



## Council Agenda Correspondence

**DATE:** December 10, 2024

**TO:** Mayor and Council

**FROM:** Emily Jackson, Finance Director

**Prepared By:** Brent Taylor, Financial Analyst

**VIA:** Whitney McDonald, City Manager

**SUBJECT:** ITEM 5D – FISCAL YEAR 2023-2024 DEVELOPMENT IMPACT FEE ANNUAL REPORT (AB1600)

Staff received the following questions regarding the Fiscal Year 2023-24 Development Impact Fee Annual Report (AB1600). The questions are below with staff's response shown in *italics*:

**1. When does the city do the review of the estimated cost for the development impact fees?**

*The Mitigation Fee Act indicates that local agencies shall update nexus studies for impact fees every eight years. The City's last nexus study completed and adopted on April 3, 2018. City staff is currently in process of updating the nexus studies and it is anticipated that updated studies will be adopted and new fees implemented for FY 2026-27. Information regarding various public outreach and study sessions with the City Council will be made available once the date & time of the public meetings are identified. Community members may file a written request with the City for a mailed notice of a meeting on a new or increased fee to be adopted pursuant to [Government Code Section 66016](#).*

**2. In setting the City's budgetary goals, Open Space acquisition and protection has historically been determined to be an important goal. Fund 502 was established to account for the Open Space Protection In-Lieu program. The report indicates that the Open Space In-Lieu fee was discontinued in 2018. Is there a new or different fee that will fund Open Space acquisition?**

*The City does not currently have a fee program for the purpose of acquiring open space within city boundaries. Any funding needed for open space acquisition must come from other sources, such as land dedication by developer, General Fund dollars and/or grants.*

**3. The report indicates that there are some funds that will age at five years within the next year. Are there any funds that are at risk of being forfeited in the next year if not used?**

*The Mitigation Fee Act, Section 66001 does not require that local agencies expend fee revenue within a five-year period, rather, it requires that local agencies provide “findings” on fee revenue that has been held more than five years and unexpended. If the findings are not made as required, and/or the City is not able to justify holding the revenue for its intended purpose and nexus to the need for which the fee was collected, then the City shall refund the amounts held more than five years. The City is not at risk of funds being forfeited unless findings are not made pursuant to Section 66001 and/ or no longer has a nexus for which the fee was collected. The following fees have amounts, as of June 30, 2024, that have been held more than five years and findings are required to be made:*

- *Margarita Area Specific Plan Park Improvement Fee \$2,817,860.18*
- *Airport Area Transportation Fee \$332,681.50*
- *Los Osos Valley Road Area Transportation Fee \$305,429.80*
- *Parking In-Lieu Fee \$268,075.39*

*The findings have been reviewed and updated each year in which findings were required and are also included in the Fiscal Year 2023-24 annual report under the individual fee sections. If the City Council accepts these findings, the revenue is not immediately at risk of being refunded.*

**4. The report notes that for Fund 512 – Margarita Area Specific Plan (MASP), a project is on hold because identified land zoned for park space is privately owned, and the current owners are not interested in selling or developing the property. Where is that project and is there a fallback plan to fund another project if this one cannot be done?**

*The project referenced is the Margarita Area Specific Plan Park. The parcel that is zoned for the park is privately owned. To clarify, this is not a situation where the property owner is refusing or unwilling to work with the City; however, the owner has not expressed interest in selling or developing their land at this time. There is currently no other land zoned for a park in the MASP therefore, no back-up plan has been developed since the City must wait until the property owner decides to sell or develop before the land for the park can be acquired. The City is committed to holding the funds collected, which must be expended specifically for use on a park in the MASP. It should be noted that the MASP is currently undergoing an update/ amendment to allow higher density housing and mixed-use development, which, in addition to providing additional density in the area, may help encourage development of the specific plan area and therefore the park in question.*

- 5. In the section of the report related to Fund 506 – Wastewater Impact Fee, it is noted that there is a 2017 Water and Wastewater Capacity and Connection Fee Study that has identified projects that can be funded with AB 1600 revenues. What are the identified projects?**

*Please refer to [City Council Agenda Packet, dated April 3, 2018, item #11](#) for copies of the nexus studies adopted by council which include list of projects. The nexus study for police, fire, parks, and transportation starts on page 29. The nexus study for water and wastewater starts on page 111.*

- 6. The report notes that Police Impact Fees (Fund 517) were established by the City Council in 2018 to be used to help construct a new police headquarters and fund other equipment purchases to serve new development. Per the report, the City Council decided to reduce this fee below the recommended amount to minimize the impact to the affordability of new housing. Is there any discussion of raising this fee to cover a greater share of the cost of a new police headquarters?**

*City staff is currently working with a consultant to update impact fee nexus studies, including the Police Impact Fee. The consultant is tasked with calculating the maximum fees that can be charged to new development. The City Council will ultimately set the new fee amount. This is a tricky balancing act, in that too high of a fee could result in excessive fees that would discourage or overly burden new development from occurring and on the other hand, too low of a fee would mean that the City will need to fund impacts of new development with sources other than fees, such as the General Fund or grants. As required by the Mitigation Fee Act, the City will hold a public hearing for the adoption or increase of fees and public comment received will be considered in the decision making. Previously, per the 4/3/2018 nexus study, the portion of the \$47,435,000 cost of the new police headquarters attributable to new development, which can be funded through impact fees was 17.6%, or \$8,336,467.*

- 7. Why was Fund 502 discontinued (open space)?**

*The specific reason for discontinuation of the fee is not known, however, a few assumptions can be made. First, it does not appear that there is any land left that is zoned for open space available for acquisition by the City within the Airport Area Specific Plan. Second, it appears to have been discontinued when the Airport Area Specific Plan was updated in 2017 or 2018 and/or possibly had something to do with the approval of the Avila Ranch Development Agreement and their condition of approval for 50 acres of open space land. Avila Ranch was annexed into the City and sits within the Airport Area Specific Plan boundaries.*

**8. Fund 512 has also been discontinued. What would happen if there were an amendment to the MASP adding more development. Would there be park impact fees and where would they be held if the fund is discontinued?**

*After discontinuation of the MASP Park Fee, any development within the MASP (whether the MASP is amended or not), is required to pay the following park impact fees, dependent upon if the development is a subdivision or not:*

- *If development is a subdivision, it will pay Quimby in-lieu Fee (or dedicate land) and pay a Citywide Park Improvement Fee. Quimby fees paid would be held in Fund 501 until expended and Citywide Park Improvement Fees paid would be held in fund 519 until expended.*
- *If development is not a subdivision, it will pay the Citywide Park Development Impact Fee and the Citywide Park Improvement Impact Fee. Citywide Park Development Impact Fees would be held in Fund 510 until expended and Citywide Park Improvement Impact Fee would be held in Fund 519 until expended.*

*The discontinued MASP Park fee was a plan-based fee methodology, in which the specific cost of the MASP Park was programmed into the calculation of the fee. Therefore, any MASP Park fees previously collected, are held in separate account (Fund 512) which are to only be used on the Development of the MASP park system. This fee was specific to mitigating the cost of the park in the MASP.*

*The Quimby and Citywide Park Fees are Level of Service (LOS) based fee calculations, in which the calculation of the fee is based on existing level of park service and the park amenities that City will need to maintain for new development. Since these types of park fees are not funding specific parks and specific costs, the fees collected can be expended on any park development project within the City which will contribute to maintaining the existing level of park service for new development (except Orcutt Area – which has its own fee established and was intended to fund the entire required park system without other sources of funding). This fee is specific to maintaining a specific level of park service and amenities throughout the City.*

**9. Can you please provide more context to explain the below paragraph, fund and the work it pays for on Calle Joaquin?**

**LOVR Transportation Impact Fee (Fund 504)** - As of June 30, 2024, there is an amount of \$305,429.80 revenue collected which have been held more than five years. The funds held are planned to be used to satisfy a portion of the remaining obligation under the Reimbursement Agreement for Realignment of Calle Joaquin South between Costco and the City of San Luis Obispo. The \$305,429.80 amount held more than five years along with additional unexpended fund balance not held more than five years will be used to make a \$516,787.73 lump-sum payment towards the outstanding reimbursement agreement obligation. This is expected to occur prior to December 31, 2024. The reimbursement to Costco for the realignment of Calle Joaquin South has been ongoing since 2006, with the payment amount varying from year to year based on actual LOVR TIF fees collected from new development. A balance of \$1,472,278.83 will remain on this reimbursement obligation following the lump-sum payment. Timing for payment of the remaining balance under the agreement will depend on the amount of new LOVR TIF fees collected each year.

*The LOVR Transportation Impact Fee was established to create a funding mechanism for benefiting properties in the LOVR sub-area to reimburse Costco for public infrastructure improvements constructed by Costco that exceeded their fair share. The fee was established by allocating a fair share cost of the improvements to the benefiting properties within the LOVR sub-area, creating a "reimbursement amount" due from each property when they develop. As benefiting properties develop, the City requires payment of the fee. Once payment of the fee is collected, the City then provides the fee payment to Costco which in turn, satisfies the benefiting property's fair share contribution to the improvements constructed by Costco. Some examples of benefiting properties in the LOVR Sub-Area that have either recently paid or will pay this fee are the Avila Ranch Development, Tesla Dealership, and From Ranch Development, among others.*

*The Calle Joaquin Realignment is the specific improvement that Costco constructed beyond their fair share and are due reimbursement for. Conditions of approval for the Costco retail center required the realignment of Calle Joaquin South to a position on Los Osos Valley Road opposite the existing Calle Joaquin North. This also included relocation of the Motel 6 Driveway, Hwy 101 southbound onramp improvements/ reconfiguration, frontage improvements, and any wetland mitigation required by the Army Corps of Engineers. Costs of the realignment included in the fee calculation are design costs, permitting costs, acquisition costs, mitigation monitoring, and construction costs.*

*The fund has revenue held longer than five years and therefore requires findings. In staffs review of the revenue and expenditures of the fund over the past several years, it was determined that LOVR Transportation Fees had been collected in prior years which were not reimbursed to Costco as required by the Reimbursement agreement with Costco. The lack of a prior reimbursement payment caused the revenue to be held more than five years. To remedy the situation, staff will make a lump-sum payment (which is inclusive of all the revenue held more than five years along with other revenue not held more than five years). Making this lump sum payment will expend the fee revenue held more than five years and therefore, subsequent findings will not be required.*