



# Board Agenda Item 9

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DATE: September 5, 2023

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director  
Department of Public Works and Planning

SUBJECT: Development Fees within the Sphere of Influence of the City of Clovis

RECOMMENDED ACTION(S):

- 1. Conduct first hearing to amend Fresno County Ordinance Code, Title 17 - Divisions of Land, Chapter 17.92 - Clovis Development Fees Applicable within the Sphere of Influence of the City of Clovis and a Schedule of Fees; waive reading of the proposed Ordinance in its entirety; set the second hearing for October 10, 2023; and**
- 2. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 3. Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, section 25124(b)(1).**

Approval of the recommended actions is the first step to enable the County to execute Sections 4.1.3 and 4.1.4 of Article IV to fulfill its present obligations under the County's 2017 Amended and Restated Memorandum of Understanding (MOU) with the City of Clovis (City) (Agreement No. 17-236). The MOU provides that the County is to charge City development fees for discretionary development applications approved by the County within the City's Sphere of Influence (SOI). If your Board approves the recommended ordinance amendments, individuals submitting discretionary development applications for projects within the SOI will be subject to the updated development fees, similar to those assessed within the City's limits. This item pertains to areas in Districts 2, 3 and 5.

ALTERNATIVE ACTION(S):

Your Board can reject the recommended actions if it is unable to make the required Findings (below) and/or your Board may direct Department of Public Works and Planning staff to return the item to your Board to provide additional specific information or analysis.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The development fees collected are used by the City to fund construction of facilities such as sewer, water, community sanitation infrastructure, parks, major streets, fire department facilities, police department facilities, library facilities and undergrounding of overhead utilities to serve new developments. Under the County's application process, all discretionary proposals located within the City's SOI are routed to the City for review and comment. The City has the opportunity to identify applicable City fees associated with the development proposal during their review. The information is then provided to the project applicant for payment of fees directly to the City. The

County requires evidence of payment prior to the issuance of a building permit or at the time of final map approval.

## DISCUSSION:

### Background

Since 1990, the County and City have been parties to various versions of the MOU, which addresses patterns of urban development within the City's SOI. Chapter 17.92 of the County Ordinance Code implements one of the provisions of the MOU, requiring the County to impose the City's development fees on discretionary projects within the City's SOI. On June 6, 2017, an updated MOU was signed between the City of Clovis and the County of Fresno (Agt. 17-236).

Sections 4.1.3 and 4.1.5 of the MOU require that the County charge the City's development fees for all discretionary development projects within the City's SOI. Sections 4.1.3 and 4.1.4 require that the City (1) conduct a public hearing, (2) pass a resolution describing the type, amount, and purpose of the City fees to be collected by the County, and (3) submit the adopted resolution to the County along with appropriate supporting documentation and a draft fee ordinance.

Your Board's approval of the recommended actions is the first step to enable the County to fulfill its present obligations under the MOU as related to the adoption of City's revised development fees. The City has updated its Master Development Fee Schedule With the exception of the Water Supply Fee and is requesting that the County adopt such updated fees for developments within the City's SOI.

### 2022-2023 Development Fees and AB602

The City updated its development fees for Fiscal Year 2022-2023 prior to AB602's July 1, 2022 effective date, and therefore did not have to address the findings required by AB602 as part of City's action for the fee update. However, the County's adoption of the updated 2022-2023 fees was to be considered by the Board after the July 1, 2022 effective date of AB602. After the July 1, 2022, local governments adopting a residential development fee assessed on a "per-unit" basis (rather than one based on square footage) are required to make additional findings. As such, adoption of the City's 2022-2023 fees by the County required that the Board make AB602 required findings. Because the City's development fees for Fiscal Year 2022-2023 did not include sufficient supporting documentation to address the AB602 findings, the County was unable to adopt the City's fees and the item was returned to City staff.

### Current Year Development Fees

Following the return of the development fee item by the County, City staff worked with their City Attorney to address the AB602 findings. The development fees for Fiscal Year 2023-2024, including the findings required by AB 602, were considered by the Clovis City Council on June 5, 2023. The City Council adopted the development fees and the City Staff provided the updated fees for 2023-2024 to County staff which is now before your Board for consideration.

### Required Findings

Approval of the recommended actions constitutes a step in the process of imposing the City's development fees. Under the Mitigation Fee Act (Government Code, section 66000, et seq.), for your Board to impose fees on development projects, it is required to find as follows:

- 1. Purpose of the Fee:** identify the purpose of the fee.
- 2. Use:** Identify the use to which the fee is to be put.
- 3. Need for Infrastructure:** That there is a reasonable relationship between the fee's use (e.g. the

construction or improvement of infrastructure) and the type of development for which the fee is imposed (e.g. one requiring additional infrastructure);

4. **Nexus:** That there is a reasonable relationship between the need for the improvements and the impacts of the development (i.e., type of development on which the fee is imposed);
5. **Reasonable Estimate:** That the cost estimates are reasonable cost estimates for constructing the improvements, and the fees expected to be generated by the development do not exceed the total costs of constructing the improvements; and
6. **No Excessive Fees:** That the amount of the fee will not exceed the estimated reasonable cost of the public facilities or portion of the public facilities attributable to the development on which the fee is imposed.

Per Section 4.1.4 of the 2017 MOU, on June 9, 2023, the City provided an updated City's Master Development Fee Schedule approved by the City Council by Resolution No. 23-46 on June 5, 2023 (Attachment A).

The proposed Ordinance, if adopted by your Board, would implement the City's Resolution No. 23-46. The City has provided the June 5, 2023, agenda packet (Attachment B) that includes a discussion and documentation about the proposed development fees to assist your Board in making the above findings. The Resolution provides that the City Council found the Schedule of Fees to satisfy relevant State law (including the Mitigation Fee Act).

#### Basis for Fees

The City has provided a document entitled "Findings in Support of the Continuation of City Policies to Impose Residential Development Impact Fees on a Per Unit or Per Acreage Basis," (Findings Analysis) which is included in Attachment B to this agenda item as well as Exhibit 2 to the proposed Ordinance. The City believes that the Findings Analysis supports the adoption of the Fiscal Year 2023-2024 development fees, including by making findings in support of a per-unit residential development fee consistent with AB602.

The proposed fees are collected by the City for the improvement of infrastructure to serve developments within the City's SOI. The County and City follow this process for fees applicable to discretionary development applications within the City's SOI. As such, your Board has consistently found a need for this infrastructure and a nexus between that need and the impacts of development within the SOI. For the updated fees in Fiscal Year 2023-2024, the City is requesting that the County adopt the updated Master Development Fee Schedule that the City adopted by Resolution 23-46.

The June 5, 2023, the City Council staff report states that frequent adjustments are needed in order to attempt to keep pace with construction cost increases and fully fund the infrastructure associated with growth. In considering the proposed 2023-2024 rates, City staff performed a comprehensive evaluation of the costs and infrastructure that comprise the Development Impact Fees (DIF's), including obtaining cost estimate updates from their sewer and water Master Plan consultants. It should be noted that the City Council did not act on the proposed water rates and staff was directed to perform additional studies with respect to water rates.

The City Council Staff Report states that fees that will be collected for development projects within the City's SOI will provide a source of funding to develop or improve infrastructure to accommodate development within the City's SOI.

#### Verification of Fee Payment

Under the County's discretionary application process, all discretionary proposals located within the SOI are routed to the City for review and comment. At that time, the City has the opportunity to identify applicable City fees associated with the development proposal. The County Staff will then provide the information to

the project applicant for payment of fees directly to the City. The County requires evidence of fee payment prior to the issuance of a building permit or at the time of final map approval.

### City Stakeholder Outreach

City staff held several stakeholder meetings beginning in March 2023 and as recently as the week prior to the June 5, 2023, Council meeting. City staff also distributed an email to over 130 stakeholders describing the proposed increases and providing information pertaining to the cost evaluations and fee rate methodologies. Copies of the documents used by City staff as the basis for the fee evaluation were made also available through the City's website.

### Overall Results

In reviewing residential and non-residential development, the adjustment will result in an overall fee increase ranging from 2% to 10% depending on Land Use and Location.

Per the MOU, these fees will only apply to discretionary development applications, which are defined in the MOU as General Plan Amendments, Zone Changes, Tentative Tract Maps, Tentative Parcel Maps, Conditional Use Permits, Director Review and Approvals, and Variance Applications. Existing uses or uses permitted as a matter of right (agricultural, rural residential, and associated uses) would continue to be permitted without being subjected to these fees.

City staff will be available to answer any questions from your Board.

### Mitigation Fee Act Procedural Compliance

Government Code, section 66017 allows the legislative body to impose a development fee 60 days after holding an open and public meeting. If your Board approves the recommended actions and adopts the proposed ordinance following a second reading, the amended fees will become effective 60 days following adoption.

The Department published notice of this hearing in the Fresno Business Journal on August 25, 2023. If your Board approves the recommended actions, the Department will publish notice of the second reading on September 29, 2023.

### CEQA Compliance

Department staff has determined that approval of the proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA), as there is no possibility that the proposed ordinance will have a significant impact on the environment (CEQA Guidelines, section 15061, subdivision (b)(3)). Subsequent discretionary projects subject to the amended fees in the proposed ordinance will nevertheless be reviewed under CEQA as necessary based on the specifics of those projects. The environmental impacts of those discretionary projects, if there are to be any, are far too remote to be foreseeable at this time.

### OTHER REVIEWING AGENCIES:

A copy of this Board Report, including the proposed Ordinance, was provided to City of Clovis staff for review.

### REFERENCE MATERIAL:

BAI #34, January 12, 2021  
BAI #61, December 10, 2019

BAI #46, January 8, 2019  
BAI #50, June 6, 2017  
BAI #65, September 22, 2015  
BAI #29, April 29, 2014  
BAI #43, December 6, 2011  
BAI #36, October 21, 2008  
BAI #18, September 11, 2007  
BAI #22, September 12, 2006  
BAI #20, August 16, 2005

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - City Resolution 23-46  
Attachment B - City of Clovis Staff Report  
Ordinance  
Ordinance - Redlined  
On file with Clerk - Ordinance Summary

CAO ANALYST:

Salvador Espino