

**MOTION**    **PLANNING & LAND USE MANAGEMENT**

In 1987, the State of California adopted a new State law, the California Mitigation Fee Act (CMFA), Government Code §§ 66000-66025 (the 'Mitigation Fee Act'), which allows local governments to charge an applicant fees in connection with the approval of a development project to defray the costs of additional public facilities needed related to the development project.

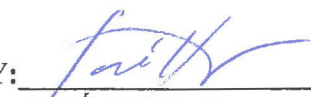
A development impact fee is not a tax or special assessment, and there must be a nexus between the cost of the service provided by the local government agency and the amount of the fee. On November 5, 2015, the City Controller released a report entitled '*Audit of Development Impact Fees*,' where it notes the following major Findings:

- In FY 2013-14, the City collected less than \$5 million in impact fees, with an estimated \$5.3 billion in permitted construction.
- The City has 17 accounts established to receive impact fees, and auditors found 8 accounts with a total unspent balance of \$54 million, which had grown or remained stabled in the last three years. \$35 million of the \$54 million sit in four city accounts maintained by the Department of Transportation.
- The City's approach to collection and spending impact fees has been haphazard and most often neighborhood specific rather than citywide as it is done in other jurisdictions.
- No central entity in the City has been responsible for monitoring Development Impact Fees.
- Auditors found that the City could have collected between \$15 to \$91 million in Development Impact Fees per year by comparing how much other cities have collected in the same time period.
- The City of San Francisco collected \$96 million in development impact fees, with an estimated \$3.6 billion in permitted construction; the City of Phoenix, with an estimated \$2.8 billion in permitted construction collected \$20.6 million in development impact fees; and the City of Portland, with an estimated \$1.5 billion in permitted construction collected \$31 million in development impact fees.

The City Controller report recommends that the City establish a comprehensive impact fee program and to monitor it well, and that one department be designated to take responsibility for making sure that the funds are properly spent. The Controller's audit, simply put, found that the City needs to vastly improve its administration, oversight, and collection of its Development Impact Fees, and foremost that the program needs to be managed by one city department.

**I THEREFORE MOVE** that the Council instruct the Planning Department, to prepare and present its response to the November 5, 2015 City Controller audit of its development impact fees, entitled '*Audit of Development Impact Fees*,' and include how and what the department intends to do to correct the existing process moving forward.

PRESENTED BY: \_\_\_\_\_

  
**JOSÉ HUIZAR**  
Councilmember, 14th District

SECONDED BY: \_\_\_\_\_



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