



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 12/5/2023

ITEM NO: 6

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DATE: November 27, 2023  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Receive Fiscal Year (FY) 2022/23 Status Report on Receipt and Use of  
Development Impact Fees

**RECOMMENDATION:**

Receive Fiscal Year (FY) 2022/23 status Report on Receipt and Use of Development Impact Fees.

**BACKGROUND:**

To ensure that mitigation fees associated with private land use development are spent in a timely manner and on projects for which they were being collected, the State Legislature passed the Mitigation Fee Act (AB 1600). This bill applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act (California Government Code, §66000 et seq.) requires local agencies that impose Development Impact Fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be reviewed by Council within 180 days after the close of the fiscal year represented.

The Town collects four Development Impact Fees that meet the AB 1600 reporting requirement: the Traffic Impact Mitigation Fee, Below-Market Priced Housing Program In-Lieu Fee, Construction Activity Impact Fee, and the Public Art Fee. Separate balances exist for each of these fees either as individual accounts or in the case of Traffic Impact Mitigation Fees, separate funds. As required by AB 1600, as of June 30, 2023, all accounts or funds with unspent balances have been credited interest revenue at the Town's current interest rate earned on its total.

**PREPARED BY:** Gitta Ungvari  
Finance Director

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Reviewed by: Town Manager, Town Attorney, Assistant Town Manager, CDD Director, and PPW Director

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DISCUSSION:

AB 1600 requires that a status report be prepared annually which must include the following:

- A brief description of the fee and the fund into which the fee was deposited;
- The amount of the fee;
- The associated fund's beginning and ending balances for the fiscal year;
- The total amount of fees collected and interest earned;
- Identification of each public improvement on which impact fees were expended and amount of expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of approximate date by which construction of a public improvement will begin;
- Determination that sufficient funds have been collected to complete financing on an incomplete public improvement;
- Description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an inter-fund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan;
- Amount of any refunds made due to inability to expend impact fees once a determination is made that sufficient impact fees have been collected to finance a public improvement, the improvement remains incomplete, and the Town has not determined an approximate date by which construction will begin; and
- Whenever the funds are held five years or more, the Town must present plans or commitments to demonstrate intended future use of these funds.

This information is presented in the attached FY 2022/23 Annual Status Report on Receipt and Use of Development Impact Fees. The Report depicts balances and the intended use of balances, including decisions made after June 30, 2023 to demonstrate that the fees will be used for their respective purposes.

CONCLUSION:

Staff recommends Council receive the FY 2022/23 Annual Status Report on Receipt and Use of Development Impact Fees as required under the Mitigation Fee Act (AB 1600).

COORDINATION:

This report was coordinated with the Community Development and Park and Public Works Departments.

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FISCAL IMPACT:

There is no fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. FY 2022/23 Annual Status Report on Receipt and Use of Development Impact Fees

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**TOWN OF LOS GATOS**  
**ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES**  
**JUNE 30, 2023**

**Traffic Impact Mitigation Fee:**

The Traffic Impact Mitigation Fee assures that each new development or expansion of use pays its fair share of the transportation improvements needed to accommodate the cumulative traffic impacts. The fee, \$1,104 per new average daily trip generated, is paid in full to the Town Building Department prior to issuance of the building permit for new development or expansion of use. The collected fee is held in the Traffic Mitigation Fee Fund. The Traffic Mitigation Fund should be used solely to fund transportation improvement projects related to mitigating the impacts of new development. The funds cannot be used for routine repair or maintenance.

**TRAFFIC IMPACT MITIGATION FEES FUND**

<b>Beginning Cash Balance (07/01/2022)</b>	<b>2,094,740</b>
<b>Source of Funds</b>	
Fees Collected FY 22/23	9,582
Interest Earned FY 22/23	25,509
<b>Total Source of Funds</b>	<b>\$2,129,831</b>
<b>Use of Funds</b>	
Capital Outlay:	
Traffic Signal Modernization (42% of the Project's Estimated Life-Time Cost)	90,088.34
Hwy 17 Capacity Improvement (41% of the Project's Estimated Life-Time Cost)	600,000.00
Traffic Mitigation - Admin Support (100% of FY 2022/23 Expenditures)	10,000
<b>Total Use of Funds</b>	<b>\$700,088</b>
Expenses Incurred in FY 2021/22 , Paid in July of FY 2022/23	(193,307)
Expenses Incurred in FY 2022/23, Paid in July of FY 2023/24	6,521
<b>Ending Cash Balance (6/30/2023) Pre-Final Audit</b>	<b>\$1,242,956</b>
<b>Designated Future Projects:</b>	
<b>Per FY 23/24 through 27/28 Capital Improvement Plan:</b>	
Shannon Road Pedestrian and Bikeway Improvements (6% of Total Project Costs)	\$133,380
Traffic Signal Modernization (42% of the Project Estimated Life-Time Cost)	196,238
Town-wide Speed Study	80,000
<b>Total CIP and Operating Budget Commitments</b>	<b>\$196,238</b>
<b>Potential Project List (Estimates Only)</b>	
Shannon Road Stabilization Project (Future Project - Pending Funding)	\$2,900,000
Kennedy Road Sidewalk and Bikelanes (Future Project- Pending Funding)	\$1,300,000
<b>Total Potential Project List</b>	<b>\$4,200,000</b>
<b>Total Designated and Unfunded Projects</b>	<b>\$4,396,238</b>
<b>Current Funding Shortfall</b>	<b>(\$3,153,282)</b>

**TOWN OF LOS GATOS**  
**ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES**  
**JUNE 30, 2023**  
**(Continued)**

**Construction Impact Activity Fee:**

Construction Impact Activity Fee is assessed on construction projects based on the square foot size of the project at a rate of \$1.43 per square foot. These fees are intended to recover the damage caused to Town streets by construction traffic. The collected fee is held in the General Fund Appropriated Reserves.

**CONSTRUCTION IMPACT ACTIVITY FEE**

<b>Beginning Cash Balance (07/01/2022)</b>	<b>\$0</b>
<b>Source of Funds</b>	
Fees Collected FY 22/23	181,533
Interest Earned FY 22/23 (Funds expended upon receipt)	-
<b>Total Source of Funds</b>	<b>\$181,533</b>
<b>Use of Funds</b>	
Business Services Charge	
Capital Outlay:	
Street Repair and Resurfacing Project FY 22/23 (FY 2022/23 Fees Collected Cover 6.0% of FY 2022/23 Expenditures)	3,028,769
<b>Total Use of Funds</b>	<b>3,028,769</b>
<b>Ending Cash Balance (6/30/2023) Pre-Final Audit</b>	<b>(\$2,847,236)</b>
<b>Designated Future Projects</b>	
<b>Per FY 23/24 through 27/28 Capital Improvement Plan:</b>	
Street Repair and Resurfacing Project	\$7,583,197
<b>Total Designated Future Projects</b>	<b>\$7,583,197</b>
<b>Current Funding Shortfall</b>	<b>(\$10,430,433)</b>

**TOWN OF LOS GATOS**  
**ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES**  
**JUNE 30, 2023**  
*(Continued)*

**Below-Market Priced (BMP) Housing Program In-Lieu Fee:**

BMP In-Lieu Fees are collected from residential development projects with five (5) or more units when the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The required in-lieu fee is to be paid to the Town prior to issuance of the certificate of occupancy. The BMP In-Lieu Fee is equal to the amount of six (6) percent of the building permit valuation for the entire project. The collected fees are held in the General Fund BMP Housing liability account and are restricted to be used solely for BMP Housing Program activities.

**BELOW-MARKET PRICED HOUSING PROGRAM IN-LIEU FEES**

<b>Beginning Cash Balance (07/01/2022)</b>	<b>3,698,538</b>
<b>Source of Funds</b>	
Fees Collected FY 22/23	186,634
Interest Earned FY 22/23	41,276
<b>Total Source of Funds</b>	<b>3,926,448</b>
<b>Use of Funds</b>	
Program Operating Expense (100% of FY 2022/23 Expenditures)	182,168
Staff Administration (100% of FY 2022/23 Expenditures)	23,000
<b>Total Use of Funds</b>	<b>205,168</b>
<b>Ending Cash Balance (6/30/2023) Pre-Final Audit</b>	<b>3,721,280</b>
<b>Unavailable Source</b>	
Land Held for Resale	344,338
<b>Total Cash Balance and Unavailable Source</b>	<b>4,065,618</b>
<b>Potential Future Projects</b>	
Low and Moderate Income Housing (Future Project - Pending Funding)	3,000,000
Reacquisition of Distressed/Foreclosed Properties (Future Project - Pending Funding)	700,000
Hello Housing and House Keys Program Services (Future Project - Pending Funding -5 Year Total)	600,000
<b>Total Potential Future Projects</b>	<b>4,300,000</b>
<b>Current Funding Shortfall</b>	<b>(234,382)</b>

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**JUNE 30, 2023**  
***(Continued)***

**Public Art Fee:**

Los Gatos Public Art Fees are collected In lieu of installation of on-site public art, the developer may elect to make a monetary contribution to the Los Gatos Public Arts Fund. The amount of the contribution shall be the cost of the public art. A developer who elects to satisfy the requirements of this Chapter through a contribution to the Fund must complete the payment in-lieu prior to the issuance of any building permit for the development project. The Los Gatos Public Art Funds may be used for the following purposes, including: acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs, including visual or performing arts, as approved by the Arts and Culture Commission, on or in Town owned, public property throughout the Town. Art works acquired through the Public Art Fund shall be owned by the Town of Los Gatos and generally made accessible to the public. As of to date there is no Public Art fee collected yet.

**Other Required Disclosures:**

As required by law, no inter-fund (loans/transfers) were made during the reporting period and no refund were necessary as all fees collected have a current funding short fall status as presented in the Annual Status Report.