



STAFF REPORT

City Council

Meeting Date:

1/10/2023

Staff Report Number:

23-001-CC

Consent Calendar:

Transmittal of the annual report on the status of the transportation impact, storm drainage, recreation in-lieu and construction impact fees collected as of June 30, 2022

Recommendation

Staff recommends the City Council review the City's Assembly Bill 1600 (AB1600) report providing data on the revenues collected from the transportation impact, storm drainage, recreation in-lieu and construction impact fees. The below market rate (BMR) housing fees are included in this report to inform the City Council in accordance with BMR Guidelines 14.5 under Resolution No. 6708.

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 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 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 the fiscal year 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

Due to growth and development in the City of Menlo Park and surrounding cities and the region, increased pressure has been put on the transportation system. The purpose of the transportation impact fee is to provide adequate transportation improvements to serve cumulative development within the city. However, the fee does not replace the need for all site-specific transportation improvements that may be needed to mitigate the impact of specific projects upon the city’s transportation system.

The transportation impact fee methodology was put in place effective December 6, 2009, with the addition of Section 13.26 to the municipal code,. In 2019, the City prepared an updated transportation impact fee study which demonstrates the reasonable relationship between the amount of the fees and the purpose for which they are charged. In addition, the 2019 update set the fees for child care facilities and secondary dwelling units to \$0. The current fee program became effective in February 2020, and are adjusted annually according to the Engineering News Record construction cost index. Current 2022 fees are listed below:

Transportation impact fee		
Land use	Unit	2022 fee amount*
Office	Sq.Ft.	\$ 21.88
Research and development	Sq.Ft.	9.32
Manufacturing	Sq.Ft.	12.76
Warehousing	Sq.Ft.	3.62
Restaurant	Sq.Ft.	12.76
Retail	Sq.Ft.	12.76
Single-family	Dwelling units	18,845.59
Multifamily	Dwelling units	6,351.83
Hotel	Per room	11,421.56
Medical office	Sq.Ft.	65.87
Child care	Sq.Ft.	0
Secondary dwelling unit	Dwelling units	0

*As of June 2022, ENR Construction Cost Index % Change for San Francisco =14.1
 If land use is not one of the above, use this formula: \$19,035.94 * Total PM Peak Hour Trips

For fiscal year 2021-22, the City received total revenue of \$2,484,739 (\$2,675,719 in fees, \$180,992 in interest earnings and other revenue, and a negative \$371,972 due to unrealized loss adjustment on investments.) The unrealized gain/(loss) on investments is an accounting requirement to reflect the year-end value of the investment and not a cash loss, provided investments are held until maturity. For the same period, the City expended a total of \$511,353 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$1,973,386 and the ending balance as of June 30, 2022, is \$8,828,075. 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 \$27,534,567 from transportation impact fees to finance needed infrastructure projects. The City Council adopted the transportation master plan in November 2020 and staff has included new projects to the future five-year capital improvement program. 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 commenced before 1989. The fee is levied to mitigate impacts on the storm drainage system either directly or indirectly resulting from development projects. The fee does not cover all federally or regionally mandated stormwater permitting requirements imposed since 1990 under the National Pollutant Discharge Elimination System permits. Storm drainage connection fees are charged for property development as shown in the City's 2022 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 2021-22, the City received developer fees of \$1,440, interest income of \$1,087 and had negative \$3,967 due to unrealized loss adjustment on investments. For the same period, the City did not expend any funds on projects eligible for funding under this revenue source. Accordingly, net revenue for the year for the year totaled (\$1,440) and the ending balance as of June 30, 2022, is \$93,449. Of this amount, all funds are available for use to meet planned projects eligible for this funding source. The City plans to use the remaining funds to support storm drain improvements identified in the citywide stormwater master plan currently in development. 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 commenced before 1989. The purpose of the fee is to provide improved and expanded recreation facilities to serve new residential uses. The fee is assessed as an option for residential developments in-lieu of providing dedication of land for new facilities. Although the fee is not required reporting under AB 1600, staff is providing a brief update here consistent with past practice. The fee is charged on new residential subdivisions as authorized under Municipal Code section 15.16.020 in accordance with the Quimby Act and summarized in the City's 2022 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 2021-22, the City received total revenue of \$445,809 (\$519,400 in fees, \$39,653 in interest income and negative \$113,244 due to unrealized loss adjustment on investments. For the same period, the City expended a total of \$1,263,010 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year for the year totaled (\$817,201) and the ending balance as of June 30, 2022, is

\$2,823,576. 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 \$2,682,709 from recreation in-lieu 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 C.

Construction impact fees

The construction impact fee took effect in November 2005 and was adopted to recover the cost of repairing damage to streets caused by construction-related vehicle traffic. On August 5, 2008, the City 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 2022 master fee schedule:

- 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 2021-22, the City received total revenue of \$1,555,385 (\$1,435,257 in fees, \$253,522 in a One Bay Area grant for paving Santa Cruz and Middle Avenues, \$71,537 in interest income and negative \$204,932 in unrealized loss adjustment on investments.) For the same period, the City expended a total of \$664,082 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$891,302 and the ending balance as of June 30, 2022, is \$6,011,991. 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 \$9,237,020 from construction 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 D.

Below market rate housing fees

The BMR fee is not an impact fee; therefore, staff is not required to include the following summary per AB1600. Staff is including this section to comply with annual reporting requirements in section 14.5 of the BMR Guidelines. The 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 the California Department of Housing and Community Development for San Mateo County. The primary objective of the fee is to create actual housing units rather than generate a capital fund. Residential developers are subject to the following requirements, but may be permitted to pay an in-lieu fee for a fractional unit in certain situations:

- Residential developments of five or more units are strongly encouraged to provide a BMR unit.
- Residential developments of 10 to 19 units are required to provide 10 percent of the housing at BMRs.
- Residential developments of 20 units or more are required to provide 15 percent of the housing at BMRs.

For new commercial developments equal to or greater than 10,000 square feet that generate employment opportunities, the commercial linkage fee for fiscal year 2021-22 was established as follows:

- Group A: \$20.46 per square foot of net new gross floor area for most commercial uses
- Group B: \$11.10 per square foot of net new gross floor area for defined uses that generate fewer employees

For fiscal year 2021-22, the City received total revenue of \$1,662,735, primarily from BMR housing commercial linkage fees, interest income and proceeds from the sale of assets. For the same period, the City expended a total of \$520,104 on projects eligible for funding under this revenue source. Accordingly, net revenue for the year totaled \$1,142,637 and the ending balance as of June 30, 2022, is \$32,693,791. Of this amount, \$7,701,456 is available after existing loans, to meet current or planned projects eligible for this funding source.

In May 2021, the City Council authorized \$1.2 million (staff report 21-099-CC) from the BMR housing fund to support Habitat for Humanity Greater San Francisco's proposal to create a Homeownership Preservation Program. The program will assist low income homeowners in Menlo Park with major repairs and rehabs that address acute safety issues and enable homeowners to age in place and remain in the community they have been a part of for many years. Staff continues to work on the \$1.2 million funding agreement details and the program should begin in early 2023. In October 2021, the City Council held a study session (staff report 21-219-CC) to provide direction on the use of BMR funds for the creation of a Community Land Trust (CLT) as part of MidPen Housing's proposal to build 12 attached single family homes for low income homebuyers. City Council expressed support for the creation of CLT, and staff will return with potential recommendations in early 2023. The total funding request for this project is \$3.6 million. It is estimated at this time that the abovementioned activities will utilize the majority of available fund balance and additional projects will be identified in coming years. As such, there exists a continued need for the City to collect this fee to support the preservation and production of affordable housing. 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 2021-22 represented \$4,631,816. As described above, the BMR housing fee is not an impact fee, and therefore, is not included in this total.

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 December 23, 2022, at least 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. Construction impact fee financial report
- E. BMR housing fee financial report

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City of Menlo Park
Transportation Impact Fee Financial Report (Fund 351)

Transportation Impact Fees	2017-18	2018-19	2019-20	2020-21	2021-22
Beginning balance	\$ 3,671,623	\$ 4,827,758	\$ 7,339,432	\$ 7,202,952	\$ 6,854,689
Developer Fees	1,525,690	2,410,325	255,091	106,028	2,675,719
Returned to Developer	0	0	0	(177,480)	0
Interest income and other	36,360	404,242	197,163	115,156	180,992
Unrealized gain/(loss on investment)					(371,972)
Expenditures	(405,915)	(302,893)	(588,734)	(391,967)	(511,353)
Non-traffic impact fee transfer	0	0	0	0	0
Ending Balance	\$4,827,758	\$7,339,432	\$7,202,952	\$6,854,689	\$8,828,074

2021-22 Transportation Impact Fee Project Expenditures	Total TIF Expended	Fee % Share	Construction start date ¹
Haven Avenue Streetscape	\$ 48,526	100%	2023
Middle Avenue Caltrain Crossing Study	\$ 173,751	100%	2025
Traffic Signal Modifications*	\$ 200,590	100%	April 2021
Pierce Road Sidewalk & San Mateo Bike Route Installation	\$ 9,190	100%	August 2020
Other	\$ 79,296	100%	n/a
Total	\$511,353		

*Expense related to Ravenswood and Laurel Street Signal and Video detection system instal at Willow Road and Gilbert Avenue

¹ Construction start dates are shown as month and year of construction contract authorization for projects that have commenced construction. For future projects, the year construction is expected to commence is noted.

² There were no interfund loans nor interfund transfers from impact fee to other funds this year.

Transportation Impact Fee Future Projects	TIF funding 2022-23	Other Funding	TIF Funding 2023-27	Total TIF future needs
Middle Avenue Caltrain Crossing Study Design and Construction	\$ 5,933,997	\$ -	\$ 8,900,000	\$ 14,833,997
Traffic Signal Modifications	\$ 1,211,544	\$ -	\$ 1,400,000	\$ 2,611,544
Transportation project (minor)	\$ 543,784	\$ 496,839	\$ 700,000	\$ 1,243,784
Haven Avenue Streetscape Improvement	\$ 1,021,495	\$ 1,400,000	\$ -	\$ 1,021,495
Willow Oaks Bike Connector	\$ 500,000	\$ -	\$ -	\$ 500,000
ECR Crossings Improvements	\$ 307,087	\$ -	\$ -	\$ 307,087
Willow Rd & Newbridge St Bicycle and Pedestrian Improvement	\$ 400,000	\$ -	\$ 5,600,000	\$ 6,000,000
Pierce Road Sidewalk and San Mateo Bike Route Installation	\$ 629,737	\$ -	\$ -	\$ 629,737
Transit Improvements	\$ 186,923	\$ -	\$ -	\$ 186,923
Middle Avenue Complete Streets Study	\$ 200,000	\$ -	\$ -	\$ 200,000
Total				\$27,534,567

Collected Developer Fees	2021-22
300 Constitution Drive	\$2,402,431
1300 El Camino Real	\$219,082
661 Partridge Avenue	\$33,033
1010 Mallet Court	\$16,517
1105 Hollyburne Avenue	\$3,394
1540 El Camino Real	\$1,261
Total	\$2,675,719

**City of Menlo Park
Storm Drainage Impact Fee Financial Report (Fund 354)**

Storm Drainage Impact Fees	2017-18	2018-19	2019-20	2020-21	2021-22
Beginning balance	\$176,446	\$168,480	\$174,688	\$160,066	\$94,889
Developer fees	7,270	2,250	6,150	900	1,440
Interest income	2,166	3,958	4,206	2,286	1,087
Unrealized gain/(loss on investment)					(3,967)
Expenditures	(17,402)	0	(24,978)	(68,363)	0
Ending Balance	\$168,480	\$174,688	\$160,066	\$94,889	\$93,449

Storm Drainage Impact Fee Fund Expenditures	Total SDIF Expended	Fee % Share	Construction start date ¹
All projects	\$ -	0%	n/a
Total	\$ -		

¹ Construction start dates are shown as month and year of construction contract authorization for projects that have commenced construction.

² There were no interfund loans nor interfund transfers from impact fee to other funds this year.

Storm Drainage Impact Fee Future Projects	Total Budget 2022-23	SDIF Funding	Other funding Sources 2022-23	2023-2027	Total
Storm System Funding Study	\$ 110,000	\$ -	\$ 110,000	\$ -	\$ -
Total	\$ 110,000				\$ -

Collected Developer Fees	2021-22
1021 Evelyn St	\$450
661 Partridge Ave	\$300
1105 Hollyburne Ave	\$240
2300 Tioga Dr	\$450
Total	\$1,440

**City of Menlo Park
Recreation In-Lieu Impact Fee Financial Report (Fund 256)**

Recreation In-Lieu Impact Fees	2017-18	2018-19	2019-20	2020-21	2021-22
Beginning balance	\$1,167,732	\$3,745,549	\$3,553,462	\$2,964,040	\$3,640,777
Developer Fees	2,619,200	205,800	313,600	705,600	519,400
Interest income	36,958	81,234	97,406	47,547	39,653
Unrealized gain/(loss on investment)					(113,244)
Expenditures	(78,341)	(479,121)	(1,000,428)	(76,410)	(1,263,010)
Ending balance	\$3,745,549	\$3,553,462	\$2,964,040	\$3,640,777	\$2,823,576

Recreation In-Lieu Fee Expenditures	Total RIL Expended	Fee % Share	Construction start date ¹
Menlo Park Community Campus	\$ 1,165,341	100%	2021
Park Playground Equipment	\$ 68,945	100%	2023
Willow Oaks Park Improvement	\$ 18,653	100%	2023
Other	\$ 10,070	100%	
Total	\$ 1,263,010	100%	

¹ Construction start dates are shown as month and year of construction contract authorization for projects that have commenced construction. For future projects, the year construction is expected to commence is noted.

² There were no interfund loans nor interfund transfers from impact fee to other funds this year.

Recreation In-Lieu Fee Future Projects	Total budget 2022-23	RIL funding 2022-23	Other funding Sources 2022-23	RIL funding 2023-27	Total RIL future needs
Menlo Park Community Campus	\$ 13,516,943	\$ 404,659	\$ 13,112,284	\$ -	\$ 404,659
Park Playground Equipment	\$ 1,379,130	\$ 1,379,130	\$ -	\$ -	\$ 1,379,130
Parks and Recreation Master Plan Implementation	\$ 1,500,000	\$ -	\$ 1,500,000	\$ -	\$ -
Willow Oaks Park Improvements	\$ 3,998,920	\$ 898,920	\$ 3,100,000	\$ -	\$ 898,920
	\$ 20,394,993	\$ 2,682,709	\$17,712,284	\$ -	\$ 2,682,709

Collected Developer Fees	2021-22
617 Partridge Ave	\$ 78,400
1021 Evelyn St	\$ 235,200
1340 Hoover St	\$ 78,400
2300 Tioga Dr	\$ 127,400
Total	\$ 519,400

City of Menlo Park
Construction Impact Fee Financial Report (Fund 362)

Construction Impact Fee Fund	2017-18	2018-19	2019-20	2020-21	2021-22
Beginning balance	\$6,915,392	\$5,344,627	\$7,814,172	\$9,483,695	\$5,120,689
Developer Fees	2,976,022	3,655,133	2,809,763	830,634	1,435,257
Grants - Federal					253,522
Interest income and other	51,713	179,535	236,374	80,150	71,537
Unrealized gain/(loss on investment)					(204,932)
Expenditures	(4,598,500)	(1,365,123)	(1,376,614)	(5,273,790)	(664,082)
Ending balance	\$5,344,627	\$7,814,172	\$9,483,695	\$5,120,689	\$6,011,991

Construction Impact Fee Fund Expenditures	Total CIF Expended	Fee % Share	Construction start date ¹
Street Resurfacing Project	\$ 40,705	100%	July 2020
Chilco Streetscape & Sidewalk Installation ²	\$ 50	100%	May 2019
Santa Cruz & Middle Resurfacing	\$ 38,195	100%	April 2020
Willow Road Resurfacing	\$ 531,385	100%	September 2021
Operating Expenditures:		100%	
Street Maintenance	\$ 53,747	100%	July 2021
Total Expenditures:	\$ 664,082	100%	

¹ Construction start dates are shown as month and year of construction contract authorization for projects that have commenced construction. For future projects, the year construction is expected to commence is noted.

² The scope of this project includes Phases 5 and 6 according to the Facebook Campus Expansion project development agreement. The expenditures shown include funds expended by the City, but do not include costs for work completed by the applicant beyond the City's contributions.

³ There were no interfund loans nor interfund transfers from impact fee to other funds this year.

Construction Impact Fee Future Projects	Total budget 2022-23	CIF Funding 2022-23	Other Funding sources 2022-23	CIF Funding 2023-27	Total CIF future needs
Street Resurfacing	\$ 7,135,926	\$ 2,740,430	\$ 4,395,496	\$ 1,400,000	\$ 4,140,430
Chilco Streetscape and Sidewalk Installation	\$ 926,355	\$ 896,590	\$ 29,765	\$ -	\$ 896,590
Middlefield Road (Woodland to Ravenswood) Street Reconstruction	\$ 150,000	\$ 150,000	\$ -	\$ 4,050,000	\$ 4,200,000
			Total		\$ 9,237,020

Collected Developer Fees	2021-22
1345 Willow Rd	\$ 179,395
141 Jefferson Dr	\$ 150,427
110 Constitution Dr	\$ 129,496
1 Hacker Way	\$ 104,400
173 Jefferson Dr	\$ 69,780
1300 El Camino Real	\$ 59,589
300 Constitution Dr	\$ 45,994
661 Partridge Ave	\$ 32,706
1302 El Camino Real	\$ 22,951
275 Middlefield Rd	\$ 21,025
3000 Sand Hill Rd	\$ 20,358

City of Menlo Park
Below Market Rate Housing Financial Report (Fund 222)

Below Market Rate Housing Special Fund	2017-18	2018-19	2019-20	2020-21	2021-22
Beginning balance	\$15,903,862	\$21,920,888	\$22,476,969	\$31,313,226	\$31,551,159
Fiscal Year Activity					
Charges for Services*	6,109,892	354,517	5,437,462	808,964	1,435,346
Use of Money and Property	125,117	517,831	646,128	272,111	(162,541)
Expenditures	(217,983)	(316,267)	(515,156)	(924,674)	(520,104)
Proceeds from the Sale of Assets	-	-	-	-	446,561
Prior period adjustment	-	-	3,267,823.00	-	-
Adjustment for accounts payable	-	-	-	81,532	(56,630)
Ending balance	\$21,920,888	\$22,476,969	\$31,313,226	\$31,551,159	\$32,693,791
Adjustment for notes and interest receivable	(\$8,861,591)	(\$8,980,996)	(\$9,052,369)	(\$24,608,269)	(\$24,992,335)
Adjusted available balance	\$13,059,297	\$13,495,973	\$22,260,857	\$6,942,890	\$7,701,456

* Includes fees collected from developers

Below Market Rate Housing Special Fund Expenditures	2021-22
1155 Merrill purchase	\$ 312,377
BMR Housing program administration	\$ 207,727
Total	\$ 520,104

Below Market Rate Housing Special Fund Future Projects	2022-27	Total
Homeownership Preservation Program (Approved)	\$ 1,200,000	\$ 1,200,000
335 Pierce Road (Pending)	\$ 3,600,000	\$ 3,600,000
Non-earmarked funds (expenditures, NOFAs, etc.)	\$ 2,901,456	\$ 2,901,456
		\$ 7,701,456

Collected Developer Fees ¹	2021-22
300 Constitution Dr	\$ 881,484
1300 El Camino Real	\$ 63,120
1540 El Camino Real	\$ 1,333
Total	\$ 945,938

¹ Included within "Charges for Services" line item