



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/6/2022

ITEM NO: 3

DATE: November 28, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Fiscal Year (FY) 2021/22 Status Report on Receipt and Use of
Development Impact Fees

RECOMMENDATION:

Receive Fiscal Year (FY) 2021/22 status Report on Receipt and Use of Development Impact Fees.

BACKGROUND:

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

The Mitigation Fee Act (California Government Code, §66000 et seq.) requires local agencies that impose Development Impact Fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be reviewed by Council within 180 days after the close of the fiscal year represented.

The Town collects three Development Impact Fees that meet the AB 1600 reporting requirement: the Traffic Impact Mitigation Fee, Below-Market Priced Housing Program In-Lieu Fee, and the Construction Activity Impact Fee. Separate balances exist for each of these fees either as individual accounts or in the case of Traffic Impact Mitigation Fees, separate funds. As required by AB 1600, as of June 30, 2022, all accounts or funds with unspent balances have been credited interest revenue at the Town's current interest rate earned on its total.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, Assistant Town Manager, CDD Director, and PPW Director

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DISCUSSION:

AB 1600 requires that a status report be prepared annually which must include the following:

- 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;
- 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, the improvement remains incomplete, and the Town has not determined an approximate date by which construction will begin; and
- Whenever the funds are held five years or more, the Town must present plans or commitments to demonstrate intended future use of these funds.

This information is presented in the attached FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees. The Report depicts balances and the intended use of balances, including decisions made after June 30, 2022 to demonstrate that the fees will be used for their respective purposes.

CONCLUSION:

Staff recommends Council receive the FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees as required under the Mitigation Fee Act (AB 1600).

COORDINATION:

This report was coordinated with the Community Development and Park and Public Works Departments.

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FISCAL IMPACT:

There is no fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees.