



CITY OF
**PALO
ALTO**

CITY COUNCIL STAFF REPORT

From: City Manager

Report Type: CONSENT REPORT

Lead Department: Administrative Services

Meeting Date: January 23, 2023

TITLE

Accept Annual Status Report on Development Impact Fees for Fiscal Year 2022 and Adopt a Resolution Making Statutory Findings for Certain Funds

EXECUTIVE SUMMARY

This report contains information on the City of Palo Alto's Development Impact Fees for the Fiscal Year (FY) 2021-2022. This report meets the annual reporting requirements in Government Code section 66006.

RECOMMENDATION

Staff recommends that the City Council review and accept the Annual Report on Development Impact Fees for the period ending June 30, 2022 (Attachment A) and adopt the resolution making statutory findings for certain development impact fee funds (Attachment B).

BACKGROUND

State law (Government Code Section 66006) requires that each local agency that imposes development impact fees prepare an annual report providing specific information about those fees. This requirement is part of the law commonly referred to as AB 1600. It codifies the legal requirement that fees on new development must have the proper nexus to any project on which they are imposed. In addition, AB 1600 imposes certain accounting and reporting requirements with respect to the fees collected. The fees, for accounting purposes, must be segregated from the general funds of the City and from other funds or accounts containing fees collected for other improvements. Interest on each development fee fund or account must be credited to that fund or account and used only for the purposes for which the fees were collected.

Government Code Section 66006 contains comprehensive annual reporting requirements for development impact fees. This statute requires that, within 180 days after the close of the fiscal

year, the agency that collected the fees must make available to the public the following information regarding each fund or account:

- Brief description of the type of fee in the fund.
- Amount of the fee.
- Beginning and ending balance in the fund.
- Amount of fees collected, and interest earned.
- Identification of each public improvement on which fees were expended and the amount of the expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
- Identification of an approximate date by which the construction of a public improvement will commence, if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement.
- Description of each interfund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an interfund 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.
- Amount of any refunds made due to inability to expend fees within the required time frame.

This report must also be reviewed by the City Council at a regularly scheduled public meeting not less than 15 days after the information is made available to the public. In addition, notice of the time and place of the meeting shall be mailed at least 15 days prior to the meeting to any interested party who files a written request with the local agency for such a mailed notice. An early packet consisting of Attachment A only was made available to the public and included in the packet for the December 5, 2022, meeting of the City Council.

The law also provides that, for the fifth fiscal year following the first deposit into the fund and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. The finding must:

- Identify the purpose to which the fee is to be put;
- Demonstrate a nexus between the fee and the purpose for which it was originally charged; and
- Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements along with the approximate dates on which the anticipated funding is expected to be deposited into the fund.

If the agency no longer needs the funds for the purposes collected, or if the agency fails to make required findings, or to perform certain administrative tasks prescribed by AB 1600, the agency

may be required to refund to property owners a prorated portion of the monies collected for that project and any interest earned on those funds.

ANALYSIS

The City of Palo Alto development fees covered by AB 1600, and documented in Attachment A, include the following:

- Stanford Research Park/El Camino Real traffic impact fees (PAMC Ch. 16.45): Fee for new nonresidential development in the Stanford Research Park/El Camino Real Service Commercial zone, to fund capacity improvements at eight intersections. City ceased collecting effective fiscal year 2020.
- San Antonio/West Bayshore Area traffic impact fees (PAMC Ch. 16.46): Fee for new nonresidential development in the San Antonio/West Bayshore area to fund capacity improvements at four intersections. City ceased collecting effective fiscal year 2020.
- Housing impact fees imposed on commercial developments (PAMC Ch. 16.65): Fee on commercial and industrial development to contribute to offset the demand that new jobs create for low income and moderate-income in the City.
- Parks, Community Centers, and Libraries impact fees (PAMC Ch. 16.58): Fee on new residential and non-residential development to provide community facility funds for parks, community centers, libraries, public safety, and general government.
- Charleston-Arastradero Corridor pedestrian and bicyclist safety fees (PAMC Ch. 16.60): Fee on new development and re-development within the Charleston-Arastradero Corridor to provide for pedestrian and bicyclist improvements.
- Citywide Transportation impact fees (PAMC Ch 16.59): Fee on development in all parts of the City to fund transportation projects and programs to reduce congestion.
- New Public Safety facilities (PAMH Ch. 16.58): Fee on residential and non-residential development to fund police and fire facilities, including fire apparatus and vehicles.
- General Government facilities: (PAMH Ch. 16.58) – Fee on residential and non-residential development to fund facilities associated with municipal administration.
- Residential (Rental) impact fees (PAMC Ch. 16.65) Fee on rental residential developments (including mixed use with rental housing) to offset the demand that new market-rate rental housing creates for low and moderate-income housing in the City.

AB 1600 requires the City to make certain findings with respect to the fees that remain unexpended in the fifth fiscal year following the first deposit into the fund, and every five years thereafter. There are four categories of fees that require statutory findings in FY2021-22. These proposed findings are contained in Attachment B.

- The Community Facilities (Parks Impact Fee) Fund has an unexpended balance of \$3,810,535 that was collected in FY 2022 and prior.
- The Community Facilities Community Centers Fund has an unexpended balance of \$739,193 that was collected in FY 2022 and prior.
- The Community Facilities (Library Impact Fee) Fund has an unexpended balance of \$931,093 that was collected in FY 2022 and prior.
- The Charleston-Arastradero Corridor Fund has an unexpended balance of \$34,904 that was collected in FY 2022 and prior.

In addition to development fee funds that are required to be reported under AB 1600, the following funds are reported for information purposes only and are not required to be reported under AB 1600:

- Public Art Fund (PAMC Ch. 16.61): Fees imposed on new commercial developments (including mixed use projects), including new construction, remodels, additions and reconstruction that (i) have a floor area of 10,000 sq. ft. or more, and (ii) have a construction value of \$200,000, or more, exclusive of costs for architecture, design, engineering, and required studies; and all new residential projects of five or more units to fund public art for private developments.
- University Avenue Parking In-Lieu Fund (PAMC Ch. 16.57): Fees collected from non-residential development within the University Avenue Parking Assessment District, in lieu of providing the required number of parking spaces.
- Residential housing in-lieu fees (PAMC Ch. 16.65): Fee on residential developments in-lieu of providing required below-market rate units to low- and moderate-income households.
- Parkland Dedication (CA Government Code Section 66477-Quimby Act): Fees on parkland dedication imposed on new residential and non-residential development.
- Water and Wastewater Collection (California Government Code Section 66000): Capacity fees charged to developers that are adding load to the water and sewer systems effective July 1, 2005.

RESOURCE IMPACT

These various funds are reviewed annually for any unallocated balances and the nexus of appropriate projects annually as part of the development of the City's five-year capital improvement plan.

If the council does not make the findings contained in Attachment B, the development fees described therein might be required to be refunded. This would have fiscal impact of \$5,515,725.

STAKEHOLDER ENGAGEMENT

This report has been prepared by the Accounting Division in Administrative Services and reviewed by partner departments including the City Attorney's Office and the Planning and Development Services Department.

ENVIRONMENTAL REVIEW

This is not a project for purposes of the California Environmental Quality Act.

ATTACHMENTS

Attachment A: Development Impact Fees FY 22

Attachment B: Resolution Making Findings Regarding Continuing Need for Unexpended Development Fees

APPROVED BY:

Kiely Nose, Administrative Services Director