

# Lompoc City Council Agenda Item



**City Council Meeting Date:** September 17, 2013

**TO:** Laurel M. Barcelona, City Administrator

**FROM:** Brad Wilkie, Management Services Director  
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**SUBJECT:** Annual Compliance Report for AB1600 Development Impact Fees

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## **Recommendation:**

Staff recommends the City Council:

- 1) Receive this report prepared to satisfy Government Code Subsection 66006(b)(1); and
- 2) Review the Supplemental Information Report and provide direction.

## **Background:**

State of California Assembly Bill 1600 (AB 1600) – the Mitigation Fee Act (Gov. Code, Sections 66000 *et seq.*) sets forth the standards against which monetary exactions on development projects are measured.

On January 3, 1989, the City Council adopted Resolution No. 3795(89), establishing its first AB 1600 development fee for fire impacts. Subsequently, the City Council adopted and updated various other development impact fees applicable to new development within the City. The purpose of development impact fees is to finance the design, construction and acquisition of facilities and equipment necessary to accommodate future development within the City.

Development impact fees that are collected are segregated and placed in special funds or accounts, which earn interest. Those funds are held for the facilities for which the fees are collected, in accordance with Government Code Section 66006.

As of June 30, 2013, the City had 12 separate and distinct fees that are collected, pursuant to AB 1600. Following is a summary listing of the fees, along with the balance for each fee account, as of June 30, 2013:

<u>Fee Type and Description</u>	<u>June 30, 2013</u> <u>Balance</u>
Traffic Signals	\$ 1,451,186.53
Streets	2,003,245.91
Bikeways	19,569.82
Fire Protection Facilities and Equipment	92,936.13
Park Land Acquisition	593,748.11
Park Improvements	1,353,268.93
Community and Recreation Center Facilities	366,021.58
Library Facilities and Materials	245,684.41
Police Facilities and Vehicles	187,476.74
Water Utility System	(3,786,954.79)
Wastewater Utility System	(2,661,071.60)
Refuse Container Costs	-

It should be noted, for the Water System and the Wastewater System fees identified above, the balances are negative. That is due to the assignment of a certain percentage of existing debt to new development. The 1998, 2005, 2007 bonds and State Revolving Fund loan were issued with an expectation a set proportion of the facility improvements constructed with the bond and loan funds would serve new development. As development is cyclical and bond payments are fixed, fluctuations are expected in the balances throughout the term of the bonds and loans. However, as long as the projected growth occurs that was planned for at the time the bonds were incorporated into the AB 1600 plan, developer fees should pay for their share of the debt service costs. At this point in time, the fee balances are negative. That indicates there has been less development than anticipated in the most recent AB 1600 study to date to support the use of the fees for payment of a portion of the debt service outstanding.

**Discussion:**

**Five-Year Findings for Development Impact Fees**

If the money in the impact fee funds has not been spent, then the City is required to make findings, regardless of whether those moneys are committed or uncommitted. Those findings need to be made only once every five years.

Government Code Subsection 66001(d) sets forth the five-year findings requirements as:

*(d) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:*

- 1) Identify the purpose to which the fee is to be put. [Provide] A brief description of the type of fee in the account or fund;*
- 2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged;*
- 3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a); and*
- 4) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.*

When findings are required, the City must also make them in connection with an annual compliance report (Government Code Subsection 66001 (a)). This report complies with both the required annual and five-year findings.

#### Annual Compliance Reporting for all Development Impact Fees

Government Code Subsection 66006 (b)(1) sets forth the annual compliance reporting requirements as:

*For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:*

- A) A brief description of the type of fee in the account or fund;*
- B) The amount of the fee;*
- C) The beginning and ending balance of the account or fund;*
- D) The amount of the fees collected and the interest earned;*

- E) 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 fees;*
- F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete; and*
- G) A description of each inter-fund 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 inter-fund 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; and*
- H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.*

#### Compliance Report Format

Attached to this report are Attachments 1 through 12, which are intended to fulfill the annual compliance information requirements of Section 66006. Each attachment represents a separate fund account pursuant to this Section. The required information (Items A through H, listed above) is provided, in full, in each attachment. Each attachment should provide appropriate information to understand the purpose of each fund, the balances in each fund, along with information on the annual activity in the fund. This will help to ensure understanding of the report and provide compliance with the requirements under Section 66006.

The Council should note the City is also required to identify an approximate date for starting construction on a public improvement within 180 days after determining sufficient funds have been collected to complete financing of the improvement. Staff will be sure to track the required timing for that construction. To date, sufficient funds have been collected to complete the financing of some of the traffic signals, and the required disclosure is included in Attachment 1. Some of the fees collected, such as the Water and Wastewater fees, are anticipated to be collected over the course of various debt instruments that have been used to construct public improvements. Fees received for those purposes offset the costs that are being deducted from the fee balance; in some instances, creating a negative balance at the end of year for that fee. None of the other public improvements have collected sufficient funds to complete their financing, except

for the refuse collection containers, which are always completed immediately upon receipt of the fees.

**Fiscal Impact:**

Tracking of the fund activities, summarizing the activity for this report and preparation of the report requires resources of the Finance Division. No funds were expended on outside sources to comply with this unfunded State mandate. This is a required reporting and compliance report per the California Government Code. Failure to report on activity and account balances per the applicable regulations could allow a successful challenge to the collection of the related fees in the future or repayment of previously collected fees.

**Conclusion:**

The purpose of the applicable legal requirements, as it applies to findings and compliance reporting, is to provide the community with information as to the status and use of fees collected under the Mitigation Fee Act (Gov. Code Sections 66000 *et seq.*), commonly called Impact Fees.

Respectfully submitted,

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Brad Wilkie, Management Services Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Laurel M. Barcelona, City Administrator

- Attachments:
- 1) [Traffic Signals](#)
  - 2) [Streets](#)
  - 3) [Bikeways](#)
  - 4) [Fire Protection Facilities and Equipment](#)
  - 5) [Park Land Acquisition](#)
  - 6) [Park Improvements](#)
  - 7) [Community and Recreation Center Facilities](#)
  - 8) [Library Facilities and Materials](#)
  - 9) [Police Facilities and Vehicles](#)
  - 10) [Water System](#)
  - 11) [Wastewater System](#)
  - 12) [Refuse Container Costs](#)
  - 13) [Supplemental information Report](#)