in the Mitigation Fee Act. Park Dedication Fees assessed pursuant to Sunnyvale Municipal Code Chapter 19.74 (Zoning - Park Dedication Fees for Rental Housing Projects) are subject to the reporting requirements included in the Mitigation Fee Act. Therefore, only the details of the non-exempt Park Dedication Fees are included in the report. Total Park Dedication Fees collected for the year are presented in the City's Comprehensive Annual Financial Report as well as the Recommended Budget for the coming year.

Starting in FY 2015/16, a Housing Impact Fee was established (RTC No. 15-0207). The Housing

Impact Fee expands the existing Housing Mitigation Fee from some industrial projects to most nonresidential developments (all net new commercial, industrial, research and development, retail and lodging projects in any zoning district, unless otherwise exempted) and includes an impact fee for rental housing projects. The monies associated with each are held in the same Housing Mitigation Sub-fund.

In addition to these four active fees, the City maintained a fund balance in FY 2017/18 resulting from Traffic Mitigation Fees. Traffic Mitigation Fees have not been assessed by the City since 2004 as the Traffic Mitigation Fees were superseded by the Transportation Impact Fees. The Traffic Mitigation Fee was created in 2000 as a key component of the Transportation Strategic Program to provide an interim revenue mechanism to fund needed upgrades to the transportation system resulting from new development. In 2004, the City stopped assessing Traffic Mitigation Fees and began assessing Transportation Impact Fees. Both the Traffic Mitigation Fees and the Transportation Impact Fees are subject to the Mitigation Fee Act and are included in the report.

### **EXISTING POLICY**

Sunnyvale Municipal Code Chapters 3.50, 18.10, 19.74 and 19.75.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

### **DISCUSSION**

As prescribed by the Mitigation Fee Act, the Annual Status Report must include the following information for each development impact fee:

- A brief description of the fee and the fund into which the fee was deposited;
- The amount of the fee;
- The associated fund's beginning and ending balances for the fiscal year;
- The total amount of fees collected and interest earned;
- Identification of each public improvement on which impact fees were expended and amount of expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of approximate date by which construction of a public improvement will begin;
- Determination that sufficient funds have been collected to complete financing on an incomplete public improvement;
- Description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an inter-fund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan; and
- Amount of any refunds made due to inability to expend impact fees once a determination is made that sufficient impact fees have been collected to finance a public improvement, and the improvement remains incomplete, and the City has not determined an approximate date by which construction will begin.

This information is presented in the attached FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees (Attachment 1).

### **FISCAL IMPACT**

In FY 2017/18, the City received \$52,141,954 in newly collected development impact fees. All the fees collected in FY 2017/18 are reportable under the Mitigation Fee Act. The fee revenue will be used to fund public improvements necessary to meet the demand for services resulting from commercial and residential development in the City. The specifics of how these monies are programmed for expenditure are included in the status report, as well as in the FY 2018/19 Adopted Budget and Resource Allocation Plan.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The Mitigation Fee Act stipulates a 15-day public review period for the Annual Status Report. The Annual Status Report was available for public inspection on December 4, 2018.

### **RECOMMENDATION**

Receive and file FY 2017/18 Annual Status Report on receipt and use of development impact fees and adopt a Resolution making findings regarding unspent impact fees as required by the Mitigation Fee Act (California Government Code Section 66000 et seq.).

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Reviewed by: Chip Taylor, Director of Public Works  
Reviewed by: Teri Silva, Assistant City Manager  
Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees
2. A Resolution of the City Council of the City of Sunnyvale Approving the Development Impact Fee Annual Report for Fiscal Year 2017/18 and Making Findings Required by the Mitigation Fee Act