



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: SUPPLEMENTAL – Audit of Impact
Fee Assessment Process

DATE: September 3, 2020

City Administrator Approval

Date: September 10, 2020

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Status Of: 1) The City Of Oakland's Current Efforts To Complete An Assessment Of The Affordable Housing, Jobs/Housing, Transportation And Capital Improvements Impact Fee Programs From July 2016 To June 2019, And 2) Affordable Housing Impact Fee (AHIF) Collections, Budgeting For 2019/21 And Deployment.

REASON FOR SUPPLEMENTAL

In April of 2019, the Planning and Building Department (PBD) issued a Request for Proposals (RFP) for a qualified independent auditor to assess and audit the City's evaluation, assessment, collection and processing of Impact Fees. The intent of this work, performed by Macias, Gini, and O'Connell, LLP (MGO), was to review the accuracy of Impact Fees assessed during the review period from July 2016 to June 2019, and to use this assessment to address any needed improvement in management and control systems for the Impact Fee assessment process. The first informational report regarding the Impact Fee Assessment of 2019 was presented to the Community & Economic Development (CED) Committee on November 12, 2019. The most recent supplemental report on this topic was presented at the February 11, 2020 CED Meeting. At the July 21, 2020 City Council meeting, Vice Mayor Reid requested that the Planning & Building Department provide an update of the Impact Fee audit at the September 22, 2020 CED Committee meeting. This informational report describes the methodology, observations and findings of the audit, as well as the recommendations of the audit that are currently being implemented by PBD.

The transactional application of Impact Fees to address economic, housing, and transportation needs in the City has direct and indirect outcomes on the overall economic stability of the City and its neighborhoods. Among many of the purposes for Impact Fees is the mitigation of potentially adverse outcomes associated with projects related to their location, character, or extent. Impact Fees may be applied to projects that assist toward such mitigation. A binding premise of Impact Fees is both to mitigate impacts and to address unmet needs that disproportionately affect communities of color and low-income residents. To the extent that any procedural enhancement to the collection and processing Impact Fees occurs, the City is better

positioned to implement programs that provide resources that may address inequities of housing and economic development across disenfranchised communities.

The audit of the City's evaluation, assessment, collection and processing of Impact Fees was performed between October 2019 and June 2020 in accordance with the Statements on Standards for Consulting Services issued by the American Institute of Certified Public Accountants (AICPA).

Based on the findings of this audit (see **Attachment A** and **Attachment B**), the PBD has instituted recommendations across administrative, procedural, and database management, which are detailed in this report.

Audit and Evaluation Objectives

- Independent evaluation of the assessment, collection and use of Affordable Housing, Jobs/Housing, Transportation, and Capital Impact Fees.
- Period Covered:
 - Collections and Uses: July 1, 2016 through June 30, 2019
 - Building Permit Applications Submitted: September 1, 2016 through June 30, 2019
- Compliance Criteria: Oakland Municipal Code: Chapters 15.68, 15.72, and 15.74

From this period corresponding with the adoption date, assessment and implementation of the Impact Fees, the analysis entailed both the review of cases from this period and made recommendations on operational improvements to enhance the processing and recording of the respective fees.

Findings Summary

The City accurately assessed 99.5 percent of the 14,490 building records tested for Impact Fees, which were captured in Accela. The Accela database is used to process permit applications and to record financial, statutory, and site records for development projects in the City of Oakland.

- About ninety-six percent (96.41%) of the 14,490 buildings were exempt from paying Impact Fees because they were projects that were not related to the development criteria, were exempt, or applications were submitted prior to the assessment effective date. The City accurately assessed \$50.9 million in Impact Fees:
 - \$17.6 million of the assessed amount was collected and reported in Oracle during, or prior to, the audit period of July 1, 2016 through June 30, 2019.
 - An additional \$7.5 million was collected since the end of the audit period.

Inactive projects represent \$6.8 million of the assessed amount. The permits for these projects have expired. The reinstatement of the permits will trigger the requirement of payment.

- \$18.9 million of the assessed amount is associated with projects that are still in progress.
- The City did not correctly assess and record \$1.6 million, representing 115 of 14,490 building records.
- In addition, there were 53 expired building permits that were not correctly assessed by the City representing an additional \$1.3 million. In all 53 cases, either the permitting process or the project itself was not completed. If the permits are reinstated or the project resumes, there will be an opportunity to assess Impact Fees on those projects.
- The City did not assess Impact Fees on 23 building records that should have been assessed Impact Fees, a total sum of \$83,583.
- Based on these findings, between a) the 23 building records where Impact Fees were not assessed but should have been, and b) the 115 records that were not assessed the correct Impact Fees, the City was able to reassess in all but 11 cases where the projects were completed resulting in a total non-collectable amount of \$32,675.
- MGO developed recommendations for process improvements related to systems and procedures, which have been adopted.

Assessment Methodology

Given the variety of Impact Fees, their calculation bases, stages of collection, and databases used for tracking, it was critical to establish a coherent methodology to review both the actual calculations of assessments and the management and control systems in place.

The following constitute the steps used in this analysis and evaluation:

- Assessed accuracy of the City's Planning and Building System (Accela)
 - Identified all building records that should have Impact Fee assessments.
 - Determined the amount of Impact Fees that should have been assessed, collected and recorded by calculating Impact Fees for applicable records and comparing amount to data in Accela.
- Assessed accuracy of revenue reporting for Impact Fees
 - Reconciled Impact Fee collections recorded in Accela to the City's financial reporting system (Oracle).
- Assessed accuracy of financial schedules
 - Prepared updated financial schedules of revenue projected and collected, interest earned, funds encumbered and expended through the Impact Fee programs.

- Assessed effectiveness of Impact Fee process
 - Evaluated the risks associated with assessing, collecting, and utilization of Impact Fees through inquiries, observations and process mapping.

Evaluation Results of Assessments of Impact Fees

From a sampling of 14,490 building records reviewed, the determinations of cases that were properly or incorrectly assessed is as follows:

- Properly Assessed totaling \$50.9 million:
 - 13,970, or 96.41 percent of the building records reviewed were not subject to Impact Fees since they did not qualify under the criteria. These projects qualified for an exemption listed in accordance with Oakland Municipal Codes 15.72.040 (C) or 15.74.040 (C).
 - 449, or 3.10 percent of the building records reviewed had Impact Fees properly assessed as they met the criteria
- Properties That Should Have Been Assessed But Were Not, Totaling \$83,583:
 - 23, or 0.16 percent of the building records reviewed were subject to Impact Fees; however, Impact Fees were not assessed.
 - 10 records (\$60,618) represent active permits where fees were eventually assessed in June 2020.
 - Seven records (\$22,965) represent completed projects: not collectible
 - Six records represent inactive/expired/withdrawn permits and applications. Collection is dependent on project renewal.
 - 48, or 0.33 percent of the building records reviewed were not subject to Impact Fees, however, Impact Fees were assessed.

Evaluation of Assessments Recorded in Accela

The Accela database is used to process permit applications and to record financial, statutory, and site records for development projects in the City of Oakland. The City installed the Accela in January 2014. The 2019/2020 Impact-Fee-process evaluation included how the Accela system was used during this audit period and concluded with recommendations for both the creation of records within the project files and the management of those records.

The following was noted in the Accela database over the assessment period:

- \$50.9 million: Assessed correctly
 - \$44.1 million: Correctly assessed active or completed permits.
 - \$6.8 million: Projects were properly assessed but due to inactivity, the permits expired

- \$2.9 million: Not correctly assessed:
 - \$1.6 million: 115 building records that were not assessed correctly.
 - Fees were correctly reassessed for 111 of the 115 building records in June 2020.
 - The remaining four building records, with an Impact Fee amount of \$9,710, represent completed projects: To collect the funds for these projects, the City would have to pursue legal action with uncertain prospect for success.
 - \$1.3 million: representing 53 building records that are projects with applications or permits that are inactive, expired or withdrawn. Collection will occur whenever projects are resumed.

Observations on Processes in Place During Evaluation Period

The auditor's assessment included recalculation of Impact Fees to determine the accuracy of the original assessment made by the City.

The following summarizes categories of errors or inconsistencies identified in data elements used to calculate Impact Fees. While these errors were intermittent across the sampling pool, by their nature, they need to be addressed to enhance the accuracy of the Impact Fee assessments and the data records in the future:

- Ground floor retail or commercial square footage for mixed use developments less than 5,000 square feet were not considered as required in the assessment calculation.
- The zone for residential development projects was not consistently applied properly in the calculation of Impact Fees.
- The number of additional housing units used in the calculation was not accurate for 12 building records.
- 25,000 square feet was not subtracted as required from total building square feet when calculating the Jobs/Housing Impact Fees for three of 11 building records. Affordable housing units were not subtracted as required from the total additional housing units when calculating the Capital Improvement Impact Fee for three of 19 building records.

Other Observations for Process Controls and Management During Assessment Period

During the Impact Fees assessment evaluation, the following were identified as increasing the risk of errors in accurately assessing impact fees. Upon the identification of these operational issues, correction was taken immediately whenever possible, or included as part of upcoming system improvements to Accela. PBD's actions to these operational findings follows each finding as a response:

Calculations and Processes

- The determination of Impact Fee applicability requires specialized knowledge and experience. Prior to the end of the assessment period, City staff had not been adequately trained and the process was not documented in a comprehensive desk manual for staff's reference.

- *Extensive training was provided in the summer of 2019. An Impact Fee digital Standard Operating Procedure (SOP) is now available for all staff for reference. A new Accela update that will automate portions of the Impact Fee process went live on August 17, 2020. PBD will develop a new comprehensive SOP that will incorporate the new Accela updates. In addition to training sessions that will accompany any changes in the process, there will be annual training sessions for all PBD staff that are involved in the Impact Fees process.*
- The calculation of Impact Fees is currently a manual process, which is complex and burdensome.
 - *An Accela update that went live on August 17, 2020 will automate this process, which will address this issue.*
- Critical data elements needed to properly calculate Impact Fees were not constantly captured and/or consistently documented/retained in Accela.
 - *An Accela update that went live on August 17, 2020, in addition to an update that was implemented in November of 2019, will automate the calculation and correctly capture the information related to Impact Fees.*

Accela Capacity and Protocol

- Critical information fields are not required and can be left blank.
 - *An Accela update that went live on August 17, 2020 requires all relevant fields are filled before files/records can move forward.*
- Each Impact Fee activity requires manual selection for fee assessment in the system
 - *An Accela update that went live on August 17, 2020 automates the Impact Fee activity.*
- There are no system triggers or prompts to remind staff to assess Impact Fees
 - *An Accela update that went live on August 17, 2020 automatically assesses the Impact Fees.*
- There are no system fields to indicate review of Impact Fees assessed.
 - *Periodic reviews of staff assessments shall be conducted and noted in Accela.*
- Impact fees can be voided or credited without explanations and approvals.
 - *An adjustment was made to the system in October of 2019 that requires an explanation to be entered.*

- There are multiple date fields in Accela that are similar but return different results in reporting, which can cause data inconsistencies between reports.
 - *An adjustment is being made to the system that will distinguish data entries and a report request form is being developed to identify the purpose and need of the form.*

Results of Evaluation of Revenue Recorded in Oracle Revenue Recognition

Revenues are recognized based on cash collections.

- During the period of July 1, 2016 through June 30, 2019, the City collected and recorded \$17.6 million in assessed Impact Fees.
- Revenue for \$87,000 was incorrectly recorded under fiscal year (FY) 2019 and subsequently correctly entered under FY 2020.
 - *PBD staff are working to identify the source of an additional amount of \$20,051 that was reported as revenue in Oracle without an associated collection record in Accela.*

Process Improvement Recommendations

In summary, based on observations and assessment of the Impact Fee process, the following improvements were recommended and are being adopted as noted in this report:

- System Changes/Upgrades to Accela:
 - *Requiring critical information fields to be completed.*
 - *Adding fields to document supervisory review of Impact Fees.*
 - *Adding prompts to notify staff when to invoice for the final Affordable Housing Impact Fees and Jobs/Housing second and third installments.*
 - *Adding fields requiring documentation for voided and credited fees. Developing system reports to identify these items for management review and approval.*

Administrative/Managerial Process Changes:

- Develop and implement policies and procedures for the Impact Fee assessment process, including procedures for preparation of the annual report, and supervisory review.
 - *In July 2020, PBD's staff began meeting to develop a comprehensive updated SOP and to develop policies and procedures that include procedures for the preparation of the annual report.*
- Implement a supervisory review process of the Impact Fee assessment fields to ensure completeness and accuracy.
 - *Accela added a supervisory review field that went live on August 28, 2020.*

Administrative/Managerial Process Improvement Recommendations:

- Develop and implement a desktop manual with detailed steps on entering and updating information in Accela, including all required fields, calculating Impact Fees, and required documentation for voided/credited fees.
 - *PBD is creating a detailed manual that will take into account the recent process improvements that were gained as a result of the Accela update that went live on August 17, 2020. In addition to training sessions that will accompany any future changes in the process, there will be annual training sessions for all PBD staff members that are involved in the Impact Fees process.*
- Provided training to staff to communicate process changes and documentation requirements.
 - *Staff received extensive training on the Impact Fee process in October of 2019. Process change communication and training related to the changes will be part of PBD's process.*
- Reviewing building records with applications submitted after June 30, 2019 to ensure Impact Fees were properly and accurately assessed.
 - *Moving forward, PBD will institute a semi-annual review process of all records.*

Conclusion

The City accurately assessed 99.5 percent of the 14,490 building records analyzed for Impact Fees. For those records that demonstrated inaccuracies, this Impact Fee assessment identified management, control and database protocols requiring correction. As specific procedures were identified that could be corrected immediately, those were undertaken. In regard to software enhancements, ongoing adjustments have been underway and most of these principal system corrections were put in place by August 17, 2020.

Particular emphasis is being placed on incorporating steps into the Accela system that will ensure consistency, accuracy, and completeness of records and their required fields. For all staff who interface with Accela through data input, the Permit Application Supervisors are instituting SOPs, training, and input reviews to ensure that the procedures are being followed.

PBD shall also perform semi-annual reviews of the records for completeness and accuracy. As any changes to existing Impact Fee assessment criteria or new Impact Fees are adopted, the department shall amend the SOPs, training, and Accela system to incorporate new regulatory protocols.

Fiscal Impact

The implementation of the report findings should increase the accuracy of determining eligible projects for Impact Fee assessment, of the actual fee calculation, and the entry and tracking of those impact-fee amounts. Given the findings that the City accurately assessed 99.5 percent of

the 14,490 building records tested for Impact Fees, the fiscal impact of implementing the recommendations will be marginal against the total current assessed amounts, but is still a critical component for project funding through Impact Fees.

Coordination

Ongoing coordination in the implementation of the report's recommendations will include the Housing and Community Development Department, Economic and Workforce Development Department, and Oakland Department of Transportation. The Finance Department shall also be an integral partner in the tracking and management of these fees post-collection pending the fees' implementation by the respective departments charged with their deployment.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The Committee for Community and Economic Development City Council Receive An Informational Report On The Status Of: 1) The City Of Oakland's Current Efforts To Complete An Assessment Of The Affordable Housing, Jobs/Housing, And Transportation And Capital Improvements Impact Fee Programs From July 2016 To June 2019, And 2) Affordable Housing Impact Fee (AHIF) Collections, Budgeting For 2019/21 And Deployment.

For questions regarding this report, please contact Albert Merid, Management Assistant at 510-238-3588.

Respectfully submitted,



WILLIAM A. GILCHRIST, FAIA
Director, Planning and Building Department

Prepared by:
Albert Merid, Management Assistant
Planning and Building Department

Attachments (2):

- A. City of Oakland Assessment of Impact Fees Results and Recommendations September 2020 - MGO
- B: City of Oakland Impact Fees Assessment - Appendices