TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES

DATE: JANUARY 17, 2006 CMR: 110:06

SUBJECT: ACCEPTANCE OF ANNUAL STATUS REPORT ON DEVELOPERS' FEES

RECOMMENDATION
Staff recommends that the City Council review and accept the Annual Report on Developers' Fees for the period ending June 30, 2005 (Exhibit A).

BACKGROUND
State law (Government Code Section 66006) requires each local agency that imposes development impact fees to prepare an annual report providing specific information about those fees. This requirement is part of the law commonly referred to as AB 1600 and known as the Mitigation Fee Act (the Act). It codifies the legal requirement that fees on new development have the proper nexus to any project on which they are imposed. In addition, the Act imposes certain accounting and reporting requirements with respect to the fees collected. The fees, for accounting purposes, must be segregated from the general funds of the City and from other funds or accounts containing fees collected for other improvements. Interest on each development fee fund or account must be credited to that fund or account and used only for the purposes for which the fees were collected.

The Act (Section 66006) requires that, within 180 days after the close of the fiscal year, the agency that collected the fees must make available to the public the following information regarding each fund or account:

- A brief description of the type of fee in the fund.
- The amount of the fee.
- The beginning and ending balance for the fiscal year.
- The amount of fees collected and interest earned.
An identification of each public improvement on which fees were expended and the amount of the expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

An identification of an approximate date by which the construction of a public improvement will commence, if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement.

A description of each interfund 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 interfund 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.

The amount of any refunds made due to inability to expend fees within the required time frame.

This report must also be reviewed by the City Council at a regularly scheduled public meeting not less than 15 days after the information is made available to the public. In addition, notice of the time and place of the meeting shall be mailed at least 15 days prior to the meeting to any interested party who files a written request with the local agency for such a mailed notice. The report is attached as Exhibit A.

Section 66001(d) also provides that, for the fifth fiscal year following the first deposit into the fund and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. The finding must: identify the purpose to which the fee is to be put; demonstrate a nexus between the fee and the purpose for which it was originally charged; and identify all sources and amounts of funding anticipated to complete financing of incomplete improvements along with the approximate dates on which the anticipated funding is expected to be deposited into the fund.

If the agency has collected sufficient funds to complete financing on an incomplete improvement and doesn’t identify an approximate construction date within certain time periods or, no longer needs the funds for the purposes collected, or if the agency fails to make required findings, or perform certain administrative tasks prescribed by the Act, the agency may be required to refund, on a prorated basis to owners of the properties upon which the fees for the improvement were imposed, the monies collected for that project and any interest earned on those funds.

DISCUSSION
The City of Palo Alto development fees covered by AB 1600, and documented in Exhibit A, include the following:

Stanford Research Park/El Camino Real traffic impact fees (PAMC Ch. 16.45).

Fee for new nonresidential development in the Stanford Research Park/El Camino Real Service Commercial zone, to fund capacity improvements at eight intersections.

San Antonio/West Bayshore Area traffic impact fees (PAMC Ch. 16.46).
Fee for new nonresidential development in the San Antonio/West Bayshore area to fund capacity improvements at four intersections.

- Housing impact fees Imposed on Commercial Developments (PAMC Ch. 16.47).

  Fee on large commercial and industrial development to contribute to programs that increase the City's low income and moderate-income housing stock.

- Parking in-lieu fees for University Avenue Parking District (PAMC Ch. 16.57).

  Fee on new nonresidential development in the University Avenue Parking Assessment District in lieu of providing required parking spaces.

- Developer Impact Fees (PAMC Ch. 16.58).

  Fee on new residential and non-residential housing developments to provide community facility funds for parks, community centers and libraries.

Additional fees include residential housing in-lieu fees paid to the City, at the developer's election, by residential developers in fulfillment of obligations under the City's inclusionary zoning (Below-Market Rate Housing) program. While these fees do not necessarily fit within the definition of development fees subject to AB 1600 reporting requirements, staff has included them in this report for informational purposes.

Staff has determined that the five-year findings required by Section 66001 (d) are not required for any fee this year. Such findings were made for the San Antonio West Bayshore area traffic impact fees and the Stanford Research Park/El Camino Real traffic fees in 2003.

On September 26, 2005, Council adopted the Charleston-Arastadero Corridor Streetscape Development Impact Fee to fund pedestrian and bicyclist safety improvements within the Charleston-Arastadero Corridor, including new pedestrian crosswalks, reduced pedestrian crossing distances at existing crosswalks, increased visibility of crosswalks and bicycle lanes, and provision of continuous bicycle lanes.

In the case of the housing impact fees from commercial development, the parking in-lieu fees for the University Avenue Parking District, and the developers impact fees, the funds on hand as of June 30, 2005 have all been received within the past three years. Therefore, no findings are required for these fees.

**RESOURCE IMPACT**

There is no fiscal impact associated with this year’s report.

**POLICY IMPLICATIONS**

This report does not represent any change to existing City policies.
ENVIRONMENTAL ASSESSMENT
Presentation of this annual report is not a project under the California Environmental Quality Act; accordingly, no environmental assessment is required.

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CITY MANAGER APPROVAL: EMILY HARRISON
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ATTACHMENT
Exhibit A: Annual Report on Development Fees for Period Ending June 30, 2005

cc: Home Builders Association