



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: SABRINA LANDRETH
CITY ADMINISTRATOR

SUBJECT: IMPACT FEE COLLECTIONS
AND ASSESSMENT

DATE: November 22, 2019

City Administrator
Approval

/s/

Date 11/22/19

PURPOSE

In an effort to continue to be transparent and address the questions that have arisen about the City of Oakland's collection of impact fees, this Informational Memorandum discusses the status and amount of impact fee collections as of September 30, 2019, a review of the top 30 residential projects that filed for permits after September 2016, current efforts underway to address issues identified, and efforts to complete an outside audit to assess the Affordable Housing (AH), Jobs/Housing (J/H), and Transportation and Capital Improvements Impact Fee Programs from July 2016 to June 2019.

BACKGROUND

One of the City's top priorities is to build affordable housing. We recognize the unprecedented impact that the regional and statewide housing affordability crisis is having on our community, and all of the impact fees collected will be spent to build affordable housing in Oakland. The City staff has, in fact, properly collected and accounted for impact fees, and as a best practice, we have initiated the services of an outside auditor to ensure that all fees are collected and can be spent to help address the inadequate supply of affordable housing.

Q: Are impact fees being properly collected and accounted for?

A: Yes. And additional measures have been put in place to ensure that impact fees are captured and coded accurately and consistently in the two systems involved in that process: the Accela permit tracking system, and the City's Oracle financial platform, and that the two systems "talk" to each other.

The City uses our land use and permit management software Accela to track all fees related to planning and building permits. Unfortunately when the impact fee program was implemented in 2016 the Accela and Oracle systems had not been set up to assess and record fees for consistent tracking and reconciliation. This issue has since been corrected.

At Council President Kaplan's and Council Member Bas's request we have produced the attached report on the status of affordable housing impact fee collections on the top 30

residential projects that filed for permits after September 2016. The report demonstrates that **the City has collected all fees that were due**, and for those projects that did not pay the affordable housing impact fee, an explanation is provided.

Q: How much has been collected in impact fees to date?

A: The table below shows how much has been collected in each of the three categories of impact fees to date. The Planning and Building Department has the responsibility of calculating and collecting Impact Fees from project Applicants. Per O.M.C. 15.72.070, payment of the Affordable Housing Impact Fees (AHIF) applicable to Additional Housing Units are due in two installments. The First Installment is due prior to the issuance of a building permit for the Additional Housing Units, and is in the amount of fifty percent (50%) of the AHIF. The Second Installment is due prior to the issuance of a temporary certificate of occupancy or certificate of occupancy, or when the building permit is finalized, whichever occurs first, for the Additional Housing Units associated with the building permit, and shall be in the amount of the remaining fifty percent (50%) of the AHIF. More detailed information can be found in the administrative guidelines or on our website <https://www.oaklandca.gov/topics/impact-fees>.

IMPACT FEE COLLECTIONS

IMPACT FEE NAME	1 JUL 2016 – 30 JUN 18	1 JUL 2018 – 30 JUN 2019	1 JUL 2019 – 30 SEP 2019 (Q1)	CUMULATIVE TOTAL
AFFORDABLE HOUSING IMPACT FEE	4,894,717*	3,289,687**	567,750**	8,752,154
JOBS/HOUSING IMPACT FEES	2,463,804*	627,936***	3,507,786***	6,599,526
CAPITAL IMPACT FEES	1,689,582	618,136	613,757	2,921,475
TRANSPORTATION IMPACT FEES	2,949,398	3,270,512	257,468	6,477,378
CUMULATIVE TOTAL	11,997,501	7,806,271	4,946,761	24,750,533

Note: All the collections will be assessed as part of the Impact Assessment Project, therefore they are subject to change.

* Fully appropriated through Resolution No. 87469 C.M.S. approved by City Council in December 2018.

** Appropriation of \$5 million in FY 2019-20 Adopted Budget exceeds collections of AHIF revenue from July 1, 2018 through September 30, 2019. If AHIF revenue comes in higher than \$5 million budgeted, department can add appropriation at any time without City Council approval per Resolution No. 87469 C.M.S.

***Department can appropriate Jobs/Housing Impact Fees at any time without City Council approval per Resolution No. 87469 C.M.S.

The total amount available for Affordable Housing as of September 30th is \$15,351,680.

Q: Have the fees collected to date been made available to fund affordable housing projects?

A: Yes, all available funds through December 31, 2019 from both Affordable Housing and Jobs/Housing Impact Fees will be deployed through the New Construction Notice of

Funding Availability (NOFA) released in August 2019. Applications were received in September and recommendations for awarding of funds will be brought to the City Council in January 2020.

Q: What procedure and process changes have been implemented to date to ensure accurate and consistent collection and tracking of impact fees?

A: To date, staff has implemented the following measures:

1. Trained all Planning Staff to ensure that Impact Fee-Related Information are entered at time of Permit Application;
2. Implemented new basic application and tables in Accela to track affordable units;
3. Established new Joint Workflow for Coordinated Process across the Planning Bureau, Housing Bureau, Building Bureau, and Accela Unit for Density Bonus + Affordable Units In Lieu of Impact Fees;
4. Adopted a New Condition of Approval template for the Planning Bureau to ensure that applicants work with HCD to negotiate and record the required regulatory agreement with the City in a timely manner;
5. Adopted a new application for Regulatory Agreement Density Bonus Procedures and Regulatory Agreement Template;
6. Changed process where Impact Fees are invoiced at the time of Building Permit Application and are only removed if a copy of a regulatory agreement, vested map, or development agreement is uploaded to Accela permit record.
7. Implemented written procedures on entering new unit counts into Accela whenever previous unit count was not available to address any project scope alterations, additional permits, previous error corrections.

Q: What additional procedure and process changes are underway?

A: Several additional procedures and process changes are still underway, including:

1. Working with an Accela consultant who has developed the script to automate impact fee invoicing; the script is currently undergoing testing. Projected live date is December 20, 2019.
2. The consultant is reviewing the set of requirements to address the Accela and Oracle translator issue. Projected live date is February 1, 2020.

Q: How will City staff continue to report out on the status of impact fee collection so that the City Council and public remain informed?

A: There are several reporting mechanisms in place and under development, including:

- In September 2018, PBD and HCD developed the Joint Housing Pipeline report to ensure both departments were accurately tracking all affordable units for new construction, rehabilitation, acquisition-rehab, conversion, transitional housing, density bonus or units in lieu of Affordable Housing Impact Fees.

- The administration is currently working on a webpage to showcase this information and provide all sources to the public. Our goal is to have the webpage live by January 1, 2020.

Q: Why did the City hire an independent auditor to assess impact fees?

A: On January 29, 2019, the PBD and HCD presented the Annual Impact Fee Report for fiscal year ending June 30, 2018 to the City Council's Community and Economic Development (CED) Committee. The CED requested PBD and HCD prepare a summary report and detailed listing of all residential and mixed-use projects that had been issued building permits during the reporting period and include the following information:

- Location of project- Address and Parcel Number
- Impact Fee Zone
- Date Permit Issued
- Current Project Status
- Number of housing units
- Amount of impact fee assessed for each project
- Amount of impact fee collected for each project
- Exemptions and fee reductions and the reason for them
- Affordable units provided in lieu of paying the fee, including the number and affordability level (very low, low or moderate income) of those units.

HCD and PBD committed to coming back to CED with the report after assessing the staff resources that would be required to complete this detailed report. PBD determined that over 10,000 building permits have been filed since September of 2016.

Based on the issues identified by the departmental review and the City Council's request for a detailed report on every permit filed since September of 2016, the Administration determined it would need to engage an independent auditor to assess all the impact fees adopted from September 2016 through present.

Q: What was the process and timeline to retain an independent auditor to assess impact fees?

A: As previously reported, on April 19, the City issued an RFP for Impact Fee Audit Services. Despite attendance by four different firms at the pre-proposal conference, the City only received one proposal by the deadline of Friday, May 17, 2019. The firm that responded was Macias, Gini, and O'Connell, LLP (MGO).

After reviewing the proposal submission and schedule, the City requested a revised scope of work, schedule, and fee proposal. MGO provided the revision; however, they determined that given the revised scope and expertise they would need to reduce the SLBE participation to 25%. The City and the vendor were at an impasse and since the City Council was scheduled to go on recess and we would not be able to request a waiver, the City reissued the RFP. On July 19th, the City updated the RFP to reduce the SLBE

participation requirements from 50% to 25%, clarified the scope of work, and increased the assessment period from March 2019 to June 2019.

On August 9th, the City received only one proposal from MGO. On September 26th, the City executed the professional services agreement with MGO to perform the Impact Fee Assessment.

A vendor kick-off meeting with MGO took place on October 17, 2019. Staff expects to receive an updated, detailed schedule and workplan by end of November/beginning of December. A draft report of the Impact Fee Assessment is slated for publication and distribution in April of 2020.

Q: What are the next steps?

A: The City has transmitted all the required reports and source data to MGO. After reviewing the documentation, MGO will provide an updated schedule and workplan. The City's goal is for MGO to produce the annual impact fee report for fiscal year ending June 30, 2019 as prescribed by California Code, Government Code - GOV § 66006, by the required deadline of December 26, 2019. An updated report will be provided after the City has finalized the revised work plan and schedule

For questions please contact Katie Dignan, Assistant Director Planning and Building, (510) 238-3663, kdignan@oaklandca.gov