



STAFF REPORT

AGENDA NO: 9k

MEETING DATE: November 18, 2024

To: Honorable Mayor and City Council

Date: November 18, 2024

From: Michael Guina, City Attorney – (650) 558-7263
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Subject: Adoption of a Resolution Approving the Annual Report on the Status of Impact Fees Collected as of June 30, 2024, Pursuant to the Mitigation Fee Act (Government Code Section 66000 et seq.)

RECOMMENDATION

Staff recommends that the City Council approve this annual report of the status of the Public Facilities Impact fees, North Burlingame and Rollins Road fees, Bayfront Development fees, and the Commercial Linkage fees and Residential Impact fees collected by the City. The attached resolution approves this annual report and provides the following information required by Government Code section 66006(b) (the “Annual Report”) for (1) the Public Facilities Impact Fee, (2) the Commercial Linkage Fee, (3) the Residential Impact Fee, (4) the North Burlingame and Rollins Road Fee, and (5) the Bayfront Development Fee:

- A. A description of the type of fee.
- B. The amount of the fee.
- C. The beginning and ending balance of the fee account.
- D. The amounts collected during the year and interest.
- E. Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees.
- F. Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.
- G. Description of any interfund transfers or loans.
- H. Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).

BACKGROUND

Cities and counties often charge fees on new development to fund public improvements necessitated by the development. For example, transportation fees are used to fund transit facilities, streets, bike lanes, and sidewalks. These fees are commonly known as development impact fees. In 1989, the State Legislature passed Assembly Bill 1600 (AB 1600), which added Sections 66000 et seq. to the California Government Code, commonly known as the Mitigation Fee Act. The Mitigation Fee Act sets forth a number of requirements that local agencies must follow if they are to collect and retain fees from developers to defray the cost of the construction of public

facilities related to development projects, including requirements for establishing a nexus or connection between fees imposed and the development project or class of projects paying the fees. Fees must also be segregated from the General Fund.

The Mitigation Fee Act also requires the City to adopt annual reports within 180 days of the close of each fiscal year that provide certain information required by Government Code section 66006(b) (the Annual Report) and to make certain findings in every fifth year following the first deposit into a fee account (the Five-Year Findings) with respect to the portion of the account remaining unexpended. The components of the Annual Report are listed in the Recommendation section above. When Five-Year Findings are required, the Mitigation Fee Act requires that they are made in connection with the Annual Report. The City Council last made the Five-Year Findings for each of the five fees covered in the Annual Report at its December 22, 2022, meeting.

DISCUSSION

The section below provides the information necessary for the City Council to approve the Annual Report.

Public Facilities Impact Fees

Annual Report information (required by Government Code section 66006(b)(1)(A)-(H))

A. Description of fee

The Public Facilities Impact Fee, adopted by the City Council in 2008, is used to pay for the construction, expansion, and improvement of seven categories of public facilities: general, library, police, parks, traffic/streets, fire, and storm drainage. The Public Facilities Impact Fee is calculated and imposed based on the type of use, number of dwelling units, and amount of square footage of each development project.

B. Amount of fee

The fee for each of the seven facilities categories was set upon adoption of the fees in 2008 and remains as shown below:

	Single Family	Multifamily	Commercial	Office	Industrial
	Fee per Dwelling Unit	Fee per Dwelling Unit	Fee per 1,000 sq.ft. of Building	Fee per 1,000 sq.ft. of Building	Fee per 1,000 sq.ft. of Building
General	\$ 2,756	\$ 1,636	\$ 930	\$ 640	\$ 305
Library	\$ 2,383	\$ 1,415	Not applicable (a)	Not applicable (a)	Not applicable (a)
Police	\$ 437	\$ 259	\$ 147	\$ 102	\$ 48
Parks	\$ 590	\$ 350	\$ 172	\$ 118	\$ 56
Traffic/Streets	\$ 1,573	\$ 1,105	\$ 7,285	\$ 1,810	\$ 1,146
Fire	\$ 642	\$ 381	\$ 360	\$ 248	\$ 118
Storm Drainage	\$ 781	\$ 391	\$ 717	\$ 442	\$ 628
Total Impact Fee:	\$ 9,162	\$ 5,537	\$ 9,611	\$3,360	\$2,301

C. The beginning and ending balance of the account; and D. Amounts collected and interest.

The following table summarizes the activities associated with the Public Facilities Impact Fee from fiscal year 2019-20 through the fiscal year ended June 30, 2024:

<i>Public Facilities Impact Fees</i>	2019-20	2020-21	2021-22	2022-23	2023-24
Beginning Balance	\$561,769	\$2,350,238	\$2,392,038	\$5,613,844	\$4,846,510
Developer Fees	1,716,814	22,148	3,332,325	316,998	3,915,933
Interest Income (Expense)	71,654	19,652	(110,519)	45,668	294,682
Expenditures	0	0	0	(1,130,000)	(3,230,000)
Ending Balance	\$2,350,238	\$2,392,038	\$5,613,844	\$4,846,510	\$5,827,125

The balance of the Public Facilities Impact Fee as of June 30, 2024, is shown below:

<u>Public Facilities Impact Fees</u>	
<u>Ending Balance:</u>	<u>2023-24</u>
General Facilities	\$936,718
Library	1,248,796
Police	307,825
Parks & Recreation	216,617
Streets & Traffic	1,960,974
Fire	417,079
Storm Drain	739,115
Ending Balance	<u>\$5,827,125</u>

E. Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees

The table below identifies the public improvements funded by the Public Facilities Fee in the past year, the amounts spent, and the percentage of each project funded by the Public Facilities Fee:

Fiscal Year 2023-24	Description	Amount	Percentage of Project Fund
	Athletic Field Renovation	\$50,000	14.3%
	California Drive Class I Bike Improvements (Oak Grove to Burlingame Ave)	\$180,000	8.6%
	Roof Replacement at the Police Department	\$600,000	85.7%
	HVAC & EMS Upgrades at PW Corp Yard	\$170,000	30.4%
	Citywide Minor Building Facilities	\$230,000	62.3%
	Burlingame Town Square Public Plaza	\$2,000,000	17.0%
	Total	\$3,230,000	

- F. Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.*

Fiscal Year 2024-25	Description	Amount
	Police ADA & Sally Port Improvement – Phase 1	\$300,000
	Fire Station 34 HVAC Design and Improvements	\$400,000
	Burlingame Town Square Public Plaza	\$1,300,000
	Total	\$2,000,000

There have not been sufficient funds collected for the above-identified projects, so the City cannot yet move forward with construction or a construction schedule.

- G. Description of any interfund transfers or loans.*

There were no interfund transfers or loans.

- H. Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).*

There were no refunds made pursuant to Government Code section 66001(e) and no allocations made pursuant to section 66001(f).

Commercial Linkage Fee

Annual Report information (required by Government Code section 66006(b)(1)(A)-(H))

- A. Description of fee*

In 2017, the City Council adopted an ordinance establishing the Commercial Linkage Fee for new commercial and industrial development in Burlingame to support workforce housing in the city. Under the ordinance, developers of employment-generating commercial and industrial developments are required to pay the fee to contribute to the supply of low- and moderate- income housing necessitated by the jobs created by their development.

- B. Amount of fee*

The adopted fees are \$7.00 per square foot for new retail development, \$12.00 per square foot for new hotel development, \$18.00 per square foot for office projects of 50,000 square feet or less, and \$25.00 per square foot for office development greater than 50,000 square feet. For developers who utilize prevailing wages or area standard wages, the fees are \$5.00 per square foot for new retail development, \$10.00 per square foot for new hotel development, \$15.00 per square foot for office projects of 50,000 square feet or less, and \$20.00 per square foot for office development greater than 50,000 square feet.

In fiscal year 2018-19, a number of cities in San Mateo County expressed an interest in re-examining their Commercial Linkage Fees given changes in market conditions since cities first adopted their fees. The 21 Elements housing collaborative coordinated a multicity Commercial Linkage feasibility study prepared by Century | Urban consultants that made recommendations on appropriate impact fee levels for new office, biotech, and hotel developments. The City of Burlingame participated in the feasibility study, together with Brisbane, Half Moon Bay, San Bruno, San Mateo, South San Francisco, and Pacifica. Each City received a unique report. The reports were completed in spring 2020, as shelter-in-place orders were imposed in response to the COVID-19 pandemic. In fiscal year 2021-22, the City of Burlingame contracted directly with Century | Urban to update the 2020 study to reflect post-pandemic commercial market conditions. The study recommended that fees remain at current levels and not be raised due to rising construction costs and uncertainties in the commercial real estate market. The commercial market remains challenged, with further impediments presented by the increased cost of construction financing from higher interest rates, and from high labor costs.

C. The beginning and ending balance of the account; and D. Amounts collected and interest

The table below summarizes the Commercial Linkage Fee Fund activity from 2019-20 through June 30, 2024.

<i>Housing Fund</i>	2019-20	2020-21	2021-22	2022-23	2023-24
Beginning Balance	\$0	\$705,174	\$561,790	\$8,545,191	\$8,833,553
Developer Fees	683,675	0	8,281,129	365,500	21,482
Interest Income (Expense)	21,499	4,615	(168,228)	83,237	382,217
Expenditures	0	(148,000)	(129,500)	(160,376)	(1,679,181)
Ending Balance	\$705,174	\$561,790	\$8,545,191	\$8,833,553	\$7,558,070

E. Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees

The table below identifies the public improvements funded by the Commercial Linkage Fee in the past year and the amounts spent:

Fiscal Year 2023-24	Description	Amount
1	Housekeys, Inc – Administer the City's Below Market Rate Housing Program	\$150,000
2	Housing Endowment and Regional Trust	\$22,166
	Seifel Consulting Inc – Affordable Housing Program Review update	\$65,458
3	Valbridge Property Advisors	\$9,419
4	Eucalyptus Grove Project	\$1,432,138
	Total	\$1,679,181

- F. Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.*

Items 1-3 in the table in Section E above are programs that support the creation and maintenance of the supply of affordable housing and the affordable housing program in the city. Item 4, the Eucalyptus Grove project, has been funded, and the associated building permits for the project have been approved pending issuance. Construction should commence shortly after permit issuance.

- G. Description of any interfund transfers or loans.*

On December 5, 2022, the City Council authorized the City Manager to negotiate and execute a loan agreement with Allied Housing, Inc., to provide funding assistance of \$1,432,138 to a proposed Affordable Housing Development at 1875 California Drive (Eucalyptus Grove). The funding was disbursed on November 2, 2023.

- H. Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).*

There were no refunds made pursuant to Government Code section 66001(e) and no allocations made pursuant to section 66001(f).

Residential Impact Fee

Annual Report information (required by Government Code section 66006(b)(1)(A)-(H))

- A. Description of fee*

On April 1, 2019, the City Council adopted an ordinance establishing a Residential Impact Fee for new residential development in Burlingame to support workforce housing needs. The fees became effective in June 2019.

- B. Amount of fee*

The ordinance provides for a tiered structure of fees based on residential density and whether a project is a rental project or for sale, as shown below:

	Impact Fee – Per Square Foot	
	Base	With Prevailing / Area Wage
Rental Multifamily – 11 units and above		
Up to 50 du/ac	\$17.00 / sq ft	\$14.00 / sq ft
51-70 du/ac	\$20.00 / sq ft	\$17.00 / sq ft
71 du/ac and above	\$30.00 / sq ft	\$25.00 / sq ft
For Sale Multifamily (Condominiums) – 7 units and above		
	\$35.00 / sq ft	\$30.00 / sq ft
Notes:		
1. Rental Multifamily with total of 10 units or fewer are exempt. 2. For Sale Multifamily (Condominiums) with total of 6 units or fewer are exempt. 3. Rental projects that convert to condominiums within 10 years of completion of construction would be subject to the fee differential as a condition of conversion. The fee differential shall be based on the fee structure in place at the time of conversion to condominiums, minus the fees originally submitted at the time of construction.		

The ordinance also provides an “in-lieu” option where the developer can choose to provide an affordable unit or units on-site in lieu of submitting the impact fee. Whether a developer would choose an on-site option would depend on a number of factors such as the amount of the impact fee, the size of the development, the comparable cost of underwriting the affordable units for the designated time period and affordability level, utilization of State Density Bonus provisions, and whether the ownership of the development is expected to be retained or sold at the completion of construction. To date, all residential projects subject to the Residential Impact Fee have chosen to provide affordable units on-site in lieu of the impact fees, resulting in 254 approved Moderate, Low, and Very Low-Income units.¹

C. The beginning and ending balance of the account; and D. Amounts collected and interest

The City did not collect any Residential Impact Fees from FY 2019-20 through June 30, 2024, so the balance of the account is \$0.

E. Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees

No Residential Impact Fees were expended in the past year.

F. Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.

The City has not identified public improvements to be constructed using Residential Impact Fees because the fee balance is \$0.

G. Description of any interfund transfers or loans.

¹ This total does not include 29 units at 1008-1028 Carolan Avenue or one unit at 1509 El Camino Real since these projects were approved prior to the adoption of the Residential Impact Fees. The total also does not include 132 units at the Village of Burlingame, which was not subject to the Residential Impact Fee because it is a City-sponsored 100% affordable project subject to a specific development agreement. In total, there are currently 416 new affordable units that have been constructed or entitled.

There were no interfund transfers or loans.

H. Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).

There were no refunds made pursuant to Government Code section 66001(e) and no allocations made pursuant to section 66001(f).

North Burlingame/Rollins Road Development Fee

Annual Report information (required by Government Code section 66006(b)(1)(A)-(H))

A. Description of fee

Properties lying within the geographical boundaries of the study area for the “North Burlingame/Rollins Road Specific Plan,” adopted in 2004, were previously subject to payment of a fee applicable only to that area at the time the property is developed or redeveloped. As described in this report above, this fee was rescinded as part of the repeal of the North Burlingame/Rollins Road Specific Plan on December 5, 2022. In the City Council’s action repealing the Specific Plan and rescinding this fee, the Council recognized that certain already-entitled projects (Topgolf [250 Anza Boulevard], 567 Airport Boulevard, 1 Adrian Court, 30 Ingold Road, 1870 El Camino Real, 1868 Ogden Drive, and 1814-1820 Ogden Drive) could continue to pay this lower fee rather than any new applicable fees. One-half of the fee is payable before the issuance of a building permit, and the balance is payable when a certificate of occupancy is requested. The North Burlingame/Rollins Road Development Fee pays for the construction, improvement, and enhancement of public arterials and access within designated areas of the overall Specific Plan area.

B. Amount of fee

Ordinance No. 1751 (2005) provides for annual adjustment of the fee based on the construction cost index published in the Engineering News Record (ENR) as of July 1 of each year. While this fee has been rescinded, the remaining projects described in section A above will be subject to the fee. As of June 30, 2024, the fees were as follows:

<u>North Burlingame & Rollins Road Development Fee</u>	
Rollins Road Area of Benefit	\$0.66 per square foot of building
El Camino North Area of Benefit:	
Multiple family dwelling or duplex	\$0.66 per square foot of building
Any use other than multiple family dwelling or duplex	\$0.83 per square foot of building

- C. *The beginning and ending balance of the account; and D. Amounts collected and interest*

The following table summarizes the activities associated with North Burlingame/Rollins Road Development Fee from fiscal year 2019-20 through the fiscal year ended June 30, 2024:

<i>North Burlingame & Rollins Road</i>	2019-20	2020-21	2021-22	2022-23	2023-24
Beginning Balance	\$478,865	\$493,924	\$498,015	\$635,272	\$749,674
Developer Fees	0	0	149,764	107,338	252,652
Interest Income (Expense)	15,059	4,091	(12,507)	7,064	10,777
Expenditures	0	0	0	0	(800,000)
Ending Balance	\$493,924	\$498,015	\$635,272	\$749,674	\$213,103

- E. *Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees*

The table below identifies the public improvements funded by the North Burlingame/Rollins Road Development Fee in the past year, the amounts spent, and the percentage of each project funded by the Fee:

Fiscal Year 2023-24	Description	Amount	Percentage of Project Fund
	North Rollins Road Bicycle and Pedestrian Improvements	\$800,000	20.5%

- F. *Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.*

Fiscal Year 2024-25	Description	Amount
	El Camino Real Streetscape	\$1,220,000
	Rollins Road Gateway	\$60,000
	Rollins Road Streetscape	\$600,000
	Total	\$1,880,000

There have not been sufficient funds collected for the above-identified projects, so the City cannot yet move forward with construction or a construction schedule.

- G. *Description of any interfund transfers or loans.*

There were no interfund transfers or loans.

- H. *Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).*

There were no refunds made pursuant to Government Code section 66001(e) and no allocations made pursuant to section 66001(f).

Bayfront Development Fees

Annual Report information (required by Government Code section 66006(b)(1)(A)-(H))

A. Description of fee

Similar to the North Burlingame/Rollins Road Development Fee, this fee (adopted by ordinance in 2004), applied only to properties lying within the geographic boundaries of the Burlingame Bayfront Specific Plan. Per the ordinance, the fees collected are to be used to pay for future construction, improvement, and enlargement of major arterials and traffic control devices for the primary purpose of carrying through traffic and providing a network of roads within the Bayfront area on the east side of US 101. And as described in this Report above, this fee was rescinded as part of the repeal of the Bayfront Specific Plan on December 5, 2022. In the City Council's action repealing the Specific Plan and rescinding this fee, the Council recognized that certain already-entitled projects (Topgolf [250 Anza Boulevard], 567 Airport Boulevard, 1 Adrian Court, 30 Ingold Road, 1870 El Camino Real, 1868 Ogden Drive, and 1814-1820 Ogden Drive) could continue to pay this lower fee rather than any new applicable fees.

B. Amount of fee

Ordinance No. 1739 (2004) provides for annual adjustment of the fee based on the construction cost index published in the Engineering News Record (ENR) as of July 1 of each year. While this fee has been rescinded, the remaining projects described in section A above will be subject to the fee. As of June 30, 2024, the fees were as follows:

<u>Bayfront Development Fee</u>	
Office	\$2,905/TSF
Restaurant	\$11,699/TSF
Hotel	\$952/room
Hotel, Extended Stay	\$926/room
Office, Warehouse, Manufacturing	\$4,405/TSF
Retail – Commercial	\$10,695/TSF
Car Rental	\$67,875/acre
Commercial Recreation	\$21,065/acre
All Other	\$2,341 per p.m. peak hour trip as detailed by traffic study

C. The beginning and ending balance of the account; and D. Amounts collected and interest

The following table summarizes the activities associated with Bayfront Development Fee from fiscal year 2019-20 through the fiscal year ended June 30, 2024:

<i>Bayfront Development</i>	2019-20	2020-21	2021-22	2022-23	2023-24
Beginning Balance	\$0	\$0	\$0	\$329,567	\$458,262
Developer Fees	0	0	336,055	124,378	0
Interest Income (Expense)	0	0	(6,488)	4,318	0
Expenditures	0	0	0	0	(500,000)
Ending Balance	\$0	\$0	\$329,567	\$458,262	(\$41,738)

E. Identification of each public improvement for which fees were expended, the amount spent, and the percentage of the project costs funded by the fees

No fees from the Bayfront Development Fee fund were expended in the past year.

F. Approximate date by which construction of the public improvements will commence, if sufficient funds have been collected.

Fiscal Year	Description	Amount
2024-25	Old Bayshore Highway Complete Streets Project	\$650,000
	Bayshore Highway Median Construction	\$2,050,000
	Total	\$2,700,000

There have not been sufficient funds collected for the above-identified projects, so the City is cannot yet move forward with construction or a construction schedule.

G. Description of any interfund transfers or loans.

There were no interfund transfers or loans.

H. Amounts of refunds made pursuant to Government Code section 66001(e) and allocations made pursuant to section 66001(f).

There were no refunds made pursuant to Government Code section 66001(e) and no allocations made pursuant to section 66001(f).

FISCAL IMPACT

The acceptance of the Annual Report has no impact on City resources, as all impact fees held by the City are committed to specific purposes per appropriate findings made by the City Council.

Exhibit:

- Resolution Approving the Annual Report for the City's Development Impact Fees