

RESOLUTION CC 2023-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, ADOPTING THE COVINA DEVELOPMENT IMPACT FEE STUDY AND ADOPTING A NEW DEVELOPMENT IMPACT FEE SCHEDULE AS RECOMMENDED IN THE NEXUS STUDY FOR DEVELOPMENT APPROVALS

WHEREAS, On November 5th, 2005, The Covina City Council adopted Resolution No. 05-6475, establishing a Development Impact Fee Schedule, which imposes certain development impact fees upon applicants for development approvals; and,

WHEREAS, Assembly Bill No. 602, signed into law on September 28, 2021, and effective January 1, 2022, requires that a local agency that conducts an impact fee nexus study after January 1, 2022, must comply with new standards and practices, including, but not limited to, calculating a fee levied or imposed on a housing development project to be proportionate to the square footage of proposed units; and,

WHEREAS, the City wishes to revise the Development Impact Fee Schedule to reflect the changes signed into law by Assembly Bill No. 602, and so hired a consultant, NBS Government Finance Group to prepare the Covina Development Impact Fee Study and recommend new rates for Development Impact Fees; and,

WHEREAS, Residential, commercial, and industrial growth within the City of Covina creates an ever-increasing need for new street, traffic, police, fire, general government, park, library, and other public infrastructure facilities and improvements (“Public Facilities/Improvements”) throughout the City to meet the demand of new development and continue providing those high-quality public services expected by persons who live and work within the City; and,

WHEREAS, The City Council finds that the approval of development projects is of special benefit to development project applicants (“Applicants”) and that development projects constructed by applicants pose a special burden upon Public Facilities/Improvements within the City separate and apart from and in addition to that of the general public; and therefore, in the interests of fairness to the general public, the City desires to better recover the costs of development impact fees upon Public Improvements from Applicants who have sought the City’s approval for development projects; and

WHEREAS, The City Council finds that the purpose of the impact fees hereby enacted is to protect the public health, safety, and welfare by requiring new development to contribute to the cost of public facilities needed to mitigate the impacts of new development on the need for public facilities; and,

WHEREAS, The City Council finds that the revenue from impact fees hereby enacted will be used to provide public facilities needed to mitigate the impacts of new development in the City, as identified within the City’s Five (5) Year Capital Improvement Program (CIP); and,

WHEREAS, there may be those circumstances where an Applicant is willing to construct oversized Public Improvements in lieu of paying certain Development Impact Fees for a Project, and where the City finds that it is in the best interests of the public to allow for the entry into agreements with Applicants which will provide a credit to the Applicant against certain Development Impact Fees in exchange for the Applicant's construction of oversized Public Improvements; and,

WHEREAS, pursuant to Government Code Section 66000, et seq., the City is empowered to impose fees and other exactions to provide necessary Public Improvements required to mitigate the effects of new development in the City; and,

WHEREAS, Government Code Section 66016.5(a)(7) requires that all studies shall be adopted at a public hearing with at least 30 days' notice, and the local agency shall notify any member of the public that requests notice of intent to begin an impact fee nexus study of the date of the hearing; and,

WHEREAS, The City Council duly published notice of the Nexus Study as described above on June 6, 2024 and conducted a public hearing on July 16, 2024, at which time the public was invited to make oral and written presentations as part of the regularly scheduled meeting before the adoption of this resolution; and,

WHEREAS, Government Code Sections 6062(a), and 66018, require two publications of notice for 10 days in a newspaper regularly published once a week or oftener, with at least five days intervening between the dates of the first and last publication; and,

WHEREAS, the City published such notices as required by Government Code Sections 6062(a), and 66018, on July 4, 2024 and July 11, 2024 and

WHEREAS, the adoption of the Covina Development Impact Fee Nexus Study and Development Impact Fee Schedule ("project") is Statutorily exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines 15273. The proposed update to the City of Covina Development Impact Fee Schedule is merely an update of the existing funding mechanism that the City utilizes to fund capital projects necessary to maintain a high level of service and mitigate the impacts of new development on city resources and facilities. Any project identified within the City's Capital Improvement Program ("CIP") is still subject to CEQA review.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES HERBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby adopts the findings outlined in the Recitals above.

SECTION 2. The City Council of the City of Covina finds that the Nexus Study complies with California Government Code Section 66001 et. Seq., by establishing the basis for imposing fees for new development. For each fee recommended to be imposed, the study demonstrates the following:

1. Gov. § 66001(a)(1). Identify the purpose of the fee.

The City Council Finds this requirement satisfied. The purpose of the fees calculated in this study is to fund the acquisition or construction of certain capital assets that will be needed to mitigate the impacts of new development on the needs for public facilities and to maintain an acceptable level of public services as the City resident and service population grows.

2. Gov. § 66001(a)(2). Identify the use of the fee.

The City Council Finds this requirement satisfied by A) The specific uses/facilities for which impact fees are to be used are identified in the Nexus Study and B) The specific projects for which Development Impact Fees are proposed to be used are identified within the City's Five (5) year Capital Improvement Plan (CIP).

3. Gov. § 66001(a)(3). Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

The City Council Finds this requirement is satisfied for each fee imposed. An explanation of the reasonable relationship between the use of each fee and the development types on which they are imposed is demonstrated within the Nexus Study.

4. Gov. § 66001(a)(4). Determine how there is a reasonable relationship between the need for the facility and the type of development on which it is imposed;

The City Council Finds this requirement is satisfied for each fee imposed. New development increases the need for public facilities (Libraries, Police and Fire Services, Government Services, Parks and Recreation, etc.). An explanation for the reasonable relationship between the need for the facility and the type of development on which it is imposed is provided within the Nexus Study for each fee assessed; and,

5. Gov. § 66001(a)(5). Determines the reasonable relationship between the amount of the Fees and the cost of the public facilities or portions of the facilities attributable to the development on which the Fees are imposed;

The City Council Finds this requirement is satisfied. For each fee, an assessment of the reasonable relationship between the proposed (updated) fee and the facility cost attributable to a development project is described in the nexus study.

SECTION 3. The City Council hereby adopts the City of Covina Development Impact Fee Study prepared by NBS, Government Finance Group dated March 25, 2023 ("Nexus Study") attached hereto as Exhibit "A". The Development Impact Fee Study shall be made available for public inspection within the office of the City Clerk, and on the City's website.

SECTION 4. The City Council hereby adopts the City of Covina Development Impact Fee Schedule as set forth in Exhibit "B". Unless otherwise stated in the Fee Schedule, all Development Impact Fees shall be paid to the City at the following times:

- a. **For residential development** – prior to the date of final inspection, or the date the certificate of occupancy is issued, whichever occurs first. For residential projects containing more than one dwelling unit, all Development Impact Fees should be paid prior to the date the first dwelling unit within the project receives its final inspection or certificate of occupancy, whichever occurs first.
- b. **For commercial and industrial developments** – prior to the City’s issuance of a building permit for any phase of the project.

Notwithstanding the above, the newly adopted Development Impact Fee schedule shall not be collected from projects that have, before the effective date of this Resolution, already received all required discretionary land use entitlements and permits from the City Council and/or Planning Commission to proceed with the development of the project. Development Impact Fees required for those developments before this date shall remain unchanged. (i.e: general plan amendment, specific plan, tentative map, vesting tentative map, parcel map, zone change, conditional use permit, variance, planned community development, site plan review, etc).

SECTION 5. Development impact Fees shall only be collected from the following types of projects:

- a. **For Residential Development:** Projects where new dwelling units are created as a result. Development Impact Fees shall not be charged to projects merely involving the replacement, reconstruction, improvement, or expansion of pre-existing residential units but where no new dwelling units are created (i.e.: room additions, replacement, or reconstruction after a fire, earthquake, or disaster, etc.), or for construction of new Accessory Dwelling Units (“ADUs”) under 750 square feet. For ADUs 750 square feet or more, impact fees shall be charged proportionally to the square footage of the primary dwelling unit. The formula is shown below:

The formula for calculating proportional ADU Impact Fees:

Primary unit impact fee X (ADU square feet/Primary unit square feet)

- b. **For Commercial, Office, or industrial Development:** Projects where new square footage is created as a result. Development impact Fees shall not be charged to projects merely involving the replacement, reconstruction, or improvement of pre-existing commercial/industrial/office square footage (i.e: replacement or reconstruction after fire, earthquake or disaster, improvements or refurbishments, etc.). However, to the extent that a replacement, reconstruction, or improvement project results in greater square footage than pre-existing, Development Impact Fees shall be charged upon the additional square footage.
- c. **Other Developments not defined:** New nonresidential development projects not otherwise defined. Development Impact Fees for this category are dependent upon the level of measurable impact on city resources/facilities.

SECTION 6. The fees imposed by this Resolution shall only apply to those Development Impact Fees described above. All other community development and user service fees adopted by the City Council pursuant to prior City of Covina ordinances or resolutions, as may be amended from time to time, or any future ordinances or resolutions adopted for such purposes, shall remain in full force and effect.

SECTION 7. City staff are hereby directed to prepare and file a Notice of Exemption, under the California Environmental Quality Act, within 5 working days of adoption of the Resolution according to CEQA Guidelines Section 15062.

SECTION 8. This Resolution shall take effect immediately provided, however, that the fees established hereunder shall first be imposed and collected not less than ninety (60) days from the date of adoption of this Resolution.

SECTION 9. The City Clerk shall certify as to the adoption of this resolution.

APPROVED and PASSED this ____2024

CITY OF COVINA

John King, Mayor

ATTEST:

Fabian Velez, Chief Deputy City Clerk

APPROVED AS TO FORM:

Candice C. Lee, City Attorney

I, FABIAN VELEZ, CMC, Chief Deputy City Clerk of the City of Covina, hereby CERTIFY that **Resolution No. XXXXX** was adopted by the City of Covina City Council at a regular meeting of the City Council held on Tuesday, July 16, 2024, and was approved and passed by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

DRAFT