

Staff Report

Agenda Item

October 12, 2023 | 9:30 a.m.

San Joaquin Hills Transportation Corridor Agency

Foothill/Eastern Transportation Corridor Agency

San Joaquin Hills Development Impact Fees: Agency Audits and Mitigation Fee Act Information

Recommendation

San Joaquin Hills Transportation Corridor Agency Recommendation:

1. Receive and file the San Joaquin Hills Transportation Corridor Agency audits for the County of Orange and the Cities of Aliso Viejo, Costa Mesa, Irvine, Laguna Woods, and Mission Viejo for the period of January 1, 2022 through December 31, 2022.
2. Direct staff to include the County of Orange and the Cities of Dana Point, Irvine, and Laguna Niguel in the next audit cycle covering the period of January 1, 2023 through December 31, 2023.
3. Receive and file the Mitigation Fee Act information regarding development impact fees during Fiscal Year 2023 (July 1, 2022 – June 30, 2023).

Summary

Pursuant to the Second Amended and Restated Joint Exercise of Powers Agreement creating the San Joaquin Hills Transportation Corridor Agency (SJHTCA or Agency), the Board may authorize an audit of an existing or former member agency to determine whether it has accurately collected and remitted development impact fees (DIFs) to SJHTCA. The audits are performed by or at the direction of the SJHTCA's Internal Audit Department.

During this audit period, one exception was noted in the permits reviewed. There was one overpayment of \$36 due to using the wrong square footage in calculating fees due. The SJHTCA has refunded the overpayment amount to the developer.

Pursuant to the Mitigation Fee Act, California Government Code section 66006(b), the Agency is required to review certain information annually regarding DIFs, including the beginning and ending balance of fees on deposit, the amount of fees collected, interest earned and expenditures during the fiscal year. The information required by the Mitigation Fee Act is provided in this report.

Committee Discussion

Staff conducts annual audits to assess the collection of development impact fees by existing and former member agencies on behalf of TCA. Staff updated the Committee on the results of this year's development fee audits, discussed audit candidates for next year's audits, and presented reporting required by the Mitigation Fee Act, California Government Code, Section 66006(b). Items discussed included audit candidate selection, the audit process, audit frequency, development fees for accessory development units and affordable housing, and projecting development fee revenue.

Budget

N/A

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Background

Section 66484.3 of the California Government Code authorizes the SJHTCA, through its existing and former member agencies, to require by ordinance, the payment of a DIF as a condition of approval of a final map or as a condition of issuing a building permit, for the purpose of defraying the actual or estimated cost of constructing the San Joaquin Hills Transportation Corridor (State Route (SR) 73).

The SJHTCA Major Thoroughfare and Bridge Fee Program (Development Impact Fee Program) was established by the County of Orange in 1985 and adopted by the existing and former member agencies through the Joint Exercise of Powers Agreement. SJHTCA was able to construct the SR 73 Toll Road by issuing toll revenue bonds that are being repaid with tolls and DIFs. The DIFs are used to repay the toll revenue bonds for the road already built, as well as to pay the cost of future anticipated improvements and ongoing planning and environmental requirements.

The program collects one-time fees on new residential dwellings, or new non-residential square footage in areas identified as the area of benefit surrounding the corridor. Fees are collected by existing or former member agencies when a building permit is issued within the area of benefit. Fees are assessed on a per unit basis for single family and multi-family dwellings, and on a per square foot basis for non-residential buildings. In 1997, the SJHTCA Board of Directors adopted a set annual fee rate increase of 2.667%. This set rate provides financial certainties to developers versus utilizing other metrics such as the cost of inflation that could result in substantial changes year over year.

Pursuant to the Second Amended and Restated Joint Exercise of Powers Agreement creating the SJHTCA, the Board may authorize an audit of an existing or former member agency to determine whether it has accurately collected and remitted DIFs to SJHTCA. For agencies selected for audit, typically all building permits are reviewed for the period audited. Agencies are selected for audit based on volume of fees, rotation of the audit cycle and results of the previous year's audits. Due to the volume of building permits processed, the County of Orange and the City of Irvine are audited each year, with the other agencies audited on a rotational cycle. The audits are performed by the SJHTCA's Internal Audit department.

Six agencies, including the County of Orange and the Cities of Aliso Viejo, Costa Mesa, Irvine, Laguna Woods, and Mission Viejo were selected for audit for the period of January 1, 2022 through December 31, 2022.

Discussion

I. Agency Audits

As approved by the Board for calendar year 2022, the following information reflects the audits conducted for the applicable agencies and recommendations as to inclusion in the next audit period.

County of Orange

1. All permits issued for the audit period were tested. A total of 6 permits generating \$24,882 in fees collected and remitted to the Agency, or paid in fee credits, were reviewed. No discrepancies were noted.

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2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. It is recommended that the County of Orange be included in the next cycle of audits due to the anticipated volume.

City of Irvine

1. All permits issued for the audit period were tested. A total of 10 permits generating \$1,715,238 in fees collected and remitted to the Agency were reviewed. No discrepancies were noted.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. It is recommended that the City of Irvine be included in the next cycle of audits due to the anticipated volume.

City of Mission Viejo

1. All permits issued for the audit period were tested. No relevant permits for fee collection were found during the review. No discrepancies were noted.
2. It is recommended that the City of Mission Viejo be excluded from the next cycle of audits.

City of Aliso Viejo

1. All permits issued for the audit period were tested. A total of four permits generating \$38,044 in fees collected and remitted to the Agency were reviewed. No discrepancies were noted.
2. All tested permits were traced to remittances to SJHTCA with no exceptions noted.
3. It is recommended that the City of Aliso Viejo be excluded from the next cycle of audits.

City of Costa Mesa

1. All permits issued for the audit period were tested. A total of two permits generating \$476,942 in fees collected and remitted to the Agency were reviewed. The audit revealed one overpayment of \$36 which was due to using the incorrect square footage in calculating fees due.
2. All tested permits were traced to remittances to SJHTCA with the one exception noted above.
3. It is recommended that the City of Costa Mesa be excluded from the next cycle of audits.

City of Laguna Woods

1. All permits issued for the audit period were tested. No relevant permits for fee collection were found during the review. No discrepancies were noted.
2. It is recommended that the City of Laguna Woods be excluded from the next cycle of audits.

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II. Mitigation Fee Act Information

Pursuant to the Mitigation Fee Act, California Government Code section 66006(b), the Agency is required to review the following information annually regarding DIFs: a brief description of the type and amount of the fee imposed; the beginning and ending balance of fees on deposit with the Agency; the amount of fees collected and interest earned during the fiscal year; an identification of the public improvement(s) on which fees were expended, the amount of fees expended on such improvement(s), and the total percentage of the cost of the improvement(s) funded with such fees. As required by section 66006(b), that information, which is contained in this staff report, was made available to the public 15 days in advance of the September 14, 2023 Board meeting. The information was posted on the Agency's website and physically in front of the Agency premises.

Information Regarding Development Impact Fees for the Fiscal Year Ended June 30, 2023

DIFs are collected for the purpose of planning, designing, financing, and constructing the SR 73 Toll Road and its improvements, including repayment of debt issued to finance construction of the road, as authorized by section 66484.3 of the Government Code and the provisions of the Major Thoroughfare and Bridge Fee Program for San Joaquin Hills Transportation Corridor and Foothill/Eastern Transportation Corridors (the "Fee Program").

DIF rates during Fiscal Year 2023 were as follows:

San Joaquin Hills Transportation Corridor Agency

Zone A:

Single Family	\$6,211/unit
Multi-Family	\$3,618/unit
Non-Residential	\$8.33/sq. ft.

Zone B:

Single Family	\$4,814/unit
Multi-Family	\$2,808/unit
Non-Residential	\$6.15/sq. ft.

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The following is an accounting of DIFs during Fiscal Year 2023:

Balance of fees on deposit as of 7/1/22:	\$58,072,358
Fees collected 7/1/22 – 6/30/23:	\$7,552,982
Interest earned on fees 7/1/22 – 6/30/23:	\$1,674,216
Amount of fees expended on San Joaquin Hills Corridor 7/1/22 – 6/30/23:	\$1,084,703
Percentage of 7/1/22 – 6/30/23 total corridor capital expenditures, including debt service, paid with fees:	1%
Balance of fees on deposit as of 6/30/23:	\$66,214,853

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Consistent with the language in the statute, as of the end of Fiscal Year 2023 sufficient funds had not been collected to complete financing of the San Joaquin Hills Transportation Corridor (SR 73).

During Fiscal Year 2023, there were no loans or transfers made from the account in which DIFs were deposited for any project other than the San Joaquin Hills Transportation Corridor, and no refunds made pursuant to Government Code section 66001(e).

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