



**STAFF REPORT**

**City Council**

**Meeting Date:** 12/10/2019

**Staff Report Number:** 19-262-CC

**Consent Calendar:**

**Transmittal of the Annual Report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing in-lieu, and construction impact fees collected as of June 30, 2019**

**Recommendation**

Staff recommends the City Council review the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing and construction impact fees. Staff also recommends that City Council adopt the following:

1. Transportation impact fees, storm drainage fees, recreation in lieu fees, below market rate housing in-lieu, and construction impact fees are collected to mitigate direct and indirect impacts from development.
2. These fees are expended in a timely manner to fund continued improvements to public facilities related to the increased demand on the facilities resulting from development.
3. There is a reasonable relationship between these impact fees and their purpose.
4. These impact fees continue to be required to fund applicable improvements, and as such, these fees will continue to be collected and deposited into the appropriate funds for utilization solely for their intended purpose.

**Policy Issues**

This report does not represent any change to existing City policy and affirms the City's intention to continue to charge these impact fees to fund projects and programs that mitigate the direct and indirect impact of development in the City of Menlo Park.

**Background**

Cities and counties often charge fees on new development to fund public improvements to mitigate the impact of development activity. These fees are commonly known as development impact fees. In 1989, the state Legislature passed Assembly Bill 1600 (AB1600), which added Sections 66000 et seq. to the California Government Code, commonly known as the Mitigation Fee Act.

As required by law, these fees are segregated from the General Fund and accounted for in special revenue funds. Government Code Section 66001 requires that the City make available to the public information regarding development impact fees for each fund within 180 days after the end of each fiscal year:

- A brief description of the fee and the fund into which the fee was deposited
- The amount of the fee
- The associated fund's beginning and ending balances for the fiscal year
- The total amount of fees collected and interest earned
- Identification of each public improvement on which impact fees were expended and the amount of

- expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of the approximate date by which construction of a public improvement will commence if the local agency determined that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete
  - A description of each interfund transfer or loan made from an account or fund
  - Further, Government Code Section 66000 et. seq. also requires that findings describing the continuing need for impact fees be made every five years specifying the intended use of any unexpended impact fees, regardless of whether the fees are committed or uncommitted. Failure to make such findings subjects the City to going through a refunding procedure. This report meets the requirements to comply with the Mitigation Fee Act.

**Analysis**

Transportation Impact Fees

With new development in San Mateo County and the City of Menlo Park, increased pressure has been put on the transportation system. In 2009, the City prepared a transportation impact fee nexus study, to define the relationship between development and increased transportation needs. This fee structure was put in place effective Dec. 6, 2009, with the passing of an ordinance that added Section 13.26 to the municipal code. The current fee rates are listed below and is included in the City’s 2019 Master Fee Schedule:

Transportation Impact Fee		
Land Use	Unit	2019 Fee Amount*
Office	Sq.Ft.	\$ 5.01
Research and Development	Sq.Ft.	3.60
Manufacturing	Sq.Ft.	2.46
Warehousing	Sq.Ft.	1.08
Restaurant	Sq.Ft.	5.01
Retail	Sq.Ft.	5.01
Single-family	Units	3,393.74
Multifamily	Units	2,083.08
Hotel	Per Room	1,982.23
Medical Office	Sq.Ft.	11.62
Childcare	Sq.Ft.	5.01
Secondary Dwelling Unit	Units	772.43
* As of June, 2019, ENR Construction Cost Index % change for San Francisco = 2.8		
If land use is not one of the above, use this formula: \$3,359.56 * Total PM Peak Hour Trips		

On November 19, 2019, an ordinance was introduced to update Section 13.26 of the Municipal Code which defines the transportation impact fee. A second reading of the ordinance and adoption of the updated fees is scheduled for the December 10 City Council meeting. New TIF rates will become effective February 2020.

For fiscal year 2018-19, the City received total revenue of \$2,605,758 primarily from transportation impact fees and interest income. For the same period, the City expended a total of \$302,893 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$2,302,865 and the ending balance as of June 30, 2019, is \$7,130,623. Of this amount, all funds are available for use to meet current or planned projects eligible for this funding source. In the next five fiscal years, it is planned that the City will require \$16,650,000 from transportation impact fees to finance needed infrastructure projects. As such, there exists a continued need for this fee. Detail of current year and historical financials as well as current year project expenditures are available in Attachment A.

### Storm drainage fees

The storm drainage fee, which commenced before 1989, is levied to mitigate City storm drainage impacts either directly or indirectly resulting from development projects. Storm drainage connection fees are charged for property development as shown in the City's 2019 Master Fee Schedule:

- Single-family – per lot \$450.00
- Multifamily – per unit \$150.00
- Industrial and Commercial – per square foot of impervious area \$ 0.24

For fiscal year 2018-19, the City received total revenue of \$6,208, primarily from storm drainage fees and interest income. For the same period, the City expended \$0 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year for the year totaled \$6,208 and the ending balance as of June 30, 2019 is \$174,688. Of this amount, all funds are available for use to meet current or planned projects eligible for this funding source. For mid-year amendments to the fiscal year 2019–20 budget, the City plans to include a \$55,000 budget request for Santa Cruz Avenue Storm Drainage Improvements, a \$45,000 annual Atherton Channel cleaning for fiscal years 2019–20 and 2020–21 and may include a \$23,000 request for Santa Cruz Avenue and Middle Avenue Street Rehabilitation. The City is also seeking to identify additional stormwater and infrastructure projects where this funding source can be applied in future fiscal years. At this time, there still exists a continued need for this fee. Detail of current year and historical financials as well as current year project expenditures are available in Attachment B.

### Recreation in-lieu fees

The recreation in-lieu fee, which commenced before 1989, is collected from developers to improve and expand recreation facilities in-lieu of providing new on-site facilities. The fee is charged on new residential development as shown in the City's 2019 Master Fee Schedule:

- Single-family (RE and R-1): 0.013 (Multiplied by number of units and by market value of acreage to be subdivided)
- Multifamily development (R-2, R-3, RLU and PD): 0.008 (Multiplied by number of units and by market value of acreage to be subdivided)

For fiscal year 2018-19, the City received total revenue of \$287,034, primarily from recreation in-lieu fees and interest income. For the same period, the City expended a total of \$479,121 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year for the year totaled (\$192,087) and the ending balance as of June 30, 2019 is \$3,553,462. Of this amount, all funds are available for use to meet current or planned projects eligible for this funding source. In the next five fiscal years, it is planned that the City will require \$5,750,000 from recreation in-lieu fees to finance needed infrastructure projects. The Parks and Recreation Master Plan process concluded subsequent to the end of the fiscal year and

identified potential additional demands for these funds. As such, there exists a continued need for this fee. Detail of current year and historical financials as well as current year project expenditures are available in Attachment C.

### Below Market Rate Housing in-lieu fee

The Below Market Rate (BMR) Housing program was established in 1987 to increase the housing supply for people who live and/or work in Menlo Park and have very low, low, or moderate incomes as defined by income limits set by San Mateo County. The primary objective of the fee is to create actual housing units rather than generate a capital fund. However residential developers are permitted to pay an in-lieu fee if a project does not provide the following:

- All owner-occupied residential developments of five or more units are required to provide a BMR unit.
- Residential developments of 10 to 19 units are required to provide 10 percent of the housing at below market rates.
- Development projects of 20 units or more are required to provide 15 percent of the housing at below market rates.

For new commercial developments equal to or greater than 10,000 square feet that generate employment opportunities, the in-lieu fee is established as follows:

- \$16.90 per square foot of net new gross floor area for most commercial uses
- \$9.17 per square foot of net new gross floor area for defined uses that generate fewer employees

For fiscal year 2018-19, the City received total revenue of \$872,348, primarily from below market rate housing in-lieu fees and interest income. For the same period, the City expended a total of \$316,267 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$556,081 and the ending balance as of June 30, 2018 is \$25,225,766. Of this amount, \$16,244,770 is available for use to meet current or planned projects eligible for this funding source. The remaining fund balance reflects assets held as notes receivable (BMR loan programs) and real estate held for resale. A staff report was provided to City Council (staff report 17-138-CC) on one funding opportunity, \$6,700,000, for 1317-1385 Willow Road. A second staff report was provided to City Council (staff report 19-234-CC) on another funding opportunity, \$635,502 for 1105 and 1141 Willow Road. In addition, staff anticipates the release of a new NOFA for the allocation of BMR funds, estimated at approximately \$9,000,000, in the 2020 calendar year to leverage additional development of affordable housing within the plan area. It is estimated at this time that the abovementioned activities will exhaust and potentially exceed the current available fund balance. Detail of current year and historical financials as well as current year project expenditures are available in Attachment D.

### Construction Impact Fees

The construction impact fee that took effect in November 2005 was adopted to recover the cost of repairing damage to streets caused by construction-related vehicle traffic. On August 5, 2008, Council adopted a resolution extending this fee beyond the three-year sunset provision initially established. The fee is charged on the value of the construction project as shown in the 2019 Master Fee Schedule:

- The fee amounts to 0.58 percent of a construction project's value
- Residential alteration and repairs, as well as all projects under \$10,000, are exempt from the fee

For fiscal year 2018-19, the City received total revenue of \$3,706,846, primarily from building construction road impact fees and interest income. For the same period, the City expended a total of \$1,365,123 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$2,341,723 and the ending balance as of June 30, 2019 is \$7,686,350. Of this amount, all funds are available for use to meet current or planned projects eligible for this funding source. In the next five fiscal

years, it is planned that the City will require \$9,200,000 from building construction road impact fees to finance needed infrastructure projects. As such, there exists a continued need for this fee. Detail of current year and historical financials as well as current year project expenditures are available in Attachment E.

### **Impact on City Resources**

There is no impact on City resources resulting from this annual report, and this report meets the compliance requirements of the Mitigation Fee Act. Impact Fees collected in 2018-19 represented \$6,628,025.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification to comply with the Mitigation Fee Act is achieved by posting the annual report on November 25, 2019, 15 days before the meeting at which the City Council is anticipated to make required findings as outlined in the recommendation.

### **Attachments**

- A. Transportation impact fee financial report
- B. Storm drainage fee financial report
- C. Recreation in-lieu fee financial report
- D. Below Market Rate Housing in-lieu fee financial report
- E. Construction impact fee financial report

Report prepared by:  
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**City of Menlo Park  
Transportation Impact Fee Financial Report**

Transportation Impact Fees	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Beginning balance</b>	<b>\$3,962,481</b>	<b>\$4,783,010</b>	<b>\$3,680,652</b>	<b>\$3,671,623</b>	<b>\$4,827,758</b>
Developer Fees	1,063,265	484,865	1,565,803	1,525,690	2,410,325
Interest earnings and other	68,016	671,669	27,687	36,360	195,433
Expenditures	(310,752)	(2,258,892)	(385,171)	(405,915)	(302,893)
Non-traffic impact fee transfer	0	0	(1,217,348)	0	0
<b>Ending Balance</b>	<b>\$4,783,010</b>	<b>\$3,680,652</b>	<b>\$3,671,623</b>	<b>\$4,827,758</b>	<b>\$7,130,623</b>

2018-19 Transportation Impact Fee Project Expenditures:	Total Expended
Middle Avenue Caltrain Crossing Study	\$166,744
Transit Improvements	38,007
Transportation Projects Minor	29,688
Other projects	68,454
<b>Total</b>	<b>\$302,893</b>

Transportation Impact Fee Future Projects	2019-20	2020-24	Total
Middle Avenue Caltrain Crossing Study Design and Construction	5,000,000	9,900,000	\$14,900,000
Traffic Signal Modifications	350,000	1,400,000	\$1,750,000
		<b>Total</b>	<b>\$16,650,000</b>

**City of Menlo Park  
Storm Drainage Impact Fee Financial Report**

<b>Storm Drainage Impact Fees</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
<b>Beginning balance</b>	<b>\$116,821</b>	<b>\$170,220</b>	<b>\$172,555</b>	<b>\$176,446</b>	<b>\$168,480</b>
Developer fees	52,160	783	2,250	7,270	2,250
Interest income/(expense)	1,239	1,552	1,641	2,166	3,958
Expenditures	0	0	0	(17,402)	0
<b>Ending Balance</b>	<b>\$170,220</b>	<b>\$172,555</b>	<b>\$176,446</b>	<b>\$168,480</b>	<b>\$174,688</b>

<b>Storm Drainage Impact Fee Fund Expenditures</b>	<b>2018-19</b>
	\$0

<b>Storm Drainage Impact Fee Future Projects</b>	<b>2019-20</b>	<b>2020-24</b>	<b>Total</b>
Santa Cruz Avenue Storm Drainage Improvement	\$55,000	\$ -	\$55,000
Atherton Channel cleaning	45,000	45,000	90,000
Santa Cruz Avenue and Middle Avenue Street Rehabilitation		23,000	23,000
		<b>Total</b>	<b>\$168,000</b>

**City of Menlo Park  
Recreation In-Lieu Impact Fee Financial Report**

<b>Recreation In-Lieu Impact Fees</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
<b>Beginning balance</b>	<b>\$1,382,656</b>	<b>\$1,428,915</b>	<b>\$1,296,910</b>	<b>\$1,167,732</b>	<b>\$3,745,549</b>
Developer Fees	52,000	103,400	64,000	2,619,200	205,800
Interest Income/(Expense)	14,029	12,962	6,433	36,958	81,234
Expenditures	(19,770)	(248,367)	(199,611)	(78,341)	(479,121)
<b>Ending balance</b>	<b>\$1,428,915</b>	<b>\$1,296,910</b>	<b>\$1,167,732</b>	<b>\$3,745,549</b>	<b>\$3,553,462</b>

<b>Recreation In-Lieu Fee Expenditures</b>	<b>2018-19</b>
Jack Lyle Park Restroom	461,441
Bedwell Bayfront Park Master Plan	1,628
Other Projects	16,052
<b>Total</b>	<b>\$479,121</b>

<b>Recreation In-Lieu Fee Future Projects</b>	<b>2019-20</b>	<b>2020-24</b>	<b>Total</b>
Belle Haven Pool Master Plan Implementation	\$0	\$3,750,000	\$3,750,000
Parks and Recreation Master Plan Implementation	-	2,000,000	2,000,000
		<b>Total</b>	<b>\$5,750,000</b>



**City of Menlo Park**  
**Below Market Rate Housing Financial Report**

Below Market Rate Housing Special Fund	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Beginning balance</b>	<b>\$11,751,144</b>	<b>\$14,135,309</b>	<b>\$16,884,108</b>	<b>\$18,652,660</b>	<b>\$24,669,685</b>
Fiscal Year Activity					
Charges for Services	2,388,210	3,788,681	1,824,526	6,109,892	354,517
Use of Money and Property	178,194	149,505	125,374	125,117	517,831
Expenditures	(182,238)	(97,368)	(181,348)	(217,983)	(316,267)
Proceeds from the Sale of Assets	0	0	0	0	0
Prior period adjustment	0	(1,092,019)	0	0	0
<b>Ending balance</b>	<b>\$14,135,309</b>	<b>\$16,884,108</b>	<b>\$18,652,660</b>	<b>\$24,669,685</b>	<b>\$25,225,766</b>

Adjustment for notes and interest receivable	(\$6,170,550)	(\$9,106,832)	(\$8,823,986)	(\$8,861,591)	(\$8,980,996)
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<b>Adjusted available balance</b>	<b>\$7,964,759</b>	<b>\$7,777,276</b>	<b>\$9,828,674</b>	<b>\$15,808,095</b>	<b>\$16,244,770</b>
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Below Market Rate Housing Special Fund Expenditures	2018-19
<b>Project Expenditures:</b>	
Other expenditures	\$316,267
<b>Total Expenditures:</b>	<b>\$316,267</b>

Below Market Rate Housing Special Fund Future Projects	2019-20	2020-24	Total
1317-1385 Willow Road	\$6,700,000	\$0	\$6,700,000
1105 and 1141 Willor Road	635,502	-	635,502
2020 NOFA	-	9,000,000	9,000,000
		<b>Total</b>	<b>\$16,335,502</b>

**City of Menlo Park  
Construction Impact Fee Financial Report**

Construction Impact Fee Fund	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Beginning balance</b>	<b>\$3,624,730</b>	<b>\$5,048,723</b>	<b>\$4,103,887</b>	<b>\$6,915,393</b>	<b>\$5,344,627</b>
Developer Fees	1,584,408	1,821,534	3,095,422	2,976,022	3,655,133
Street Department Fees	0	0	0	0	0
Interest Income/(Expense)	39,390	40,396	62,254	51,713	51,713
Expenditures	(199,805)	(2,792,626)	(346,171)	(4,598,500)	(1,365,123)
Transfers		(14,140)			
<b>Ending balance</b>	<b>\$5,048,723</b>	<b>\$4,103,887</b>	<b>\$6,915,393</b>	<b>\$5,344,627</b>	<b>\$7,686,350</b>

Construction Impact Fee Fund Expenditures	2018-19
<b>Project Expenditures:</b>	
Street Resurfacing Project	\$1,215,128
Santa Cruz & Middle resurfacing	49,424
<b>Operating Expenditures:</b>	
Street Maintenance	100,570
<b>Total Expenditures:</b>	<b>\$1,365,123</b>

Construction Impact Fee Future Projects	2019-20	2020-24	Total
Street Resurfacing	\$600,000	\$2,000,000	2,600,000
Santa Cruz & Middle Resurfacing	2,300,000	-	2,300,000
Willow Road (Middlefield to US-101) Street Resurfacing	\$150,000	\$1,000,000	1,150,000
Middlefield Road (Woodland to Ravenswood) Street Reconstruction	-	3,150,000	3,150,000
		<b>Total</b>	<b>\$9,200,000</b>