TO:    HONORABLE CITY COUNCIL
FROM:  CITY MANAGER       DEPARTMENT: ADMINISTRATIVE SERVICES
DATE:  JANUARY 14, 2008   CMR: 106:08

SUBJECT: REVIEW OF ANNUAL STATUS REPORT ON DEVELOPERS' FEES AND ADOPTION OF RESOLUTION MAKING FINDINGS REGARDING CONTINUING NEED FOR UNEXPENDED COMMUNITY CENTER DEVELOPMENT FEES IN THE AMOUNT OF $3,150 AND LIBRARY DEVELOPMENT FEES IN THE AMOUNT OF $1,190

RECOMMENDATION
Staff recommends that the City Council review and accept the Annual Report on Developers' Fees for the period ending June 30, 2007 (Exhibit A). In addition, staff recommends that the City Council adopt the attached resolution (Exhibit B) regarding the continuing need for unexpended funds in the Community Center Fund and the Libraries Fund.

BACKGROUND
State law (Government Code Section 66006) requires each local agency that imposes development impact fees prepare an annual report providing specific information about those fees. This requirement is part of the law commonly referred to as AB 1600. It codifies the legal requirement that fees on new development must have the proper nexus to any project on which they are imposed. In addition, AB 1600 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 law was amended effective January 1, 1997 to require 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 law 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 no longer needs the funds for the purposes collected, or if the agency fails to make required findings, or to perform certain administrative tasks prescribed by AB 1600, 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 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.

Residential housing in-lieu fees (PAMC Ch. 16.47): Fee on residential developments in-lieu of providing required below-market rate units to low and moderate income households.

Charleston-Arastradero Corridor pedestrian and bicyclist safety fees (PAMC Ch. 16.59): Fee on new development and re-development within the Charleston-Arastradero Corridor to provide for pedestrian and bicyclist improvements.

Parkland dedication fees (California Government Code Section 66477): Fees or parkland dedication imposed on new residential and non-residential development.

Water and sewer capacity fees (California Government Code Section 66000): Fee on developments adding load to water and sewer systems.

Transportation impact fee (This fee became effective on August 17, 2007, and no fees have been collected to date.)

Additionally, the San Antonio/West Bayshore Fund and Stanford Research Park/El Camino Real Fund contain development impact fees collected on or before June 30, 1999 that remain unexpended. In fiscal year 2002-03 (CMR:113:04) the City Council made the required findings that there was a continued need for the San Antonio/West Bayshore funds for the San Antonio On-Ramp Project. Council also found a continued need for the Stanford Research Park/El Camino funds for the major intersection improvements at the Page Mill/Hanover intersection, which are scheduled for completion in 2010.

AB 1600 requires the City to make specified findings in the event any funds are not expended within five fiscal years of collection. There were two categories of fees collected in the year 2002 which have not been spent and where the City has not previously made the required
findings to assist in the findings of the proposed Mitchell Park Library and Community Center facility. In accordance with AB 1600, such funds will be allocated to the proposed facility’s additional capacity. (The proposed findings are contained in Exhibit B.)

**RESOURCE IMPACT**
If the Council does not make the findings contained in Exhibit B, the development fees described therein will be required to be refunded. This would have a fiscal impact of $4,340.

**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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**ATTACHMENT**

Exhibit B: Resolution Adopting Findings with Respect to Unspent Impact Fees

cc: Home Builders Association