

RESOLUTION NO. 9949

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, MEMORIALIZING PRIOR PLEDGES AND ALLOCATIONS OF DEVELOPMENT IMPACT FEE REVENUES TO DEBT SERVICE REPAYMENT RELATED TO CONSTRUCTION AND EQUIPPING OF PARKS, FIRE, LIBRARY, AND PUBLIC SAFETY FACILITIES AND IDENTIFYING DEVELOPMENT IMPACT FEES ELIGIBLE FOR COLLECTION AFTER JANUARY 1, 2012.

WHEREAS, the City Council of the City of Mesa approved the Impact Fee Study for the City of Mesa, dated May 14, 2007, and adopted its current Development Impact Fees Ordinance on June 4, 2007; and

WHEREAS, the Impact Fee Study contained the City Council's determination of which capital projects were "necessary public services" for the purpose of the State of Arizona's development impact fee statutes; and

WHEREAS, the Impact Fee Study indicated the City's intent to use impact fees to retire debt service to pay for a portion of the costs for construction and equipping certain necessary public services, including Park, Fire, Library, General Government and Public Safety projects. The resulting Development Impact Fees were then used for the repayment of bonds, notes or other debt service obligations issued to pay the aforementioned costs. These Development Impact Fees have been lawfully collected and applied to such debt service accordingly; and

WHEREAS, the City's annual budgets have included use of Impact Fee funds to pay debt service as outlined in the Impact Fee Study and the City Council has approved such annual budgets for necessary public services based on the Impact Fee funds being used to pay all or a portion of such debt service; and

WHEREAS, Senate Bill 1525, approved by the Fiftieth Arizona Legislature, First Regular Session, on April 19, 2011 and signed into law by the Governor on April 26, 2011 ("SB 1525"), included changes to the Development Impact Fee Statutes. Contained within these changes was a definition of "necessary public services" that specifically excluded items from being necessary public services, including parks over 30 acres in size (unless such parks provide a direct benefit to the development), lakes, community/recreation centers of more than 3,000 square feet, libraries that do not provide a direct benefit to development or which are over 10,000 square feet, library books and furnishings, fire/police training facilities, police hangar and aircraft, police firing range, and fire and public safety administrative vehicles and equipment (the "Excluded Uses"); and

WHEREAS, the changes to the Development Fee Statutes in SB 1525 may provide limitations in assessing and collecting Development Impact Fees for certain Excluded Uses, or portions thereof; and

WHEREAS, after January 1, 2012, SB 1525 allows the City to collect Development Impact Fees for Excluded Uses when the collection of such fees is for the purpose of repaying debt service on such facilities that were financed prior to June 1, 2011. The City has such debt and intends to use the fees for repaying such debt service; and

WHEREAS, SB 1525 also allows a Development Impact Fee adopted before January 1, 2012, to continue to be assessed to the extent that it will be used to provide a necessary public service for which such fee can be assessed pursuant to SB 1525; and the City may assess and use Development Impact Fees in accordance with SB 1525; and

WHEREAS, the City has determined that the City's general government and cultural facilities Development Impact Fees may no longer be collected as of January 1, 2012, and the remainder of the City Development Impact Fees are permitted to be collected after January 1, 2012 at the rate currently assessed; and

WHEREAS, the City intends, through a separate Ordinance, to amend its Development Impact Fees so as to no longer collect general government and cultural facilities Development Impact Fees after January 1, 2012, in compliance with SB 1525.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AS FOLLOWS:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. The City Council finds and determines that the bonds, notes or other debt service obligations that existed prior to June 1, 2011, and that are related to the financing of the construction and equipping of park, fire and public safety, and library facilities, including such portions related to Excluded Uses, were intended to be, and are to be, repaid, in whole or in part, by Development Impact Fee funds. Such funds were and are allocated and pledged for the purposes of SB 1525 to pay the debt service obligations as outlined by the Impact Fee Study and the City Council's approvals of the City's annual budgets. Further, the allocation, pledge and use of Development Impact Fee funds for the repayment of such existing debt obligations meets the requirements of SB 1525 such that the collection of said Development Impact Fee funds may continue beyond January 1, 2012 and until such time as the existing debt obligations have been paid in full.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona this 5th day of December, 2011.

APPROVED:



Mayor

ATTEST:


City Clerk

