Attachment B

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CITY OF OAKLAND

AGENDA REPORT

TO:	Sabrina B. Landreth City Administrator	**FROM:**	Darin Ranelletti Deputy Director, PBD
SUBJECT:	Citywide Impact Fee Update – Supplemental Report	**DATE:**	February 3, 2016

City Administrator Approval [signature] Date: 2/4/16

RECOMMENDATION

Staff Recommends That The City Council Receive This Report And Possible Action On A Citywide Housing, Transportation, and Capital Improvement Impact Fee Proposal.

REASON FOR SUPPLEMENTAL

On January 26, 2016, the Community and Economic Development (CED) Committee reviewed the staff impact fee proposal. The Committee discussed the proposal and continued the item to the February 9, 2016 CED meeting in order to allow for further discussion. Staff presents this supplemental report in response to City Council questions raised. This supplemental report provides responses to these questions along with providing some alternatives to those items requested. Staff recommends that the CED Committee continue to deliberate on the following major policy questions to provide direction concerning the impact fee ordinance:

1.) What should be the target fee levels?

2.) What should be the relative distribution of impact fees among three (3) different fee categories (affordable housing, transportation, capital improvements)?

3.) How should the fees be phased in over time?

4.) What fees should be charged for different types of projects, such as multi-family, single-family, townhome, office, retail, industrial, warehouse, hotel/motel, and institutional?

5.) Should different geographic areas (zones) of the City have different fee levels?

6.) What, if any, development projects in the pipeline should be subject to the fee? What projects should be exempt from the fee?

7.) Whether a construction performance date should be included in the first two years of the program, such as a requirement that a project must be under construction within 12 months of building permit application and if not, the applicable impact fees would increase to the higher amount in place on that date. This policy could incentivize faster unit construction.

ANALYSIS AND POLICY ALTERNATIVES

In this Analysis Section, responses to questions presented by the City Council at the January 26th CED Committee meeting are addressed.

The staff impact fee proposal seeks to balance the need to generate more affordable housing, while not impeding new housing construction for all income levels. Additional housing units increase supply in the current market to prevent scarcity which is ultimately contributing to displacement. The target fee anticipates rent increases over current levels (2015) to support additional ability to pay the fees, along with adjustments to land prices and financing criteria.

Tables 4 – 7 below are taken from the January 26, 2016 CED Agenda Report and inserted in this supplemental report for ease of reading the staff fee proposal. Staff used the same table title numbers as used in the January 26th report in order to be consistent. Therefore, there are no Tables 1 – 3 in this supplemental report. To see the full staff impact fee proposal and explanations, please refer to the January 26th report at https://oakland.legistar.com/LegislationDetail.aspx?ID=2506659&GUID=F12F5251-4035-4B12-A42A-43D1E816E1F5&Options=&Search=.

Note: Table Numbers 1-3 are not used in this supplemental report.

Table 4: City Staff Proposal Residential Impact Fees for Zone 1 (No change from Jan. 26)

City Staff Proposed Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 1	Affordable Hsg.	$5,000	$10,000	$20,000
	Capital Imp.*	$0	$0	$0*
	Transportation	$710	$710	$710
	Total	**$5,710**	**$10,710**	**$20,710**
Townhome, Zone 1	Affordable Hsg.	$5,500	$10,000	$17,000
	Capital Imp.	$1,000	$1,000	$3,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$7,500**	**$12,000**	**$21,000**
Single-family, Zone 1	Affordable Hsg.	$5,000	$10,000	$20,000
	Capital Imp.	$1,500	$4,000	$4,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$7,500**	**$15,000**	**$25,000**

*An impact fee, yet to be determined, for Capital Improvements will phase in later.

Table 5: City Staff Proposal Residential Impact Fees for Zone 2 (No change from Jan. 26)

City Staff Proposed Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 2	Affordable Hsg.	$4,000	$8,000	$16,000
	Capital Imp.*	$0	$0	$0*
	Transportation	$710	$710	$710
	Total	**$4,710**	**$8,710**	**$16,710**
Townhome, Zone 2	Affordable Hsg.	$2,000	$6,000	$12,000
	Capital Imp.	$1,000	$1,000	$2,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$4,000**	**$8,000**	**$15,000**
Single-family, Zone 2	Affordable Hsg.	$3,000	$8,000	$14,000
	Capital Imp.	$1,000	$1,000	$3,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$5,000**	**$10,000**	**$18,000**

*An impact fee, yet to be determined, for Capital Improvements will phase in later.

Table 6: City Staff Proposal Residential Impact Fees for Zone 3 (No change from Jan. 26)

City Staff Proposed Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 3	Affordable Hsg.	$3,000	$6,000	$12,000
	Capital Imp.*	$0	$0	$0*
	Transportation	$710	$710	$710
	Total	**$3,710**	**$6,710**	**$12,710**
Townhome, Zone 3	Affordable Hsg.	$1,000	$4,000	$8,000
	Capital Imp.	$1,000	$1,000	$1,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$3,000**	**$6,000**	**$10,000**
Single-family, Zone 3	Affordable Hsg.	$1,000	$4,000	$8,000
	Capital Imp.	$1,000	$1,000	$1,000
	Transportation	$1,000	$1,000	$1,000
	Total	**$3,000**	**$6,000**	**$10,000**

*An impact fee, yet to be determined, for Capital Improvements will phase in later.

Table 7: City Staff Proposal Nonresidential Impact Fees (No change from Jan. 26)

City Staff Proposed Nonresidential Impact Fees (Fee is Per Square Foot) The Date is Based on When the Applicant Applies for Building Permit						
Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – 11/30/19	12/1/19 – 11/30/20	12/1/20 + (target fee)
Office*	Capital Imp.	$0.00	$0.00	$1.00	$1.00	$2.00
	Transportation	$0.85	$0.85	$1.00	$1.00	$2.00
	Total	**$0.85**	**$0.85**	**$2.00**	**$2.00**	**$4.00**
Retail, Freestanding	Capital Imp.	$0.00	$0.15	$0.25	$0.25	$0.50
	Transportation	$0.75	$0.75	$0.75	$0.75	$0.75
	Total	**$0.75**	**$0.90**	**$1.00**	**$1.00**	**$1.25**
Retail, Ground Floor	Capital Imp.	$0.00	$0.00	$0.00	$0.00	$0.00
	Transportation	$0.75	$0.75	$0.75	$0.75	$0.75
	Total	**$0.75**	**$0.75**	**$0.75**	**$0.75**	**$0.75**
Light Industrial	Capital Imp.	$0.40	$0.40	$0.75	$0.75	$1.00
	Transportation	$0.60	$0.60	$0.75	$0.75	$1.00
	Total	**$1.00**	**$1.00**	**$1.50**	**$1.50**	**$2.00**
Warehouse*	Capital Imp.	$0.65	$0.90	$1.00	$1.00	$1.00
	Transportation	$0.35	$1.10	$2.00	$3.00	$3.00
	Total	**$1.00**	**$2.00**	**$3.00**	**$4.00**	**$4.00**
Hotel/Motel	Capital Imp.	$0.10	$0.20	$0.35	$0.35	$0.60
	Transportation	$0.65	$0.65	$0.65	$0.65	$0.65
	Total	**$0.75**	**$0.90**	**$1.00**	**$1.00**	**$1.25**
Institutional	Capital Imp.	$2.50	$2.50	$2.50	$2.50	$3.00
	Transportation	$1.50	$1.50	$2.50	$2.50	$3.00
	Total	**$4.00**	**$4.00**	**$5.00**	**$5.00**	**$6.00**

*Existing Jobs/Housing linkage fee for affordable housing = $5.44 per square foot for July 1, 2015 – June 30, 2016.

Staff Responses to Council Questions from the January 26th CED Meeting

The information below is organized by subject matter/policy consideration and is presented in a Council question/comment then staff response format.

Construction Performance Standards

1) **Council Question/Comment:** If developers do not build within a year, their project should pay the higher fee at the time they start building.

   Staff Response: This is a policy consideration for the City Council. If the Council were to make this decision, staff proposes that the Council add a provision that a construction performance date should be included in the first two years of the program. The provision would also state that a project must be under construction within 12 months of building permit application and, if not, the applicable impact fees would increase to the higher amount in place on that date. This policy could incentivize faster unit construction.

Fees for Different Development Types

2) **Council Question/Comment:** There are impact fees proposed for multi-family development, townhomes, and single-family detached housing. What about high-rises?

   Staff Response: The staff impact fee proposal includes high-rise development in the multi-family category, combined with mid-rise development.

   The economic feasibility analysis tested both high-rise and mid-rise multi-family developments. It shows that both are marginally feasible (2015) and require higher rents over the next several years to justify development. High-rise development shows slightly better return than mid-rise development, when built on prime sites that can capture premium rents (sites in Fee Zone 1, around Lake Merritt, in Jack London and areas along the Estuary, or on Broadway in downtown and Broadway Valdez). However, large high-rise projects are costly to build and carry substantial risk. Developers proposing high-rise development on prime sites in Oakland continue to have difficulty securing the necessary financing and investment for such projects. Further, relatively few prime sites can capture premium rents. According to the Economic Feasibility Analysis, high-rise development does not work in other locations throughout the city. Thus, a separate fee was not proposed for high-rise development in Zones 2 and 3 and other areas within Zone 1 that do not have the aforementioned characteristics.

   A higher fee for high-rise development, according to the Economic Feasibility Analysis, would not be practical because the development and financing costs are higher than the current rent rates. This imbalance would likely stifle or discourage high-rise projects. Potentially, high-rise development could have a lower fee if decision-makers wanted to provide further incentive for high-density development. For instance, the City of San Jose took that approach and exempted high-rise development (150 ft. or taller) from their recently adopted affordable housing impact fees (adopted November 2014). No fees will be charged on high-rise development located in downtown San Jose that obtains a certificate of occupancy by June 30, 2021 (five years from the fee effective date).

3) **Council Question/Comment:** Why are residential impact fees proposed 'per unit?' Can they be charged on a 'per square foot' basis instead?

   Staff Response: Residential impact fees are proposed per unit, by type of unit (multi-family, townhomes, and single-family homes) and by zone (to recognize market differences across the city). The primary reason for charging fees per unit is so that the impact fees will not add a further disincentive to developments building larger units including family housing or two-three bedroom units. In addition, a fee per unit is clearer for developers and easier for the City to calculate and administer. Most cities charge residential impact fees per unit.

The economics of developing new housing, particularly higher density multi-family housing, is that higher density housing encourages the building of smaller units because of high construction costs. Revenues per square foot are higher relative to costs per square foot for smaller units compared to larger units. Comparisons between currently proposed projects in Oakland and projects built pre-recession show that unit mixes today include more studios and one-bedroom units and fewer two-bedroom and larger units. Current proposals also include smaller units (less square feet) of each bedroom type.

While the cost difference of per unit versus per square foot on multi-family development with a mix of unit types and sizes could be relatively small for some projects, in the long-run, a fee that has greater monetary impact per square foot will provide an incentive for development to build smaller household units instead of larger household units. Fees charged per unit would help to offset this pattern.

4) **Council Question/Comment:** Did the Impact Fee Study include updating the City's existing Jobs/Housing Impact Fee on non-residential development? If not, could these proposed higher Affordable Housing Impact Fees on residential development compared to the existing Jobs/Housing Impact Fee on non-residential development create a competitive disadvantage for residential development?

   Staff Response: The scope of work for the Impact Fee Study did not include updating Oakland's existing Jobs/Housing Impact Fee. The current effort included analyses in support of new impact fees in Oakland that would be in addition to the existing Jobs/Housing Impact Fee on non-residential development. The new fees studied include an Affordable Housing Impact Fee on residential development, as well as impact fees for Capital Improvements, and Transportation.

   Currently, the Jobs/Housing Impact Fee is adjusted annually in accordance with changes in residential building costs. The initial fee of $4 per square foot imposed on projects when the ordinance became effective in 2005 is now $5.44 per square foot. Any further adjustments to the fee amount would require an update to the nexus study for this fee prepared in 2001, which is also beyond the scope of work for the current Impact Fee Study. As explained below, the methodology of the nexus analysis for the Jobs/Housing Impact Fee was considerably different from the methodologies of the nexus analyses for the proposed Affordable Housing Impact Fee on residential development and the proposed impact fees for Capital Improvements and Transportation.

   The comment asks whether potentially higher affordable housing impact fees on residential development compared to the existing Jobs/Housing fee on non-residential development could create a competitive disadvantage for residential development. Such effects are not anticipated because the two fees, their nexus methodologies, and the development they apply to are not directly comparable. Therefore, their fees are not expected to be the same.

   The nexus methodologies are different as each fee addresses different types of impacts on the demand for affordable housing. Thus, the maximum legal fees that can be justified in each case are not expected to be the same, even if both nexus studies were done at the same time. The Jobs/Housing impact fee on non-residential development is based on the expected employment growth for non-residential projects such as office or industrial and the associated additional demand for affordable housing from these new employees. The affordable housing impact fee on residential development is based on new residents' spending, the employment it induces, and the associated additional induced demand for affordable housing.

The abilities of different types of development to pay each fee also differ and depend on the market and the economic feasibility context for each land use within the larger regional economy. All land uses are not able to support the same amount of fees. Thus, it is not the case that the land use with the higher fee is necessarily at a competitive disadvantage.

Separate from the question of impact fees, it is typically the non-residential development in Oakland that is competitively "disadvantaged" by the residential development. The key factors are the higher residential development densities and strong housing demand given Oakland's location in proximity to San Francisco and the west bay. Thus far, within the region, Oakland's attraction for economic activity and jobs has not been as strong as its attraction for housing to support growing economic activities and jobs in San Francisco and the west and south bays as well as locally.

Enhanced Infrastructure Financing District (EIFD)

5) **Council Question/Comment:** Can you please provide an analysis on the use of Enhanced Infrastructure Financing District (EIFD), particularly in creating the EIFD in Zone 1.

   Staff Response: An Enhanced Infrastructure Financing District ("EIFD") is a tax increment financing (TIF) tool adopted by 2014 state legislation. The EIFD law allows a city to create an EIFD in any part of the city, and use the city's share of the incremental property tax increases in the EIFD area on a variety of capital improvement projects. These include, among other things, streets, transit improvements, parks, libraries, and affordable housing. An EIFD may issue bonds, subject to 55 percent voter approval. Other taxing entities (other than educational entities) may choose to participate in an EIFD, but there is no requirement that they participate or dedicate any of their tax increment revenues to the EIFD.

   For Oakland, EIFD's must also be measured against the current indebtedness created by former Redevelopment Agencies. State law requires that future tax increment funds first be used to pay down existing debt. More analysis needs to be completed about the efficacy of this tool in former Redevelopment areas.

   Please note that, unlike impact fees or redevelopment, an EIFD does not create a new source of funding for infrastructure. Rather, an EIFD simply allows a city (and any other entities who may choose to participate) to use its own share of property tax revenue to pay for infrastructure and affordable housing, as well as bond against those funds. Decision makers can consider an EIFD as part of the City's affordable housing strategy in the Mayor's Housing Cabinet work. For more information, see the report on EIFDs, IRFDs, CRIAs and other adopted financing opportunities presented to the City Council's Finance and Management Committee on December 15, 2015[1].

On-Site Build Options:

6) **Council Question/Comment**: Council would like to see options at different levels of affordability for providing affordable housing on-site to mitigate impacts.

   Staff Response: Staff and consultants are working on the calculations for quantifying on-site mitigation options. Staff proposes the following general objectives and criteria for an on-site program:

   - The on-site program would initially be "cost neutral" to the development. As proposed in the Agenda Report for the January 26th CED Committee Meeting: "At the initial adoption of the program, staff recommends calibrating the unit production option so that it has the same cost impact on the project as the impact fee and allows the provision of moderate-income and/or lower-income units in the project. The City can monitor the production of affordable housing to understand what levels of affordability are generated. The City can then compare this information to housing goals by income category and geographic location. If new affordable housing production is low for certain targeted income categories and/or not occurring in certain neighborhoods, particularly high-cost neighborhoods, the City can recalibrate the unit production option to incentivize on-site affordable housing at certain income levels or in certain neighborhoods."

   - Staff is developing a matrix for each fee category (nine fees by housing type and zone) that identifies the percentage of affordable units with the same cost impact as paying the fee, assuming different levels of affordability:
     - Moderate-income units
     - Low-income units
     - Very low-income units

     One option would be to adopt the matrix, at least initially, and allow the developer to make the choice of affordability for on-site affordable units. Alternatively, one or more mixes of affordability can be developed.

   - Providing on-site affordable units that are similar in size, location, and quality to market-rate units.

   - The mechanism to assure that on-site units remain affordable for the life of the project.

[1] To view the report on EIFDs, follow this link: http://oakland.legistar.com/gateway.aspx?M=F&ID=a85047f7-f249-4d2a-ae06-4c313bd30c6e.pdf

Staff is also considering the potential for allowing off-site mitigation where the developer could contribute funds to another developer who would build the affordable units, or the developer could build the off-site affordable units directly. In this option, staff would recommend that this option only be allowed on a case-by-case basis subject to City Administrator approval. Consideration would be given on a Council District basis, with the intent of encouraging off-site mitigation in proximity to the market-rate development. The ability to provide off-site units within a relatively similar timeframe as the marker-rate development would also be considered.

Development Pipeline

7) **Council Question/Comment**: The City should consider capturing those projects that received an extension from City Council and should charge the projects an impact fee.

   Staff Response: This decision is up to the City Council and involves those projects that were given extensions by action of the City Council in December 2014 and whether or not they are charged the impact fee. Projects that are vested prior to the impact fee adoption may not be subject to the fee. There are approximately 60 approved planning projects that received extensions per the City Council Resolution No. 85305 C.M.S. on December 9, 2014. City Staff's recommendation is that of those 60, any projects that apply for a building permit with a complete application prior to December 1, 2016 (the effective date), would not be subject to the fee under this proposal. Any projects that received extensions, but apply for a building permit with a complete application after December 1, 2016, would be subject to the impact fee. Most cities start payment of fee based on when a project applies for their building permit even though vesting may occur after that point in certain instances. The City staff's recommendation is consistent with this common practice of other cities as well as offering an incentive for the projects to apply for their building permits before December 1, 2016.

8) **Council Question/Comment**: Please provide the Council with an estimate on how the proposal would affect the pipeline if the impact fees start on July 1, 2016 verses September 1, 2016 or December 1, 2016.

   Staff Response: Since this is a multifaceted question, staff presents the response in a few different ways: 1) providing an explanation of why staff proposed the December 2016 start date; 2) providing information on how the pipeline could potentially be affected; and 3) providing information on how the revenue estimates could vary depending on the trigger date.

   Why Staff Chose December 2016:

   The City Staff proposal includes an implementation date of December 1, 2016 based on building permit application. Fee increase phase-in would occur on December 1st of subsequent years through 2018 for residential fees and through 2021 for nonresidential fees. City Staff selected these implementation and phase in dates to balance two competing objectives:

- Requiring new development in the City to contribute to affordable housing and public facilities impacts as soon as, and to the fullest extent, possible; and
- Avoiding a negative impact on development projects that would delay construction because new fees would take effect before rents or prices are sufficient to offset the higher cost.

The implementation date of December 1, 2016 and the proposed fee phase-in in subsequent years balances the risk of delaying development projects while still moving forward with the fee program. This approach provides important predictability to the real estate market, allowing the market to adjust to the additional development cost without negatively affecting investment.

How the Pipeline Could Possibly Be Affected by the Start Date Chosen:

Some assumptions used to help to answer this question are the following:

- Once an applicant applies for a Planning Permit it can take them on average about 5 months for approval. If an applicant requires an Environmental Impact Report (EIR) this could increase to one year for approval.
- After a Planning Permit is approved it can take on average seven months to apply for a building permit. In some instances the developer may have financing in place at the time of planning approval and may start on their construction drawings in advance of planning approval which can dramatically cut down time. In other instances if financing is not found and/or the entitlements are sold time can increase to a year or longer before applying for a building permit.

As noted in the January 26th Agenda Report in Table 3 on page 7, as of November 24, 2015, there were 928 units that have approved Planning permits (projects that applied from January 2014 – mid November 2015) and otherwise not vested (not subject to the fee through other means), or an affordable housing unit. Any of these approved planning permits could potentially apply for a building permit once they have their completed construction drawings. It is difficult to determine which projects would be ready to apply for a building permit by July 1, 2016 verses September 1, 2016 or December 1, 2016. Often, a developer will wait for secured financing before they spend money on construction drawings and a building permit that can cost them anywhere from around $1 million to closer to $5 million. Also, some projects have been entitled solely for the purpose of selling the entitlements, with the applicant never intending to build the project themselves. Therefore, it is difficult to determine how long it may take them to sell the entitlements before they could apply for a building permit. In the longer term pipeline from the January 26th Agenda Report in Table 2 on page 6 there are an additional 6,770 units (subtracting out the 980 that are more recent) that have been approved that have not applied for building permits, so they could also meet the July 1, 2016 deadline. As stated in the January 26th Agenda Report, some projects have been in the pipeline for 10 years and have received numerous City Council extensions and administrative extensions over the years. It is difficult to determine how many of these projects will actually be built. If they have not already applied for a building permit it may be that the projects have not demonstrated feasibility or they are trying to sell the entitlements.

Also in the Pipeline from planning projects that have complete applications from January 2014 – mid November 2015 are 2,367 units that are potentially subject to the impact fee (not vested or an affordable housing project). As of the writing of this supplemental report approximately an additional 600 units have been approved and could potentially apply for a building permit prior to July 1, 2016. If any of the remaining 1,767 units applications are approved, given the assumption it can take on average seven months to apply for a building permit it is likely they will not be able to meet the July 1, 2016 building permit date. In order to make the September 1, 2016 building permit date projects most likely should have been approved by February 1, 2016, with an assumption of an average of seven months to apply for a building permit. In order to meet the December 1, 2016 building permit date, the project will most likely need to be approved by May 1, 2016, again, assuming seven months to apply for their building permit after planning permit approval.

One of the projects with approximately 220 units is anticipated to be approved in March 2016 and because they have their financing in place it is anticipated they will be able to make the July 1, 2016 deadline. There is one additional major project that was applied for in early January 2016 of 128 townhomes that may be able to be approved by mid-May 2016 and potentially apply for their building permit by December 1, 2016.

How the Revenue Estimates are Affected by the Start Date Chosen

In addition to the implementation, phase–in, and pipeline dates, key factors affecting the amount of total fee revenue include:

- The total amount of development in terms of housing units (for residential development) and building square feet (for non-residential development)
- The amount of development exempt from the impact fees because of vested development rights (such as an approved vesting tentative map or development agreement) or the inclusion of affordable housing units.
- The development distribution among three residential and seven non-residential land use categories (fees vary by land use category)
- The development distribution across three proposed fee zones (fees vary by zone)

Although these factors can be reasonably estimated over a longer term planning horizon such as 10 years, in the short term revenue estimates are highly uncertain. In particular, the first two factors listed above, the amount of development and the share that would be exempt from fees, can vary substantially from month to month.

Furthermore, it is difficult to estimate the extent that an earlier implementation and phase-in date would delay certain development projects due to higher costs. As mentioned above, some projects may delay construction, pending increases in rents or prices to offset the higher cost of the impact fees. Development project delays due to higher fees would reduce the total revenue generated by the fees, offsetting the potential revenue associated with higher fee levels.

Given this uncertainty, staff estimated the effect on fee revenue from alternative implementation dates under the following assumptions:

1. Fee rates by land use category and zone are the same as the City Staff proposal.
2. Implementation of the initial fee occurs on July 1st or September 1st instead of December 1, 2016.
3. Fee phase-in increases occur 12 months following the revised implementation dates. Thus, increased revenue is generated by the earlier implementation date as well as by the earlier phase-in of subsequent fee increases.
4. All other factors affecting fee revenue (total amount of development, amount of exempt development, distribution by land use category, distribution by zone, etc.) are spread evenly month-to-month across a 10-year planning horizon.
5. There is no negative market impact from the earlier implementation and phase-in dates on the total amount of development.

The City staff proposal generates a 10-year impact fee revenue estimate of $79.2 million. Under the assumptions listed above, the alternative implementation dates would have the following revenue impact compared to the City staff proposal:

- Implementation on July 1, 2016: increased revenue of $3.8 million or 4.8 percent.
- Implementation on September 1, 2016: increased revenue of $2.3 million or 2.9 percent.

Given assumption #5 above, these estimated revenue increases would be offset by an unknown amount of revenue loss from any delays to development projects caused by the earlier implementation and higher fee phase-in.

Distribution of Impact Fees Among the Three Fee Categories (Affordable Housing, Capital Improvements, and Transportation)

9) **Council Question/Comment**: Please provide us with more fee allocation options. Affordable housing is very important, but the City also has underfunded libraries, Fire department facilities, and parks. Provide options around adjusting the fees to allocate the majority of the fees to affordable housing but reserving 10 to 15 percent for both transportation and capital improvements.

   Staff Response: The Committee requested several alternative fee distributions among the three fee categories: affordable housing, capital improvements, and transportation for the residential fees (multi-family, townhome, and single-family). The tables below show the fee reallocation to meet the following three requested alternatives:

- <u>Alternative 1</u>: For all years, target allocation for residential fees is 85 percent housing / 10 percent capital improvements / 5 percent transportation (**Tables 4-1, 5-1,** and **6-1** below) and the non-residential fee allocation is unchanged.
- <u>Alternative 2</u>: For all years, target allocation for residential fees is 80 percent housing / 10 percent capital improvements / 10 percent transportation (**Tables 4-2, 5-2,** and **6-2** below) and the non-residential fee allocation is unchanged.
- <u>Alternative 3</u>: For all years, target allocation for residential fees is 70 percent housing / 15 percent capital improvements / 15 percent transportation (**Tables 4-3, 5-3,** and **6-3** below) and the non-residential fee allocation is unchanged.

For all residential land uses, if the transportation fee would fall below the CEQA mitigation level based on the target fee allocation, then the capital improvements fee is reduced to maintain the transportation fee at the CEQA mitigation level, and if necessary the affordable housing fee is reduced as well. The affordable housing fee required this reduction only for a few of the residential fee categories and only in the first year or two of the phase-in.

<u>Alternative 1 Tables</u>

Table 4-1: Alternative 1, Residential Impact Fees for Zone 1 (Target Allocation: 85% Affordable Housing/ 10% Capital Improvements/ 5% Transportation)

Alternative 1, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 1	Affordable Hsg.	$4,854	$9,104	$17,604
	Capital Imp.	$146*	$896*	$2,070
	Transportation	$710**	$710**	$1,036
	Total	**$5,710**	**$10,710**	**$20,710**
Townhome, Zone 1	Affordable Hsg.	$6,375	$10,200	$17,850
	Capital Imp.	$125*	$800*	$2,100
	Transportation	$1,000**	$1,000**	$1,050
	Total	**$7,500**	**$12,000**	**$21,000**
Single-family, Zone 1	Affordable Hsg.	$6,375	$12,750	$21,250
	Capital Imp.	$125*	$1,250*	$2,500
	Transportation	$1,000**	$1,000**	$1,250
	Total	**$7,500**	**$15,000**	**$25,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 5% for the Transportation Impact fee in order to meet the CEQA minimum.

Table 5-1: Alternative 1, Residential Impact Fees for Zone 2 (Target Allocation: 85% Affordable Housing/ 10% Capital Improvements/ 5% Transportation)

Alternative 1, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 2	Affordable Hsg.	$4,000	$7,404	$14,204
	Capital Imp.	$0*	$596*	$1,670
	Transportation	$710**	$710**	$836
	Total	**$4,710**	**$8,710**	**$16,710**
Townhome, Zone 2	Affordable Hsg.	$3,000	$6,800	$12,750
	Capital Imp.	$0*	$200*	$1,250*
	Transportation	$1,000**	$1,000**	$1,000**
	Total	**$4,000**	**$8,000**	**$15,000**
Single-family, Zone 2	Affordable Hsg.	$4,000***	$8,500	$15,300
	Capital Imp.	$0*	$500*	$1,700*
	Transportation	$1,000**	$1,000**	$1,000**
	Total	**$5,000**	**$10,000**	**$18,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 5% for the Transportation Impact fee in order to meet the CEQA minimum.
***This fee is lower than 85% for the Affordable Hsg. fee in order to meet the CEQA minimum for transportation.

Table 6-1: Alternative 1, Residential Impact Fees for Zone 3 (Target Allocation: 85% Affordable Housing/ 10% Capital Improvements/ 5% Transportation)

Alternative 1, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 3	Affordable Hsg.	$3,000***	$5,704	$10,804
	Capital Imp.	$0*	$296*	$1,196*
	Transportation	$710**	$710**	$710**
	Total	**$3,710**	**$6,710**	**$12,710**
Townhome, Zone 3	Affordable Hsg.	$2,000***	$5,000***	$8,500
	Capital Imp.	$0*	$0*	$500*
	Transportation	$1,000**	$1,000**	$1,000**
	Total	**$3,000**	**$6,000**	**$10,000**
Single-family, Zone 3	Affordable Hsg.	$2,000***	$5,000***	$8,500
	Capital Imp.	$0*	$0*	$500*
	Transportation	$1,000**	$1,000**	$1,000**
	Total	**$3,000**	**$6,000**	**$10,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 5% for the Transportation Impact fee in order to meet the CEQA minimum.
***This fee is lower than 85% for the Affordable Hsg. fee in order to meet the CEQA minimum for transportation.

Alternative 2 Tables

Table 4-2: Alternative 2, Residential Impact Fees for Zone 1 (Target Allocation: 80% Affordable Housing/ 10% Capital Improvements/ 10% Transportation)

Alternative 2, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 1	Affordable Hsg.	$4,568	$8,568	$16,568
	Capital Imp.	$432*	$1,071	$2,071
	Transportation	$710**	$1,071	$2,071
	Total	**$5,710**	**$10,710**	**$20,710**
Townhome, Zone 1	Affordable Hsg.	$6,000	$9,600	$16,800
	Capital Imp.	$500*	$1,200	$2,100
	Transportation	$1,000**	$1,200	$2,100
	Total	**$7,500**	**$12,000**	**$21,000**
Single-family, Zone 1	Affordable Hsg.	$6,000	$12,000	$20,000
	Capital Imp.	$500*	$1,500	$2,500
	Transportation	$1,000**	$1,500	$2,500
	Total	**$7,500**	**$15,000**	**$25,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 10% for the Transportation Impact fee in order to meet the CEQA minimum.

Table 5-2: Alternative 2, Residential Impact Fees for Zone 2 (Target Allocation: 80% Affordable Housing/ 10% Capital Improvements/ 10% Transportation)

Alternative 2, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 2	Affordable Hsg.	$3,768	$6,968	$13,368
	Capital Imp.	$232*	$871	$1,671
	Transportation	$710**	$871	$1,671
	Total	**$4,710**	**$8,710**	**$16,710**
Townhome, Zone 2	Affordable Hsg.	$3,000***	$6,400	$12,000
	Capital Imp.	$0*	$600*	$1,500
	Transportation	$1,000**	$1,000**	$1,500
	Total	**$4,000**	**$8,000**	**$15,000**
Single-family, Zone 2	Affordable Hsg.	$4,000	$8,000	$14,400
	Capital Imp.	$0*	$1,000	$1,800
	Transportation	$1,000**	$1,000	$1,800
	Total	**$5,000**	**$10,000**	**$18,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 10% for the Transportation Impact fee in order to meet the CEQA minimum.
***This fee is lower than 80% for the Affordable Hsg. fee in order to meet the CEQA minimum for transportation.

Table 6-2: Alternative 2, Residential Impact Fees for Zone 3 (Target Allocation: 80% Affordable Housing/ 10% Capital Improvements/ 10% Transportation)

Alternative 2, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 3	Affordable Hsg.	$2,968	$5,368	$10,168
	Capital Imp.	$32*	$632*	$1,271
	Transportation	$710**	$710**	$1,271
	Total	**$3,710**	**$6,710**	**$12,710**
Townhome, Zone 3	Affordable Hsg.	$2,000***	$4,800	$8,000
	Capital Imp.	$0*	$200*	$1,000
	Transportation	$1,000**	$1,000**	$1,000
	Total	**$3,000**	**$6,000**	**$10,000**
Single-family, Zone 3	Affordable Hsg.	$2,000***	$4,800	$8,000
	Capital Imp.	$0*	$200*	$1,000
	Transportation	$1,000**	$1,000**	$1,000
	Total	**$3,000**	**$6,000**	**$10,000**

* This fee is lower than 10% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 10% for the Transportation Impact fee in order to meet the CEQA minimum.
***This fee is lower than 80% for the Affordable Hsg. fee in order to meet the CEQA minimum for transportation.

Alternative 3 Tables

Table 4-3: Alternative 3, Residential Impact Fees for Zone 1 (Target Allocation: 70% Affordable Housing/ 15% Capital Improvements/ 15% Transportation)

Alternative 3, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 1	Affordable Hsg.	$3,997	$7,497	$14,497
	Capital Imp.	$856	$1,606	$3,106
	Transportation	$857	$1,607	$3,107
	Total	**$5,710**	**$10,710**	**$20,710**
Townhome, Zone 1	Affordable Hsg.	$5,250	$8,400	$14,700
	Capital Imp.	$1,125	$1,800	$3,150
	Transportation	$1,125	$1,800	$3,150
	Total	**$7,500**	**$12,000**	**$21,000**
Single-family, Zone 1	Affordable Hsg.	$5,250	$10,500	$17,500
	Capital Imp.	$1,125	$2,250	$3,750
	Transportation	$1,125	$2,250	$3,750
	Total	**$7,500**	**$15,000**	**$25,000**

* This fee is lower than 15% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 15% for the Transportation Impact fee in order to meet the CEQA minimum.

Table 5-3: Alternative 3, Residential Impact Fees for Zone 2 (Target Allocation: 70% Affordable Housing/ 15% Capital Improvements/ 15% Transportation)

Alternative 3, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 2	Affordable Hsg.	$3,297	$6,097	$11,697
	Capital Imp.	$703	$1,306	$2,506
	Transportation	$710	$1,307	$2,507
	Total	**$4,710**	**$8,710**	**$16,710**
Townhome, Zone 2	Affordable Hsg.	$2,800	$5,600	$10,500
	Capital Imp.	$200*	$1,200	$2,250
	Transportation	$1,000**	$1,200	$2,250
	Total	**$4,000**	**$8,000**	**$15,000**
Single-family, Zone 2	Affordable Hsg.	$3,500	$7,000	$12,600
	Capital Imp.	$500*	$1,500	$2,700
	Transportation	$1,000**	$1,500	$2,700
	Total	**$5,000**	**$10,000**	**$18,000**

* This fee is lower than 15% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 15% for the Transportation Impact fee in order to meet the CEQA minimum.

Table 6-3: Alternative 3, Residential Impact Fees for Zone 3 (Target Allocation: 70% Affordable Housing/ 15% Capital Improvements/ 15% Transportation)

Alternative 3, Residential Impact Fees (Fee is Per Unit) The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	12/1/16 – 11/30/17	12/1/17 – 11/30/18	12/1/18 – (target fee)
Multi-family, Zone 3	Affordable Hsg.	$2,597	$4,697	$8,897
	Capital Imp.	$403*	$1,006	$1,906
	Transportation	$710**	$1,007	$1,907
	Total	**$3,710**	**$6,710**	**$12,710**
Townhome, Zone 3	Affordable Hsg.	$2,000***	$4,200	$7,000
	Capital Imp.	$0*	$800*	$1,500
	Transportation	$1,000**	$1,000**	$1,500
	Total	**$3,000**	**$6,000**	**$10,000**
Single-family, Zone 3	Affordable Hsg.	$2,000***	$4,200	$7,000
	Capital Imp.	$0*	$800*	$1,500
	Transportation	$1,000**	$1,000**	$1,500
	Total	**$3,000**	**$6,000**	**$10,000**

* This fee is lower than 15% for Capital Imp. fee in order to meet the CEQA minimum for transportation.
**This fee is higher than 15% for the Transportation Impact fee in order to meet the CEQA minimum.
***This fee is lower than 70% for the Affordable Hsg. fee in order to meet the CEQA minimum for transportation.

Table 8 below shows an estimated revenue comparison for the City staff proposal compared to the three aforementioned alternatives over a 10 year period. The first set of revenues in the table **excludes** revenue estimates for the existing Jobs/Housing linkage fee (for affordable housing) on office and warehouse development. The "Share" column shows the portion of the revenue expected to go to each category (affordable housing, capital improvements, and transportation). The percentages in the "Share" category are different from the allocation percentages in each option because they include both the residential *and* non-residential fee revenue. The allocation percentages only relate to the residential fees.

The second half of the table includes the Jobs/Housing linkage fee revenue in the total to show the overall expected revenue for each category from both the Impact Fee and the Jobs/Housing Linkage fee. If you add in the estimated revenue from the existing Jobs/Housing linkage fee to the overall affordable housing revenue from the Impact Fee, the percentage of total revenue for affordable housing goes up, as shown in the second half of **Table 8**.

Table 8: Ten (10)-Year Estimated Impact Fee Revenue Totals For Both Residential and Non-Residential Impact Fees

	Jan. 26 Proposal		**Alternative 1**		**Alternative 2**		**Alternative 3**	
Fee	Estimated Revenue	Share	Estimated Revenue	Share	Estimated Revenue	Share	Estimated Revenue	Share
Affordable Hsg.	60,700,000*	77%	55,600,000*	70%	52,400,000*	66%	45,900,000*	58%
Capital Imp.	5,800,000	7%	10,200,000	13%	10,500,000	13%	13,800,000	17%
Transportation	12.700,000	16%	13,400,000	17%	16,300,000	21%	19,500,000	25%
Total	**79,200,000**	**100%**	**79,200,000**	**100%**	**79,200,000**	**100%**	**79,200,000**	**100%**
Including Jobs-Housing Linkage Fee**								
Affordable Hsg.	73,300,000**	80%	68,200,000**	74%	65,000,000**	71%	58,500,000**	64%
Capital Imp.	5,800,000	6%	10,200,000	11%	10,500,000	11%	13,800,000	15%
Transportation	12.700,000	14%	13,400,000	15%	16,300,000	18%	19,500,000	21%
Total	**91,800,000**	**100%**	**91,800,000**	**100%**	**91,800,000**	**100%**	**91,800,000**	**100%**

*Revenue does not include estimates from the existing jobs-housing linkage fee for affordable hsg.
** Revenue does include estimates from the existing jobs-housing linkage fee for affordable hsg.

Zone Map Boundary Changes

10) **Council Question/Comment:** The zones should be changed. Some options include: that the area east of the lake up to either 23rd Avenue or Fruitvale doesn't share the same development profile as the rest of East Oakland and should not be clumped together; the Council should consider having only one zone or two zones with the line for the second zone being east of High Street and below I-580; and that the Council should use the pipeline data, the housing prices in different areas, and Specific Plan areas to help set the boundaries.

Staff Response: The proposed residential impact fee zones were identified as an output of the Economic Feasibility Analysis done as part of the Impact Fee Study. The ***Attachment J*** to the January 26, 2016 CED Report includes the staff-proposed zones. ***Attachment J*** is also included as an attachment to this supplemental report. The zones differentiate areas of Oakland based on the development pipeline, market data on the rents and prices for new housing development, and the economic feasibility analysis for development in different parts of the city. Of necessity, the zone map is somewhat generalized, and an effort was made to choose zone boundaries on freeways and major streets for ease of implementation. The best practices of Impact Fee ordinances is to provide language which allows developments to challenge the fee if needed. This would also apply to the map. The information below provides responses to the specific Council comments about the map boundaries.

Zones for East Oakland

There are several points to note regarding consideration of dividing East Oakland (Zone 3) into two zones or subareas for purposes of residential impact fees on new development.

- The immediate areas to the east of the lake with greater development feasibility are in Zone 1 as is the area along the Estuary east of the Channel (including Brooklyn Basin).
- The Eastlake, San Antonio, and Fruitvale districts that come next are located closer to the lake and downtown and are more accessible to those areas. The existing building stock in parts of these districts is also attractive for new residents as are some of the commercial activities in the Eastlake and Fruitvale districts.
- Thus far, however, there has not been that much stronger interest in new market-rate development in these closer-in areas. The few recent market-rate development proposals in Zone 3 are in the Jingletown/Fruitvale area and further east on International Blvd. near the Oakland/San Leandro border.
- Data for existing rents and sales prices for the Eastlake, San Antonio, and Fruitvale districts do not show significant differences from rents and prices in Central East Oakland and the Elmhurst District further to the east in Zone 3.

Overall, there are more differences in development profiles and feasibility between Zone 3 and Zones 1 and 2, than within areas of Zone 3. If the Council is interested in further considering the option of subdividing Zone 3 for the purpose of collecting impact fees, additional analysis at the local level can be undertaken in an effort to define the most defensible and logical boundary.

Consider One Zone or Two Zones only Split at East Oakland east of High Street and Below I-580:

The economic analysis identified differences in types of development, obtainable rents and prices, and economic feasibility in different parts of Oakland. The market and feasibility differences affect the ability to pay impact fees. However, there are differences between Fee Zones 1 and 2 in the rest of the city.

Today, the largest differences are between Fee Zone 3 in East Oakland and Fee Zones 1 and 2 in the rest of the city.

- Prices and rents for housing in Zone 3 are lower than in the other zones, and there has been very little market-rate housing development built or proposed in

Zone 3 thus far. The feasibility of residential development in Zone 3 should improve over time with increasing prices and rents and investments and other improvements in the area. The lowest impact fees are currently proposed for Zone 3 to allow for improved development feasibility before impact fees would be increased to higher levels.

- There are not large differences evident in the feasibility of market-rate development between parts of East Oakland to the east and west of High Street. Further, the areas to the west of High Street are not yet comparable to development feasibility in other parts of the city in Zones 1 and 2.

- While both Zones 1 and 2 are anticipated to support feasible development with the proposed phase-in of new fees, differences in the types, costs, and rents/prices of development in Zone 2 support somewhat lower fees than the development anticipated in Fee Zone 1.

If there were only one fee zone for the entire city and all residential development would pay the same impact fees, there is risk that the new impact fees would affect development in locations with less ability to pay the fees. If the higher fees in Zone 1 were adopted citywide, there is the risk that the new fees could slow development in Zone 2 and particularly in Zone 3. If citywide impact fees were adopted everywhere except for East Oakland to the east of High Street, the effects would be similar to those described above except in the far East Oakland area where lower fees or no fees would be charged.

Consider Having No Fee in East Oakland for the First Year:

As development feasibility in East Oakland is behind that in other parts of the city, the current proposal includes lower fees in Zone 3. An option could be to adopt no fees in Zone 3 for the first one or two years, with the phase-in period for new fees beginning after that time. Such an option could do more to improve feasibility in East Oakland relative to the rest of the city. In particular, it could make more of a difference in parts of East Oakland where there is beginning to be interest in future market-rate development. Further consideration could be given to this approach.

Consider Including Specific Plan Areas:

The Staff proposal includes the Specific Plan areas and the ordinance can make that explicit. The Specific Plan areas are included in the appropriate fee zones based on market data and feasibility considerations for each plan area.

While the Specific Plans and their EIRs provide benefits for development, the underlying economic factors in each Plan area are much more important. Thus, not all Plan areas fall in the same fee zone.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive This Report And Provide Direction to Staff to Prepare the Necessary Legislation to Enable Imposition of Citywide Housing, Transportation, and Capital Improvement Impact Fees.

For questions regarding this report, please contact Laura Kaminski, Planner III, at (510) 238-6809.

Respectfully submitted,

DARIN RANELLETTI
Deputy Director, Planning and Building Department

Prepared by:
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Attachment:

Impact Fee Zone Map (Attachment J from January 26, 2016, Agenda Report)