

RESOLUTION NO. 20-____

Resolution Of The City Council Of The City Of Emeryville Approving The Annual Development Impact Fee Report For Fiscal Year 2019-2020

WHEREAS, on August 7, 1990, the City Council of the City of Emeryville adopted Ordinance No. 90-08, adding Article 3 of Chapter 2 of Title 3 to the Emeryville Municipal Code, titled “Traffic Facilities Impact Fee Fund”, which established the authority for imposing and charging a Traffic Facilities Impact Fee to be deposited into the Traffic Facilities Impact Fee Fund; and

WHEREAS, pursuant to that authority, the City Council adopted Resolution No. 90-62 on August 7, 1990, imposing a Traffic Impact Fee on all new development in the city to help fund various traffic facility improvements; and

WHEREAS, on October 6, 1998, the City Council adopted Resolution No. 98-167 updating the Traffic Impact Fee; and

WHEREAS, on July 15, 2014, the City Council adopted Ordinance No. 14-008 adding Article 19 of Chapter 5 of Title 9 to the Emeryville Municipal Code, titled “Development Impact Fees”, repealing Article 3 of Chapter 2 of Title 3, and establishing the authority for the City to impose fees on development projects for the purpose of mitigating the impacts that the projects may have upon the City’s ability to provide public facilities including, but are not limited to, transportation facilities and park and recreation facilities; and

WHEREAS, on July 15, 2014, the City Council adopted Resolution No. 14-105, establishing an updated and renamed Transportation Facility Impact Fee, approving and adopting a “Transportation Impact Fee Update” study (“Transportation Impact Fee Nexus Study”), and imposing an updated Transportation Impact Fee on all new development in the city to be deposited into Fund 250, the Transportation Facility Impact Fee Fund, to help fund a list of transportation improvement projects as more particularly described in Attachment 1a of the attached Annual Development Impact Fee Report for Fiscal Year 2019-2020; and

WHEREAS, on July 15, 2014, the City Council adopted Resolution No. 14-104, establishing a Park and Recreation Facility Impact Fee, approving and adopting a “Park and Recreation Facility Development Impact Fee Study” (“Park Fee Nexus Study”) and imposing a Park and Recreation Facility Impact Fee on all new development in the city to be deposited into Fund 237, the Park and Recreation Impact Fee Fund, to help fund a list of parks and recreation projects as more particularly described in Attachment 1b of the attached Annual Development Impact Fee Report for Fiscal Year 2019-2020; and

WHEREAS, on July 15, 2014, the City Council adopted Ordinance No. 14-009 amending Article 4 of Chapter 5 of Title 9 of the Emeryville Municipal Code, titled “Affordable Housing Set Aside Program”, and retitling it “Affordable Housing Program”, and establishing the authority for the City to impose fees on new rental residential

projects and new nonresidential projects to mitigate the projects' impacts on the need for affordable housing in the city; and

WHEREAS, on July 15, 2014, the City Council adopted Resolution No. 14-103, establishing an Affordable Housing Impact Fee, approving and adopting a "Residential Nexus Study" and a "Non-Residential Jobs-Housing Nexus Study", and imposing an Affordable Housing Impact Fee on all new rental residential projects and new nonresidential projects in the city to be deposited into Fund 239, the Affordable Housing Impact Fee Fund, to mitigate the projects' impacts on the need for affordable housing in the city; and

WHEREAS, on October 20, 2015, the City Council adopted Resolution No. 15-130 increasing the Affordable Housing Impact Fee on rental residential projects to \$28,000 per dwelling unit; and

WHEREAS, the adopting resolutions for each of the three development impact fees, described above, provide that, for any annual period during which the City Council does not otherwise amend the impact fees, the fee amounts shall be adjusted once as of July 1st based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California, and, pursuant to these provisions, on April 16, 2019, the City Council adopted Resolution No. 19-39 increasing the development impact fees by 0.28% for fiscal year 2019-2020; and

WHEREAS, California Government Code Section 66000 *et seq.* (the "Mitigation Fee Act") requires each local agency to make public certain information on development impact fees within 180 days of the close of each fiscal year; and

WHEREAS, Section 66001(d) of the Mitigation Fee Act requires that, for the fifth fiscal year following the first deposit into a development impact fee fund, and every five years thereafter, if fees remain unexpended, the local agency must make findings identifying the purpose to which the fee is to be put, demonstrate that there remains a reasonable relationship between the current need for the fees and the purpose for which it is charged, identify all sources and amounts of funding contemplated to complete financing of incomplete improvements, and designate the approximate dates on which the contemplated funding is expected to be deposited into the fund; and

WHEREAS, the first deposits into the updated Transportation Facility Impact Fee Fund and the new Park and Recreation Facility Impact Fee Fund and Affordable Housing Impact Fee Fund occurred in Fiscal Year 2014-2015; thus, the fifth fiscal year following these first deposits was Fiscal Year 2019-2020; and

WHEREAS, the Annual Development Impact Fee Report for Fiscal Year 2019-2020, attached as Exhibit A, provides the necessary information as required by the Mitigation Fee Act; and

WHEREAS, the Mitigation Fee Act requires each local agency to review the information at a public meeting not less than 15 days after the information is made available to the public; and

WHEREAS, the information was made available to the public on November 6, 2020 in connection with the agenda for the regular City Council meeting held on Tuesday November 17, 2020, and for public comment at a properly noticed public meeting held on Tuesday, December 1, 2020; now, therefore, be it

RESOLVED, that, pursuant to Section 66001(d) of the Mitigation Fee Act, the City Council of the City of Emeryville hereby makes the following findings:

- (A) Identify the purpose to which the fee is to be put.

The Transportation Facility Impact Fee Fund (Fund 250) contains fees imposed on development projects for the purpose of mitigating the impacts that the projects have upon the City's ability to provide transportation facilities. The Park and Recreation Impact Fee Fund (Fund 237) contains fees imposed on development projects for the purpose of mitigating the impacts that the projects have upon the City's ability to provide parks and recreation facilities. The Affordable Housing Impact Fee Fund (Fund 239) contains fees imposed on new rental residential projects and new nonresidential projects to mitigate the projects' impacts on the need for affordable housing in the city. Specific projects to be funded by the Transportation Facility Impact Fee Fund and Park and Recreation Impact Fee Fund are listed in Attachment 1 of Exhibit A.

- (B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

The "nexus studies" that were adopted by the City Council when they established the development impact fees on July 15, 2014, demonstrated a reasonable relationship between each fee and the purpose for which it is charged, and those nexus studies continue to support the reasonable relationship between the fee and the fee's purpose. Specifically:

- On July 15, 2014, the City Council adopted Resolution No. 14-105, establishing an updated and renamed Transportation Facility Impact Fee, and approving and adopting a "Transportation Impact Fee Update" study ("Transportation Impact Fee Nexus Study"). The nexus study demonstrates the Transportation Facility Impact Fee would be imposed on future development projects in Emeryville commensurate with their projected level of auto trip generation without network enhancements based on trip generation rates from Trip Generation Manual, Institute of Transportation Engineers (ITE), 9th Edition. Improvements to transportation facilities included in the fee*

are designed to improve the efficiency of the street network, reduce vehicle trips, and enhance the transportation system for walking, bicycling, and using transit. Shifting existing and new trips that would otherwise be made by a private auto to pedestrian, bicycle and transit trips improves the efficiency of the transportation system for all users and achieves General Plan goals such as avoiding pavement additions to the street network and minimizing adverse environmental impacts associated with vehicle use. The Transportation Facility Impact Fee program is designed to accommodate and mitigate the impact of future travel demand in line with the population and employment growth in Emeryville as a 71 percent increase in population and a 46 percent increase in jobs is forecast by 2030.

- *On July 15, 2014, the City Council adopted Resolution No. 14-104, establishing a Park and Recreation Facility Impact Fee, and approving and adopting a “Park and Recreation Facility Development Impact Fee Study” (“Park Fee Nexus Study”). This nexus study supports the City policy that Park and Recreation Facility Impact Fee revenue will be used for the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, vehicles, and services used to serve new development as described in the nexus study. Facilities funded by the Park and Recreation Facility Impact Fee are expected to provide a citywide network of facilities accessible to the additional residents and workers associated with new development. Under the Act, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development residential and non-residential use classifications that will pay the fees.*

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. Facilities demand is determined as follows: The service population is established based upon the number of residents living in Emeryville plus the number of workers working in Emeryville. Service population correlates to the demand for parks and recreation facilities. One worker is weighted at half the demand of one resident based on an analysis of the relative service demand between a worker and a resident. For parks and recreational facilities, demand is measured by a single facility standard (park acres per 1,000 service population) that can be applied across land use types to ensure a reasonable relationship to the type of development. The standards used to identify growth needs are also used to determine if planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development

with the cost of facilities associated with serving the existing service population.

- *On July 15, 2014, the City Council adopted Resolution No. 14-103, establishing an Affordable Housing Impact Fee, and approving and adopting a “Residential Nexus Study” and a “Non-Residential Jobs-Housing Nexus Study”. These nexus studies include the following:*

Residential Nexus Study:

- ***The Nexus Concept:*** *At its most simplified level, the underlying nexus concept is that the newly constructed units represent new households in Emeryville. These households represent new income in Emeryville that will consume goods and services, either through purchases of goods and services or by “consuming” governmental services. New consumption translates to new jobs; a portion of the jobs are at lower compensation levels, low compensation jobs translate to lower income households that cannot afford market rate units in Emeryville and therefore need affordable housing.*

Non-Residential Jobs-Housing Nexus Study:

- ***The Nexus Concept:*** *The nexus analysis and discussion focus on the relationships among development, growth, employment, income of workers and demand for affordable housing. The analysis yields a connection between new construction of the types of buildings in which there are workers and the need for additional affordable housing, a connection that is quantified both in terms of number of units and the amount of subsidy assistance needed to make the units affordable.*

The information in these studies is still relevant and applicable, and there continues to be a reasonable relationship between each fee and the purpose for which it is charged.

- (C) Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements to be funded by the fee.

The Capital Improvement Projects List from the City’s budget for Fiscal Years 2019-20 and 2020-21 is included as Attachment 4 of Exhibit A. This indicates all funding sources and amounts anticipated to complete financing of projects to be funding by the development impact fees.

- (D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

The Capital Improvement Projects List from the City's budget for Fiscal Years 2019-20 and 2020-21 in Attachment 4 of Exhibit A indicates the dates that funding is projected to be available for those projects.

and be it further

RESOLVED, that the City Council of the City of Emeryville, after considering public comment and the Annual Development Impact Fee Report for Fiscal Year 2019-2020, dated November 17, 2020, does hereby approve the Annual Development Impact Fee Report for Fiscal Year 2019-2020, dated November 17, 2020, attached hereto as Exhibit A.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held on Tuesday, December 1, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____	_____
_____	_____
_____	_____
_____	_____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY