

Attachment B

City of Newport Beach Development Agreements Report Fiscal Year 2022-23

City of Newport Beach
Development Agreements Report
Fiscal Year 2022-23

Background

A Development Agreement (DA) is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval, because the development will not be subject to subsequent changes in regulations.

The DA should also benefit the local jurisdiction. The city or county may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and local jurisdiction.

Annual Reporting

For DAs entered into or after January 1, 2004, *Government Code §65865 (e)* requires that the City shall comply with the reporting requirements pursuant to *Government Code §66000*, with respect to any fee the City receives or cost it recovers. *Government Code §66006* requires the City to submit annual and five-year notices detailing the status of collected public benefit fees and be placed on the agenda for review at a public meeting not less than 15 days after the report is made available to the public. The meeting before the City Council must be held within 180 days of the end of the fiscal year. The report must include the beginning and ending balances, the amount of fees collected, and interest earned, expenditures by type, a description of interfund transfers or loans, and the amount of any refunds made. Excluded from this report are types of developer fees that are not subject to the reporting requirements under *Government Code §65865(e)*. For example, these include fees collected pursuant to the City's zoning powers, such as in-lieu housing fees, and park-in-lieu fees.

Annual Report

To comply with *Government Code §66006*, the following information regarding Development Agreement (DA) Fees is presented:

- 1) A brief description of the type of public benefit fee in the account or fund:
 - a) Uptown Newport Development Agreement – On March 12, 2013, the City Council adopted Ordinance No. 2013-6 approving the Development Agreement for the development of a 25-acre, mixed-use residential project consisting of 1,244 residential dwelling units, two one-acre public parks, and 11,500 square feet of retail use located at 4311-4321 Jamboree Road. On April 28, 2015, the City Council approved the First Amendment to the Development Agreement that delayed the timing of payment of public benefit fees and park in-lieu fees. The DA specifies the term, permitted uses, public benefits fees, park in-lieu fees, dedication of park land and open space. Public benefit fees were required to be paid by Uptown Newport, LP as part of the DA approval, and are accounted for in the Facilities Financial Planning Fund.
 - b) Vivante Senior Housing Development Agreement – On September 10, 2019, the City Council adopted Ordinance No. 2019-13 approving the Development Agreement for the development of an 85,000 square-foot, three-story senior convalescent, and congregate care facility (i.e., memory care and assisted living) as a State-licensed Residential Care Facility for the Elderly (RCFE) with 120 beds. Public benefit fees were required to be paid by Vivante Newport Center, LLC and are accounted for in the Facilities Financial Planning Fund.
 - c) Newport Airport Village Development Agreement – On September 22, 2020, the City Council adopted Ordinance No. 2020-23 approving the Development Agreement for the redevelopment of a 16.46-acre site with up to 444 dwelling units (329 base units and 115 density bonus units) and 297,752 square feet of retail, office, and other airport supporting use. The DA specifies the term, permitted uses, public benefits fees, park in-lieu fees, dedication of park land and Public Safety Fee. Public benefit fees were required to be paid by JRSM, LLC and are accounted for in the Facilities Financial Planning Fund.
- 2) The amount of the DA fees:
 - a) Uptown Newport Development Agreement – \$34,826 per residential unit for 462 units at the issuance of building permits for construction. A total of \$16,089,612 was received in Fiscal Year 2016-17.
 - b) Vivante Senior Housing Development Agreement - \$3,150,000 after the issuance of the project's first building permit. A total of \$3,150,000 was received in Fiscal Year 2020-21.

c) Newport Airport Village Development Agreement - \$6,000,000 in total with \$2,000,000 due within 30 days of the effective date of the agreement, \$2,000,000 at the issuance of building permits and \$2,000,000 at the issuance of the first certificate of occupancy or temporary occupancy permit. \$2,000,000 was received in Fiscal Year 2020-21.

3) The beginning and ending balance of individual DAs:

See attached Financial Report.

4) The amount of DA fees collected, and interest earned:

See attached Financial Report.

5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees:

See attached Financial Report.

6) An identification of an approximate date by which the construction of the public improvements will commence if the City determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in the City's master plans, and the public improvement remains incomplete:

The commitment and use of funding received from development agreements are analyzed annually and are utilized in conformance with the long-term Facilities Financial Plan. Multiple projects on the Facilities Financial Plan are expected to commence over the next few fiscal years.

7) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund 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:

See attached Financial Report for interfund transfers. No loans were made during the fiscal year.

8) The amount of refunds made pursuant to subdivision (f) of *Government Code §66001* any allocation pursuant to subdivision (f) of *Government Code §66001*.

No refunds were made during the fiscal year.

Financial Reports

Uptown Newport Development Agreement			
Fiscal Year 2022-23			
		<u>Total Project Costs (FY Only)</u>	<u>% Developer Agreement Funded</u>
Revenues:			
Interest Income	\$ 75,861		
Net decrease in fair value of investments*	<u>(33,010)</u>		
Total Revenues	<u>42,851</u>		
Expenditures:			
	-		
Transfers In/(Out):			
Parks and Community Centers	(4,548,976)	(4,899,009)	92.9%
Police Facility	<u>(204,892)</u>	<u>(3,324,919)</u>	6.2%
Total Transfers	<u>(4,753,868)</u>	<u>(8,223,928)</u>	
Net Change in Fund Balance	(4,711,017)		
Fund Balance, Beginning	<u>4,711,017</u>		
Fund Balance, Ending	<u><u>\$ -</u></u>		
<p>*Financial Reporting standards require the City's investments to be reported at fair value. As such, the City allocates to this fund the fair value fluctuations due to the changing interest rate environment.</p>			

**Vivante Senior Housing Development Agreement
Fiscal Year 2022-23**

		Total Project Costs (FY Only)	% Developer Agreement Funded
Revenues:			
Interest Income	\$ 49,789		
Net decrease in fair value of investments*	<u>(21,665)</u>		
Total Revenues	<u>28,124</u>		
Expenditures:			
	-		
Transfers In/(Out):			
Police Facility	<u>(3,120,027)</u>	<u>(3,324,919)</u>	93.8%
Net Change in Fund Balance	(3,091,903)		
Fund Balance, Beginning	<u>3,091,903</u>		
Fund Balance, Ending	<u>\$ -</u>		

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**Newport Airport Village Development Agreement
Fiscal Year 2022-23**

		Total Project Costs (FY Only)	% Developer Agreement Funded
Revenues:			
Interest Income	\$ 31,612		
Net decrease in fair value of investments*	<u>(13,756)</u>		
Total Revenues	<u>17,856</u>		
Expenditures:			
	-		
Transfers In/(Out):			
Misc. FFP Projects	<u>(1,980,969)</u>	<u>(2,000,991)</u>	99.0%
Net Change in Fund Balance	(1,963,113)		
Fund Balance, Beginning	<u>1,963,113</u>		
Fund Balance, Ending	<u>\$ -</u>		

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