



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

VACANT
Fourth District

JIM DESMOND
Fifth District

DATE: May 2, 2023 and May 23, 2023

01

TO: Board of Supervisors

SUBJECT

NOTICED PUBLIC HEARING: FIRE MITIGATION FEE PROGRAM – ADOPTION OF NEXUS STUDY AND ORDINANCE REPEALING AND REENACTING THE SAN DIEGO COUNTY FIRE MITIGATION FEE ORDINANCE AND CEQA EXEMPTION (5/2/2023 – FIRST READING; 5/23/2023 – SECOND READING UNLESS ORDINANCE IS MODIFIED ON SECOND READING) (DISTRICTS: ALL)

OVERVIEW

The unincorporated areas of San Diego County experienced significant growth in recent decades, increasing the demand on fire services for the residents of new developments. As a result, the Board of Supervisors of San Diego County (Board) adopted Ordinance No. 7066 (N.S.) on December 11, 1985, to establish the Fire Mitigation Fee (FMF) Program as a mechanism for collecting and allocating funds to fire agencies in unincorporated areas of San Diego.

Through the FMF Program, the County of San Diego (County) collects a fee from applicants when building permits are issued and distributes the funds to the 13 participating fire agencies on a quarterly basis. These funds allow fire agencies, lacking legal authority to directly impose and collect mitigation fees, to provide capital facilities and equipment for fire suppression or emergency medical services, including station construction, station expansion or improvements, and fire or emergency medical apparatus to serve new developments in their districts.

Since the FMF program was initially approved, there have been changes to State law, County strategic initiatives, industry standards, and community needs that impact the provision of fire protection and emergency medical services throughout the unincorporated area. Over the past year, staff have coordinated with a consultant, participating agencies, and the public to determine the appropriate level of fees for the program. This coordination culminated in a “Nexus Study” which informed the recommendations for the Fire Mitigation Fee.

The actions in today’s request will adopt the findings of the study and replace the existing County FMF Ordinance with an updated version. The ordinance will be introduced on May 2, 2023 and, if approved, will be scheduled for adoption on May 23, 2023. If the proposed ordinance is altered on May 23, 2023, then a subsequent meeting date will be selected for the ordinance’s adoption. These actions will allow for the continued use of mitigation fees to fund fire service expenditures related to new development within the boundaries of participating fire agencies in the

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unincorporated areas of San Diego County. Lastly, a waiver of Board Policy B-29 is requested because County Fire staff and consultant costs to administer the Fire Mitigation Fee Program will not be recovered by program fees.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER
On May 2, 2023:

1. Find in accordance with Section 15273(a) of the California Environmental Quality Act (CEQA) Guidelines that the proposed changes to existing fees are exempt from CEQA. Approve the findings in Attachment E pursuant to CEQA Guidelines Section 15273(c).
2. Adopt the Fire Mitigation Fee Update Nexus Study (Attachment A, on file with the Clerk of the Board).
3. Waive Board Policy B-29 Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery which requires full cost recovery for services.
4. Approve the introduction of the Ordinance (first reading):

AN ORDINANCE REPEALING AND REENACTING SECTIONS 810.301 THROUGH 810.315 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED TO THE SAN DIEGO COUNTY FIRE MITIGATION FEE PROGRAM.

If, on May 2, 2023 the Board takes the actions recommended above, then on May 23, 2023:

1. Find that the adoption of the proposed ordinance is exempt from the California Environmental Quality Act (CEQA), as specified under Section 15273(a) of the CEQA Guidelines.
2. Consider and adopt AN ORDINANCE REPEALING AND REENACTING SECTIONS 810.301 THROUGH 810.315 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED TO THE SAN DIEGO COUNTY FIRE MITIGATION FEE PROGRAM (second reading, unless ordinance is modified on second reading).

EQUITY IMPACT STATEMENT

The County of San Diego's Fire Mitigation Fee (FMF) Program was established as a mechanism for collecting and allocating funds to the thirteen local fire agencies in unincorporated areas of San Diego County. These funds allow fire agencies, who lack legal authority to directly impose and collect development impact fees, to provide capital facilities and equipment to serve new developments in their districts. The County's ongoing administration of the development impact fee program requires compliance with the updates in AB 602 and the Mitigation Fee Act, including

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the adoption of a Nexus Study and Ordinance. These actions will ensure the continuation of the program and support the availability of emergency medical services and fire response, supporting safety for unincorporated communities.

SUSTAINABILITY IMPACT STATEMENT

The proposed actions in today's request support the County of San Diego's (County) Sustainability goals to provide just and equitable access to services by helping to ensure fire protection agencies in the unincorporated areas of the County can maintain the level of fire protection and emergency medical services to their communities and have the capability to respond and recover to immediate needs for individuals, families, and the region.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. Today's recommendations support the continuation of the County's Fire Mitigation Fee (FMF) Program for the collection of a developmental impact fee on behalf of local fire agencies in unincorporated areas of San Diego County. There will be no change in net General Fund cost and no additional staff years.

The FMF Program does not recover costs associated with the administrative support provided by consultants and San Diego County Fire (County Fire) estimated at \$219,268 and will be funded with property tax and existing General Purpose revenue.

BUSINESS IMPACT STATEMENT

Adoption of the updated Fire Mitigation Fee (FMF) Program Ordinance will continue to provide collect and allocate funds to fire agencies in unincorporated areas of San Diego County for the provision of capital facilities and equipment to serve new development.

ADVISORY BOARD STATEMENT

On March 6, 2023, with four advisory board members being present, the San Diego County Fire Protection District Fire Advisory Board received an update on the County's Fire Mitigation Fee (FMF) Program and voted unanimously in support of a phased increase over three years: 50% of the maximum fee ceiling in Fiscal Year (FY) 2023-24, 75% in FY 2024-25 and 100% in FY 2025-26.

BACKGROUND

Statutory Authority

The Mitigation Fee Act (California Government Code sections 66000, et seq.) provides authority for local governments to impose development impact fees on specific development projects to defray the cost of new or additional public facilities that are needed to serve those developments.

Common types of impact fees include traffic facility mitigation fees, public safety facilities fees (including structural fire protection and emergency medical services), park facility fees, sewer

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facility fees, library facility fees, among others. The statute regulates how public agencies may collect, maintain, and spend development impact fees, including reporting requirements.

Program Overview

On December 11, 1985 (11), pursuant to its authority under the Mitigation Fee Act, the San Diego County Board of Supervisors (Board) adopted the Fire Mitigation Fee (FMF) Ordinance to collect and allocate funds to fire agencies in unincorporated areas of San Diego County (County). Under this framework, San Diego County Fire acts as program administrator, with support from the department of Planning and Development Services and office of the Auditor and Controller. These funds allow fire agencies, lacking legal authority to directly impose and collect mitigation fees, to provide capital facilities and equipment for fire suppression or emergency medical services, including station construction, station expansion or improvements, and fire or emergency medical apparatus to serve new developments in their districts.

The County's Department of Planning and Development Services collects the FMF from applicants when building permits are issued, then distributes the funds quarterly to the respective fire agencies participating in the program. The participating fire agencies can only use the money to purchase equipment and supplies to address the fire service needs of new development and are prohibited from using the funds to offset shortages in existing budgets. The participating fire agencies must annually report the amount of fire mitigation fees collected from the prior fiscal year and how the fees were expended.

On May 15, 2018 (4) the Board approved the previous rate changes for all participating fire agencies, including the San Diego County Fire Protection District, raising the fee ceiling from \$0.56 to \$0.58 per square foot for general buildings, and maintaining the fee ceiling of \$0.02 per square foot for agricultural buildings.

Today's action proposes fee ceiling increases for each participating agency based on data specific to their districts. For the San Diego County Fire Protection District the fee ceiling for residential buildings is being recommended to increase from \$0.58 to \$2.65 per square foot, and from \$0.02 to \$0.08 for agricultural buildings. A full list of the new proposed fee ceilings for each participating agency is listed in the table below, and in the nexus study (Attachment A).

The proposed new fee rates reflect the significantly increasing costs of constructing modern public fire facilities in distant locations and purchasing new apparatus. For example, the cost to construct a County-owned fire station has nearly tripled over the last 8 years while the cost of a new apparatus, over the same time period has doubled. The Fire Mitigation Fee has not matched the escalating prices in the marketplace. In addition, the shared cost to maintain an existing level of fire protection and emergency medical services in rural areas is more expensive than urban areas with denser populations.

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AB 602 Changes to Mitigation Fee Act

Effective 2021, AB 602 set forth several new substantive and procedural requirements on the development and reporting of impact fee programs, including conducting a nexus study for each participating agency. The results of the nexus study provide a quantifiable basis for the fire mitigation fee rates and document the equipment and supplies used to provide fire services within the jurisdictional boundaries of each participating fire agency. Pursuant to California Government Code section 66001, the nexus study must demonstrate a “reasonable relationship” between the fees and public facilities funded by the fees, and the development project on which the fees are assessed. In addition, nexus studies must be updated every eight years.

Public Outreach

To develop an implementation plan for the required program updates, County staff conducted an analysis of the fire impact development fee programs in other California counties. In addition, County staff and consultants presented at stakeholder group meetings to provide information and solicit feedback that could be incorporated into the proposed Nexus Study and Ordinance.

Groups Included:

- Participating Fire Agencies
 - Alpine Fire Protection District
 - Bonita-Sunnyside Fire Protection District
 - Borrego Springs Fire Protection District
 - Deer Springs Fire Protection District
 - Lakeside Fire Protection District
 - North County Fire Protection District
 - Rancho Santa Fe Fire Protection District
 - Rincon Del Diablo Municipal Water District
 - San Diego County Fire Protection District
 - San Marcos Fire Protection District
 - San Miguel Consolidated Fire Protection District
 - Valley Center Fire Protection District
 - Vista Fire Protection District
- San Diego County Fire Districts Association
- Land Development Technical Working Group
- Environmental Coalition
- Community Planning/Sponsor Group Chairs
- East Otay Mesa Property Owners Association
- Building Industry Association of San Diego County
- SDCFPD Fire Advisory Board

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Nexus Study Findings

The Fire Mitigation Fee Update Nexus Study (Attachment A) was developed using a standards-based methodology, based on the fire and emergency medical services standards for new development set forth in the County's General Plan and the existing level of service currently provided within the jurisdiction of each participating fire agency.

The maximum allowable fee rates listed in the table below were calculated using the cost to maintain the current level of service for fire protection and emergency response services based on existing public fire facilities and apparatus (and associated costs) and each fire agency's total service population (residents and employees).

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FIRE AGENCY	MAXIMUM FEE RATE BY LAND USE (\$ per square foot)						
	RESIDENTIAL*	COMMERCIAL / RETAIL	HOTEL	INDUSTRIAL	MEDICAL	OFFICE	AGRICULTURE *
Alpine FPD	\$1.83	\$1.59	\$0.85	\$1.25	\$2.98	\$5.96	\$0.05
Bonita-Sunnyside FPD	\$1.46	\$1.27	\$0.68	\$1.01	\$2.39	\$4.78	\$0.04
Borrego Springs FPD	\$8.12	\$7.07	\$3.79	\$5.58	\$13.25	\$26.50	\$0.24
Deer Springs FPD	\$1.89	\$1.64	\$0.88	\$1.30	\$3.08	\$6.16	\$0.06
Lakeside FPD	\$1.33	\$1.16	\$0.62	\$0.91	\$2.17	\$4.34	\$0.04
North County FPD	\$1.05	\$0.91	\$0.49	\$0.72	\$1.71	\$3.42	\$0.03
Rancho Santa Fe FPD	\$2.48	\$2.15	\$1.15	\$1.70	\$4.04	\$8.08	\$0.07
Rincon Del Diablo MWD	\$0.95	\$0.83	\$0.44	\$0.65	\$1.55	\$3.10	\$0.03
San Diego County FPD	\$2.65	\$2.31	\$1.24	\$1.82	\$4.33	\$8.66	\$0.08
San Marcos FPD	\$0.90	\$0.78	\$0.42	\$0.62	\$1.46	\$2.93	\$0.03
San Miguel Consolidated FPD	\$1.47	\$1.28	\$0.69	\$1.01	\$2.40	\$4.80	\$0.04
Valley Center FPD	\$1.12	\$0.97	\$0.52	\$0.77	\$1.83	\$3.66	\$0.03
Vista FPD	\$0.80	\$0.70	\$0.37	\$0.55	\$1.31	\$2.61	\$0.02
<p>KEY: FPD = Fire Protection District; MWD = Municipal Water District. *current rates for San Diego County FPD: Residential - \$0.58, Agriculture - \$0.02</p>							

Ordinance Updates

The County's current FMF Ordinance requires each fire agency to adopt an annual resolution certifying the agency's need for a fee, requesting that the County collect the fee on the agency's behalf, and agreeing that fee proceeds will be used only for capital facilities and equipment needed due to new development. The updated language will streamline these requirements and include a

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provision for an automatic annual adjustment of fee rates to keep up with future increases in construction costs and other inflationary factors, based on the one-year change (from October to October) in the “Los Angeles Construction Cost Index” (as published by Engineering News Record).

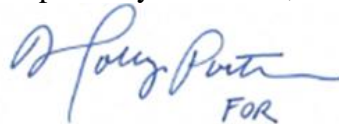
ENVIRONMENTAL STATEMENT

The proposed project is exempt under California Environmental Quality Act (CEQA) Guidelines Section 15273(a) because it proposes adjustments to fees related to capital facilities and equipment for fire suppression or emergency medical services. As stated under statutory exemption 15273(a), CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates by public agencies which the public agency finds are for the purpose of obtaining funds for capital projects, necessary to maintain service within existing service areas as described in the Environmental Findings required under CEQA, included in Attachment E.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today’s proposed actions support the Community Initiative of the County of San Diego’s 2023-2028 Strategic Plan by ensuring that adequate fire and emergency medical services are included in new residential and commercial development, to improve community safety and resiliency.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Helen N. Robbins-Meyer", with the word "FOR" written in blue capital letters below it.

HELEN N. ROBBINS-MEYER
Interim Chief Administrative Officer

ATTACHMENT(S)

Attachment A – County of San Diego Fire Mitigation Fee Nexus Study

Attachment B – An Ordinance Repealing and Reenacting Sections 810.301 through 810.315 of the San Diego County Code of Regulatory Ordinances Related to the San Diego County Fire Mitigation Fee Program (Clean Copy)

Attachment C – An Ordinance Repealing and Reenacting Sections 810.301 through 810.315 of the San Diego County Code of Regulatory Ordinances Related to the San Diego County Fire Mitigation Fee Program (Informational Copy)

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Attachment D – NOTICE OF PUBLIC HEARING (INCLUDING SUMMARY OF PROPOSED
ORDINANCE)

Attachment E – CEQA Findings