

RESOLUTION NUMBER R- 289762

ADOPTED ON FEB 24 1998

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ESTABLISHING DEVELOPMENT IMPACT FEES FOR PERMANENT AND INTERIM USES FOR ALL DEVELOPMENTS WITHIN THE OTAY MESA COMMUNITY PLAN AREA OF THE CITY OF SAN DIEGO.

WHEREAS, in 1994 the Council of The City of San Diego adopted Resolution No. R-284185 creating and establishing the authority for imposing and charging Development Impact Fees (DIF's) for the Otay Mesa Community Plan area pursuant to the Otay Mesa Public Facilities Financing Plan (PFFP); and

WHEREAS, the City Manager with the assistance of the Community and Economic Development Department has studied and re-evaluated the impacts of changes contemplated in future development on existing public facilities in the Otay Mesa Community Plan area; and

WHEREAS, the City Manager with the assistance of the Community and Economic Development Department has analyzed the need for new public facilities and improvements required by new development and established the relationship between new development, the needed facilities, and the estimated costs of those improvements in an updated version of the PFFP, titled the Otay Mesa Public Facilities Financing Plan, Fiscal Year 1998, on file in the Office of the City Clerk as Document No. RR- 289762 ; and

WHEREAS, the PFFP was available for public inspection and review ten (10) days prior to this public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the following findings are made:

1. The purpose of this fee is to finance certain public facility projects (including transportation, park, fire protection, police protection, and library projects as specified in the PFFP, to reduce the impact caused by anticipated development within the Otay Mesa Community Plan area; and

2. The DIF's collected pursuant to this resolution shall be used to finance only the public facilities described or identified in the PFFP; and

3. After considering the analysis prepared by The City of San Diego Community and Economic Development Department in the PFFP, the City Manager's Report, and the testimony received at this public hearing, the Council approves the PFFP, on file in the Office of the City Clerk as Document No. RR- **289762**, and incorporates such herein, and further finds that the new development in the Otay Mesa Community Plan area will generate impacts; and

4. There will be a need in the Otay Mesa Community Plan area for those public facilities which are identified in the PFFP and have not been constructed or have been constructed, but new development has not contributed its fair share towards these facility costs and the facilities have been called for in or are consistent with the Otay Mesa Community Plan and the City's Progress Guide and General Plan; and

5. The facts and evidence presented establish that there is a reasonable relationship between the need for the described public facilities in the PFFP and the impact of the types of development described in the PFFP, for which the corresponding fee is charged, and, also there is

a reasonable relationship between the fee's use and the type of development for which the fee is charged, as these reasonable relationships or nexus are in more detail described in the PFFP; and

6. The cost estimates for the public facilities as set forth in the PFFP are reasonable cost estimates for constructing these facilities, and the fees expected to be generated by new development will not exceed the total of these costs.

BE IT FURTHER RESOLVED, that the Otay Mesa DIF shall be imposed and payable upon the date of issuance of building permits in the area covered by the PFFP and in accordance with the Development Schedules set forth in the PFFP.

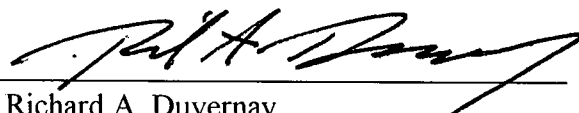
BE IT FURTHER RESOLVED, that the DIF collected in connection with new development shall be solely used to pay (1) for the described public facilities to be constructed by the City; (2) for reimbursing the City for the development's fair share of those capital improvements already constructed by the City; or (3) for reimbursing other developers who have constructed public facilities in the PFFP, where those facilities were beyond that needed to mitigate the impacts of the other developer's project or projects.

BE IT FURTHER RESOLVED, that the Community and Economic Development Department shall annually review the PFFP, the estimated cost of the described capital improvements in the PFFP, the continued need for those improvements, and the reasonable relationship between such need and the impacts for the various types of development pending or anticipated and for which this fee is charged. The Community and Economic Development Department shall report its findings to the City Council at a noticed public hearing and recommend any adjustment to this fee or other action or change to the PFFP as may be needed.

BE IT FURTHER RESOLVED, any judicial action or proceeding to attack, review, set aside, void or annul this resolution shall be brought within 120 days.

BE IT FURTHER RESOLVED, that it is anticipated that the Otay Mesa DIF will contribute \$4,000,000 for the purchase of right-of-way in the year 2000 for SR-905, subject to the adoption of a cooperative agreement being approved by this Council and CALTRANS.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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