



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** William A. Gilchrist  
Director, PBD

**SUBJECT:** Impact Fees Annual Report

**DATE:** January 11, 2020

City Administrator Approval 

Date: February 10, 2021

## **RECOMMENDATION**

**Staff Recommends That The City Council Receive The Annual Report On The Affordable Housing, Transportation, Capital Improvements, and Jobs/Housing Impact Fees.**

## **EXECUTIVE SUMMARY**

Oakland is facing a housing affordability crisis and is challenged with constraints in meeting that need. Multiple City policies and initiatives, such as the General Plan, Housing Equity Roadmap, and the Mayor's Housing Cabinet "Oakland At Home" report called for adopting development impact fees (DIFs) so that new development in the city pays its fair share towards funding affordable housing, transportation improvements, and capital facilities.

On May 3, 2016, the City Council adopted the Affordable Housing Impact Fees, Oakland Municipal Code (OMC) Chapter 15.72 (Ordinance No. 13365 C.M.S.), and the Transportation and Capital Improvements Impact Fees, OMC Chapter 15.74 (Ordinance No. 13366 C.M.S.). These Impact Fees went into effect for development projects submitting a building permit application on or after September 1, 2016. Previously, on July 30, 2002, the City Council adopted the Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.) and these Impact Fees went into effect for development projects submitting a building permit on or after July 1, 2005.

This document constitutes the annual report for the fiscal year (FY) of July 1, 2019 to June 30, 2020 (FY 2019-20) of the Affordable Housing, Transportation, and Capital Improvements Impact Fees as well as the previously adopted Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.), as required per the Mitigation Fee Act, California Government Code Section 66000.

When reviewing the Impact Fees Annual Report, it is important to note that:

1. The Impact Fee program is designed to generate revenue over time to mitigate impacts from new development.
2. Impact Fees are not paid in full at the time of building permit application. Rather, they are paid later in the building permit process as follows:

CED Committee  
February 23, 2021

- a. At building permit issuance, 100 percent of Transportation and Capital Improvements Impact Fees, 50 percent of Affordable Housing Impact Fees, and 25 percent of Jobs/Housing Impact Fees are paid. Building permit issuance may occur up to one year after submission of a building permit application. Therefore, a large portion of these Impact Fees were not included in the first fiscal year, but have now been paid and are included in the second fiscal year.
  - b. At project completion, the remaining 50 percent of Affordable Housing Impact Fees and 50 percent of Jobs/Housing Impact Fees are paid, which for larger projects typically occurs 1 to 3 years after the building permit issuance (and 2 to 4 years after the building permit application). About 15 percent of all Impact Fees were assessed in the first fiscal year and paid in the second fiscal year, the rest of the assessed Impact Fees from the first fiscal year are anticipated to be paid in the third or fourth fiscal year depending on when the buildings are completed.
  - c. For the Jobs/Housing Impact Fee, the remaining 25 percent of the Impact Fees are paid at 18 months after project completion; a very small amount was collected in this fiscal year from that phase of projects.
3. The Impact Fees were phased over time to allow developers time to incorporate the cost of the Impact Fees into their projects as well as to incentivize development projects to build immediately and contribute to the immediate need for housing. Phasing in new Impact Fees was also consistent with expected continued real growth of rents and improved feasibility of housing development. The Impact Fees increased during the second fiscal year, but most of the Impact Fees assessed during the second fiscal year will not be paid until the third fiscal year.
  4. In June of 2019, a change in the procedure that assessed amounts are reported was instituted, which retroactively adjusted the assessed amounts for all projects going back to the beginning of the project. In the past, a placeholder of \$.50 or \$1.00 was put into the system if the status of the project's regulatory agreements were unknown at that time. The new process records the assessed fee for all projects, including for projects whose regulatory agreement status is not yet known.

**Table 1**, below, shows the amounts of Impact Fees that were assessed on building permit applications as well as the amount that was paid and due during the July 1, 2019 to June 30, 2020 fiscal year:

**Table 1: Impact Fees Assessed July 1, 2019 – June 30, 2020**

<b>Impact Fee Type</b>	<b>Total Assessed</b>	<b>Total Collected</b>
Affordable Housing Impact Fees	\$6,630,877	\$5,616,699
Jobs/Housing Impact Fee	\$8,746,381	\$4,190,080
Transportation Impact Fees	\$2,383,796	\$1,081,671
Capital Improvements Impact Fees	\$2,072,728	\$1,210,684

Both the Affordable Housing Impact Fees and the Jobs/Housing Impact Fee go into the Affordable Housing Trust Fund, for a total assessed amount of \$15,377,258 and paid amount of \$9,806,779. Other sources of revenue for the Affordable Housing Trust Fund include the Redevelopment Dissolution Funds (aka "boomerang funds"), and fines and penalties under the Foreclosed and Defaulted Residential Property Registration Program.

## **BACKGROUND / LEGISLATIVE HISTORY**

### ***Summary of the Affordable Housing, Transportation, and Capital Improvements Impact Fees***

The Affordable Housing, Transportation, and Capital Improvements Impact Fees were adopted for Oakland to defray the costs associated with addressing its housing affordability crisis and its need to enhance the City's infrastructure. As Oakland experiences economic growth, it is specifically important that the City plan for and provide funds for affordable housing, transportation improvements, and capital facilities to meet the current and evolving needs of residents. Multiple City policies and initiatives, such as the General Plan, Housing Equity Roadmap, and the Mayor's Housing Cabinet "Oakland At Home" report called for adopting DIFs so that new development in the city pays its fair share towards funding affordable housing, transportation improvements, and capital facilities. While impact fees alone will not solve Oakland's pressing affordable housing and infrastructure improvement needs, they are an important step towards addressing these problems.

### ***Development Projects Subject to Affordable Housing, Transportation, and Capital Improvements Impact Fees and Exemptions***

Development Projects that are Subject to Impact Fees:

1. Affordable Housing Impact Fees
  - New housing units (including live/work and work/live units)
2. Transportation and Capital Improvements Impact Fees
  - New housing units (including live/work and work/live units)
  - New nonresidential projects
  - Nonresidential projects with additional floor area
  - Nonresidential projects with a "Change and Intensification of Use"

The following projects are exempt from paying the Impact Fees:

1. Secondary units.
2. Affordable housing projects (exempt from the Affordable Housing Impact Fee and the Capital Improvements Impact Fee, but subject to the Transportation Impact Fee).
3. Nonresidential projects converting less than 5,000 square feet of floor area to another use.
4. Nonresidential projects involving less than 5,000 square feet of building floor area occupied by institutional uses.

### ***Impact Fee Zones for Residential Development Projects***

Three (3) different Impact Fee zones for residential projects correspond to three (3) geographic zones of the city that have different market characteristics (i.e., support different prices and rents) and different levels of economic feasibility, and thus different abilities to pay impact fees. A general description of the zones is listed below (see pages 19-22 of **Attachment A** for maps of the Impact Fee Zones):

1. Impact Fee Zone 1: Downtown, the east side of Lake Merritt, much of North Oakland, and the Hills above Interstate-580

2. Impact Fee Zone 2: West Oakland, a small part of North Oakland, the area east of Lake Merritt to 23<sup>rd</sup> Avenue
3. Impact Fee Zone 3: areas east of 23<sup>rd</sup> Avenue and below Interstate-580

### ***Payment of Affordable Housing, Transportation, and Capital Improvements Impact Fees***

The Impact Fees are paid during the building permit process:

1. All Transportation and Capital Improvements Impact Fees are due prior to the issuance of a building permit.
2. The Affordable Housing Impact Fee is due in two installments:
  - a. The first installment of 50 percent of the Impact Fee is due prior to the issuance of a building permit; and
  - b. The second installment for the remaining 50 percent is due prior to the issuance of a temporary or permanent certificate of occupancy, whichever comes first.

Allowing for Impact Fee payment in a phased approach improves economic feasibility by reducing the carrying cost period.

### ***Impact Fee Amount and Phasing***

The amount charged for the Impact Fees is intended to balance the need to generate more affordable housing, without impeding construction of new housing for all income levels. The generation of additional housing units addresses the scarcity of available units in the current market, scarcity which ultimately contributes to displacement.

The implementation of Impact Fees was intended to “follow” the market, phasing in new fees consistent with continued real growth of rents and improved feasibility of housing development. By doing so, it intended to encourage near-term development that provides successes on the ground for lenders and investors, and increases the ability to absorb higher fees in the future.

The Transportation Impact Fee sufficiently covers the California Environmental Quality Act (CEQA) transportation cumulative impact mitigations that are within the Environmental Impact Report for all the Specific Plans, Redevelopment Plans, General Plan, and other major projects. Therefore, paying the Transportation Impact Fee satisfies a development’s obligation to contribute its fair share towards mitigating the cumulative impact without having to fully fund the mitigation project.

For nonresidential projects, the City adopted a Jobs/Housing Impact Fee that went into effect on July 1, 2005 on office and warehouse activities to provide funding for affordable housing. Therefore, the newer Impact Fees for nonresidential projects were adopted for capital improvements and transportation only, not for affordable housing. For all nonresidential uses, the Transportation Impact Fees include the minimum amount to cover CEQA transportation cumulative impact mitigations starting in 2016, so developers pay their fair share of required transportation improvements. For Capital Improvements, the fees vary by land use depending on the economic feasibility for that land use at the time the Impact Fees were adopted. Economic development considerations and the phasing-in of higher fees were based on development becoming more feasible over time. The Impact Fee amounts adopted by the City Council are based on economic feasibility; however, the maximum justifiable fee is based on impact of each land use.

The fees for the Affordable Housing, Transportation, and Capital Improvements Impact Fees started on September 1, 2016 (see **Tables 2 – 4a** below for Impact Fee amounts). The Impact Fees were phased in and increased on July 1, 2017; and increased again on July 1, 2018; the fee amounts for residential projects remain the same through June 30, 2020, except for Zone 3, which was phased in over five (5) years, and will increase with inflation starting on July 1, 2021 and July 1<sup>st</sup> of each year thereafter. For nonresidential projects the Impact Fees increased on July 1, 2019, July 1, 2020, and will increase with inflation on July 1<sup>st</sup> of each year thereafter.

**Affordable Housing Impact Fees**

**Table 2: Affordable Housing Impact Fees – Residential**

<b>Affordable Housing Impact Fees - Residential (Fee Per Housing Unit)</b>					
<b>The Date is Based on When the Applicant Applies for Building Permit</b>					
Housing Use Type	Zone	9/1/16 - 6/30/17	7/1/17 - 6/30/18	7/1/18 - 6/30/19	7/1/19 - 6/30/20
Multi-family	Zone 1	\$5,500	\$11,500	\$22,000	\$22,000
	Zone 2	\$4,550	\$9,250	\$17,750	\$17,750
	Zone 3	\$0	\$0	\$3,000	\$3,000
Townhome	Zone 1	\$6,500	\$12,000	\$20,000	\$20,000
	Zone 2	\$2,600	\$7,200	\$14,250	\$14,250
	Zone 3	\$0	\$0	\$1,000	\$1,000
Single-family	Zone 1	\$6,000	\$12,500	\$23,000	\$23,000
	Zone 2	\$3,750	\$9,000	\$16,500	\$16,500
	Zone 3	\$0	\$0	\$1,000	\$1,000

**Capital Improvement Impact Fees**

**Table 3: Capital Improvements Impact Fees – Residential**

<b>Capital Improvement Impact Fees - Residential (Fee Per Housing Unit)</b>					
<b>The Date is Based on When the Applicant Applies for Building Permit</b>					
Housing Use Type	Zone	9/1/16 - 6/30/17	7/1/17 - 6/30/18	7/1/18 - 6/30/19	7/1/19 - 6/30/20
Multi-family	Zone 1	\$750	\$750	\$1,250	\$1,250
	Zone 2	\$250	\$500	\$750	\$750
	Zone 3	\$0	\$0	\$0	\$0
Townhome	Zone 1	\$1,000	\$1,000	\$3,000	\$3,000
	Zone 2	\$1,000	\$1,000	\$2,000	\$2,000
	Zone 3	\$0	\$0	\$1,000	\$1,000
Single-family	Zone 1	\$1,500	\$2,000	\$4,000	\$4,000
	Zone 2	\$1,000	\$1,500	\$3,000	\$3,000
	Zone 3	\$0	\$0	\$1,000	\$1,000

**Table 3a: Capital Improvements Impact Fees – Nonresidential**

<b>Capital Improvements Impact Fees - Nonresidential (Fee Per Square Foot)</b>				
<b>The Date is Based on When the Applicant Applies for Building Permit</b>				
Nonresidential Use Type	9/1/16 - 6/30/17	7/1/17 - 6/30/18	7/1/18 - 6/30/19	7/1/19 - 6/30/20
Office	\$0.00	\$0.00	\$1.00	\$1.00
Retail, Freestanding	\$0.00	\$0.15	\$0.25	\$0.25
Retail, Ground Floor	\$0.00	\$0.00	\$0.00	\$0.00
Industrial	\$0.40	\$0.40	\$0.75	\$0.75
Warehouse	\$0.65	\$0.90	\$1.00	\$1.00
Hotel/Motel	\$0.10	\$0.20	\$0.35	\$0.35
Institutional	\$2.50	\$2.50	\$2.50	\$2.50

**Transportation Impact Fees**

**Table 4: Transportation Impact Fees – Residential**

<b>Transportation Impact Fees - Residential (Fee Per Housing Unit)</b> <b>The Date is Based on When the Applicant Applies for Building Permit</b>					
Housing Use Type	Zone	9/1/16 - 6/30/17	7/1/17 - 6/30/18	7/1/18 - 6/30/19	7/1/19 - 6/30/20
Multi-family	Zone 1	\$750	\$750	\$750	\$750
	Zone 2	\$750	\$750	\$750	\$750
	Zone 3	\$710	\$710	\$750	\$750
Townhome	Zone 1	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 2	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 3	\$1,000	\$1,000	\$1,000	\$1,000
Single-family	Zone 1	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 2	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 3	\$1,000	\$1,000	\$1,000	\$1,000

**Table 4a: Transportation Impact Fees – Nonresidential**

<b>Transportation Impact Fees - Nonresidential (Fee Per Square Foot)</b> <b>The Date is Based on When the Applicant Applies for Building Permit</b>				
Nonresidential Use Type	9/1/16 - 6/30/17	7/1/17 - 6/30/18	7/1/18 - 6/30/19	7/1/19 - 6/30/20
Office	\$0.85	\$0.85	\$1.00	\$1.00
Retail, Freestanding	\$0.75	\$0.75	\$0.75	\$0.75
Retail, Ground Floor	\$0.75	\$0.75	\$0.75	\$0.75
Industrial	\$0.55	\$0.55	\$0.55	\$0.55
Warehouse	\$0.35	\$0.35	\$0.35	\$0.35
Hotel/Motel	\$0.65	\$0.65	\$0.65	\$0.65
Institutional	\$1.20	\$1.20	\$2.00	\$2.00

**On-Site and Off-Site Affordable Housing Options**

As an alternative to payment of the Affordable Housing Impact Fee, a developer has the option in some cases to mitigate their project’s impacts by building affordable units on-site or off-site.

There is a need to have not only stand-alone affordable housing to address needs across the entire city, but there is also a parallel opportunity to incentivize developments with a mixture of income levels. The Affordable Housing Impact Fee Ordinance recognized this need and incentivizes the creation of on-site affordable housing units in market rate developments. In addition to an exemption or reduction of a project’s Affordable Housing Impact Fees, an applicant may take advantage of the City’s Density Bonus and Incentive Procedure (Chapter 17.107 O.M.C) as well as the State Density Program in Government Code Sections 65915 – 65918. There are benefits in projects develop affordable units on-site, because such units can be delivered sooner along with the completion of the market-rate units being permitted at that time. Additionally, the units can be built in neighborhoods across a range of amenities and

public services. **Attachment B** lists all the projects that opted to build low-income housing in lieu of impact fees, the number of market rate and affordable units, and the level of affordability for low-income housing that was built since the affordable housing impact fee program went into effect.

When the Impact Fees were being developed for adoption, staff considered calibrating the on- and off-site affordable unit options so that they had the same cost impact on the project as the Impact Fee, while also allowing the provision of moderate-income and/or lower-income units in the project. The cost of on-site compliance was represented by the difference between the market-rate rent/sales price and the affordable rent/sales price for the affordable units required in a residential development. From the perspective of the market-rate project subject to the requirements, the “cost” is the reduction in revenues from renting or selling a unit at the affordable rent/price instead of the market-rate rent/price. It was assumed that the development costs for the affordable units would be essentially the same as the costs of developing the market-rate units in the project. The percentages of affordable units under this cost-neutral approach turned out to be low: two percent for very low-income, three percent for low-income, and five percent for moderate-income. Based on the analysis outcome under a cost-neutral approach, the percentages stated below were adopted instead.

An applicant will not be subject to the Affordable Housing Impact Fee if they provide an established level of affordable housing within the development project. The same affordable unit percentages were chosen as required under the existing State Density Bonuses and Other Incentives provisions in Government Code Sections 65915-65918 and the Density Bonus and Incentive Procedure in Chapter 17.107 of the Oakland Planning Code:

1. Very-Low Income: 5 percent
2. Low Income: 10 percent
3. Moderate Income: 10 percent

These percentages are higher than the percentages that were considered based upon a cost-neutral approach outlined above. The extra costs associated with providing a higher percentage of affordable units can be offset because the developer can take advantage of the State and local Density Bonus and Incentive Programs to bridge the gap between the cost of the Impact Fees and the cost of building affordable units on-site. The State and local Density Bonus and Incentives Programs award additional allowable density and certain development incentives to projects with affordable units. The more affordable units provided, the larger the density bonus and the more incentives that are available. Incentives include, but are not limited to: reduction in development standards, required off-street parking, required setbacks, maximum building height, required open space, maximum floor-area ratio, minimum lot area, and minimum courtyards. Other cities use similar measures for on-site development to take advantage of the Density Bonus Program.

The regulations require 10 percent affordable units for both low-income and moderate-income units, however, under the Density Bonus and Incentives Program there are higher density bonuses for providing low-income units as opposed to moderate-income units. So, although moderate-income units are less expensive for the developer to provide compared to low-income units, providing low-income units allows for larger density bonuses. Also, these percentages are the minimums for the Density Bonus and Incentive Program; projects may opt to provide higher percentages to take advantage of larger bonuses and more incentives.



### **Summary of Jobs/Housing Impact Fee**

On July 30, 2002, the City Council adopted the Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.). These Impact Fees went into effect for development projects submitting a building permit on or after July 1, 2005. The Jobs/Housing Impact Fees started at \$4.00 per square foot and have adjusted with inflation. For FY 2019-20 those fees were \$5.89 per square foot.

### **Development Projects Subject to Jobs/Housing Impact Fee and Exemptions**

Development Projects that are Subject to Jobs/Housing Impact Fee:

- New nonresidential Office or Warehouse projects that exceed 25,000 square feet.
- Nonresidential Office or Warehouse projects with additional floor area that exceeds 25,000 square feet.
- Nonresidential projects with a “Change and Intensification of Use” to an office or warehouse that exceeds 25,000 square feet.
- A building that is vacant for a year or more and exceeds 25,000 square feet that obtains a building permit for an office or warehouse activity.
- Development projects subject to the Jobs/Housing Impact Fee only pay for square footage of the building that exceeds 25,000 square feet.

**Table 5: Jobs/Housing Impact Fees – Nonresidential**

<b>Jobs/Housing Impact Fees - Nonresidential (Fee Per Square Foot on Projects &gt;25,000 sq. ft.) The Date is Based on When the Applicant Applies for Building Permit</b>		
<b>Nonresidential Use Type</b>	<b>Fiscal Years 7/1/16 – 6/30/19</b>	<b>Fiscal Year 7/1/19 – 6/30/20</b>
Office	\$5.44	\$5.89
Warehouse	\$5.44	\$5.89

### **Payment of Jobs/Housing Impact Fee**

Development projects subject to the Jobs/Housing Impact Fee only pay for square footage of the building that exceeds 25,000 square feet.

The Jobs/Housing Impact Fee is due in three installments:

- The first installment of 25 percent of the Impact Fee is due prior to the issuance of a building permit;
- The second installment of 50 percent is due prior to the issuance of a temporary or permanent certificate of occupancy, whichever comes first; and
- The third installment for the remaining 25 percent is due 18 months after the temporary certificate of occupancy.

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## **ANALYSIS AND POLICY ALTERNATIVES**

### ***Reporting Requirements for Development Impact Fees***

In California, State legislation sets legal and procedural parameters for the charging of DIFs. This legislation was passed as Assembly Bill (AB) 1600 by the California Legislature and is now codified as California Government Code Section 66000 through 66008 (Mitigation Fee Act). This State law went into effect on January 1, 1989. For the full Impact Fee Annual Report for Affordable Housing, Jobs/Housing, Transportation, and Capital Improvements Impact Fees, Fiscal Year Ended June 30, 2020 see **Attachment A**.

### ***Summary of Impact Fees Collected and Assessed***

As expected, and as shown in previous years, there is a difference between the Impact Fees assessed and collected for FY 2019-20. This discrepancy can largely be explained by the timing of payments, and the cancellation of some projects.

In 2019, the City entered into a contract with Macias, Gini, and O'Connell, LLP (MGO) to conduct a review of the City's Impact Fee program. As a result of that assessment, the City identified projects whose Impact Fee assessments were found to be incorrect, and updated other data that had been previously reported. **Table 6** contains a summary of the Impact Fees collected and assessed. **Table 6** below lists:

1. The amount of Impact Fees already collected/paid during each fiscal year since the program inception.
2. The assessed Impact Fees that are listed in this report will only be fully collected if all of the projects that have applied for building permits during the past three fiscal years are built to completion.
3. In previous years, the Impact Fee Annual Report included "Revenue Assessed, but Not Due Yet"; however, that column did not account for projects that had been cancelled and so it was removed.
4. Interest collected.

**Table 6: Summary of Impact Fees Collected and Assessed**

Impact Fee Fund	Impact Fee	Amount Collected/Paid <sub>acd</sub>	Assessed <sub>abe</sub>	Interest	
Affordable Housing Trust Fund	Affordable Housing Impact Fees (AHIF)	FY 2016-2017	\$467,983	\$4,780,280	\$3,874
		FY 2017-2018	\$3,594,508	\$14,235,884	\$49,438
		FY 2018-2019	\$3,475,063	\$10,144,113	\$80,244
		FY 2019-2020	\$5,616,699	\$6,630,877	\$35,307
		<b>Total FY 2016-2020</b>	<b>\$13,154,253</b>	<b>\$35,791,154</b>	<b>\$168,863</b>
	Jobs/Housing Impact Fee (JHIF)	FY 2015-2016	\$528,861	\$528,861	TBD
		FY 2016-2017	\$303,360	\$749,943	\$1,638
		FY 2017-2018	\$1,631,583	\$3,285,424	\$22,219
		FY 2018-2019	\$627,936	\$6,648,931	\$13,496
		FY 2019-2020	\$4,190,080	\$8,746,381	\$66,230
		<b>Total FY 2015-2020</b>	<b>\$7,281,820</b>	<b>\$19,959,540</b>	<b>\$103,583</b>
	AHIF & JHIF	FY 2015-2016	\$528,861	\$528,861	TBD
		FY 2016-2017	\$771,343	\$5,530,223	\$5,512
		FY 2017-2018	\$5,226,091	\$17,521,308	\$71,656
		FY 2018-2019	\$4,103,000	\$16,793,043	\$93,739
		FY 2019-2020	\$9,806,779	\$15,377,258	\$101,537
		<b>Total FY 2015-2020</b>	<b>\$20,436,074</b>	<b>\$55,750,694</b>	<b>\$272,444</b>
	Transportation Impact Fee Trust Fund	Transportation Impact Fee (TIF)	FY 2016-2017	\$481,265	\$1,539,594
FY 2017-2018			\$2,347,491	\$2,616,865	\$26,568
FY 2018-2019			\$1,641,184	\$1,934,844	\$36,813
FY 2019-2020			\$1,081,671	\$2,383,796	\$8,496
<b>Total FY 2016-2020</b>			<b>\$5,551,611</b>	<b>\$8,475,099</b>	<b>\$75,353</b>
Capital Improvements Impact Fee Trust Fund	Capital Improvements Impact Fee (CIIF)	FY 2016-2017	\$139,536	\$1,052,355	\$1,115
		FY 2017-2018	\$1,718,942	\$1,761,865	\$20,167
		FY 2018-2019	\$641,137	\$1,614,160	\$14,603
		FY 2019-2020	\$1,210,684	\$2,072,728	\$12,634
		<b>Total FY 2016-2020</b>	<b>\$3,710,299</b>	<b>\$6,501,108</b>	<b>\$48,519</b>

**Notes:**

- The numbers in these columns were updated as a result of the MGO assessment conducted for fiscal years 2016-2019. For more information, please visit: <https://www.oaklandca.gov/documents/city-of-oakland-annual-impact-fee-reports>.
- The Assessed value listed for a given fiscal year will decrease as the fees are collected or when projects are canceled in the given fiscal year and fiscal years thereafter.

- c. The "Amount Collected/Paid" represents the total amount collected less any refunds.
- d. Note that most of the Impact Fees collected in any fiscal year are from projects that had their Impact Fees assessed in the previous fiscal year.
- e. Please note that the total assessed for FY 2019-20 included the corrected mis-assessments that were identified by the MGO in their analysis.
- f. Numbers have been rounded to the nearest dollar. Some numbers may not add up due to rounding.

### ***Analysis of Fees Collected vs. Assessed***

The assessed Impact Fees that are listed in this report will only be fully collected if all of the projects that have applied for building permits during the past three fiscal years are built to completion. **Table 7** below summarizes projects with expired permits that have had fees assessed as of FY 2019-20. There is no way for staff to determine whether or when these projects will be completed. The variability in the construction market contributes to the variances summarized in **Table 6** between the amount of assessed Impact Fees versus the fees that have been collected in any given fiscal year.

**Table 7. Expired Permits with Assessed Fees as of FY 2019-20**

<b>Impact Fee Type</b>	<b>Total Fees for Expired Permits</b>
Affordable Housing Impact Fee	\$ 9,444,565
Jobs/Housing Impact Fee	\$ 3,109,368
Transportation Impact Fee	\$ 2,327,561
Capital Improvements Impact Fee	\$ 2,259,775
<b>Grand Total</b>	<b>\$ 17,141,269</b>

### ***Five Year Annual Impact Fee Report***

For all funds established for the collection and expenditure of impact fees, Government Code Section 66001 (d) has additional requirements. For the fifth fiscal year following the first deposit into the fund and every five (5) years thereafter, the local agency shall make all of the following findings with respect to that portion of the fund remaining unexpended, whether committed or uncommitted:

- Identify the purpose to which the fee is to be put;
- Demonstrate a reasonable relationship between the fee and purpose for which it is charged;
- Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements; and
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account or fund.

Per Government Code Section 66001 (a) (2), nexus studies may reference the general plan, specific plans, or a capital improvement plan to establish findings of a 'reasonable relationship'.

As noted above, state law requires any local agency that imposes DIFs to prepare a five-year report providing specific information about those fees. Therefore the City will prepare both an

annual and five-year report to include data collected from FY 2016-17 through FY 2020-21 in accordance with the provisions of the California Government Code Section 66000 et seq., as amended by the Assembly Bill (AB) 518 and Senate Bill (SB) 1693. The five-year report will be released later this year after the end of FY 2020-21.

### **FISCAL IMPACT**

This item is for informational purposes and does not have a direct fiscal impact or cost. The fiscal benefit of the revenues generated by the impact fees for FY 2019-20 is \$5,616,699 for the Affordable Housing Impact Fee, \$4,190,080 for the Jobs/Housing Impact Fee, \$1,081,671 for the Transportation Impact Fee, and \$1,210,684 for the Capital Improvements Impact Fee. The Affordable Housing and Jobs/Housing Impact Fees are deposited into the Affordable Housing Trust Fund, Fund 1870.

The Mitigation Fee Act requires annual monitoring and reporting, and a five-year update of the Impact Fees, two percent of the Impact Fees paid are being held to pay for these requirements. The two percent service charge associated with this program has not been paid/transferred out since the beginning of the program.

### **PUBLIC OUTREACH / INTEREST**

The Impact Fee Annual Report for: Affordable Housing, Jobs/Housing, Transportation, and Capital Improvements Impact Fees, Fiscal Year Ended June 30, 2020 was posted to the City of Oakland website and may be accessed here: <https://www.oaklandca.gov/documents/city-of-oakland-annual-impact-fee-reports>.

### **COORDINATION**

Project management, policy guidance, and implementation was coordinated with the City Administrator's Office, Office of the City Attorney, and the Planning and Building Department as well as the Public Works Department, Housing and Community Development Department, and Department of Transportation along with other departments, as appropriate, based on the topic(s) addressed.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The Impact Fees require private development to fund its fair share of affordable housing, transportation and capital improvements infrastructure in a manner that does not hamper new development. The application of the development impact fee process helps provide certainty about development costs.

***Environmental:*** Impact Fees pay for the impacts that a project creates and serves to mitigate the cumulative transportation impacts on the environment.

**Race & Equity:** Impact Fees on new development provides funding for affordable housing units and transportation and capital improvements infrastructure. These funds will be used to mitigate impacts of new development citywide such as the displacement of long-term residents, in particular African American residents, that are the overwhelming majority of the unhoused/unsheltered in Oakland. In addition, these funds will be used in support on capital and infrastructure improvements that have been evaluated for their capacity to address historic under investment in Oakland neighborhoods where the majority of residents are Black Indigenous and People of Color (BIPOC).

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Receive The Annual Report On The Affordable Housing, Capital Improvements, Transportation, and Jobs/Housing Impact Fees.

For questions regarding this report, please contact Albert Merid, Acting Agency Administrative Services Manager II, at (510) 238-3588.

Respectfully submitted,



WILLIAM A. GILCHRIST  
Director, Planning and Building Department

Prepared by:  
Angela Robinson Piñon, Assistant Director  
Bureau of Operations & Administration

Albert Merid, Acting Administrative Services  
Manager II  
Bureau of Operations & Administration  
Planning and Building Department

Attachments (2):

- A. Impact Fee Annual Report for: Affordable Housing, Jobs/Housing, Transportation, and Capital Improvements Impact Fees, Fiscal Year Ended June 30, 2020
- B. Projects That Built Low-Income Housing In-Lieu of Impact Fees