

[Sign In](#)[Reports](#) [Meetings](#) [Boards/Commissions](#) [Live Streaming](#)

Details

File #: 2019-6485**Type:** Regular Agenda Item**Body:** [City Council](#)**On agenda:** 3/5/2019**Title:** Public Hearing to Consider Adoption of Resolution Amending Master Fee Resolution No. 12191 to Add New and Revise Existing Fire Department Fees; and Adoption of Resolution Approving Workforce Changes to Add One Division Chief Position to the Fire Department Fire Prevention Services Division Effective March 6, 2019, for an Annual Cost of \$355,000; and Adoption of Resolution Amending the General Fund Budget for Fiscal Year 2018-19 by \$188,000 for Costs Associated with the Purchase of a Vehicle and the Addition of One Fire Marshal Position at the Division Chief Rank in the Fire Prevention Services Division. (Fire 3200)**Attachments:** 1. [Exhibit 1 - Fee Study](#), 2. [Resolution - Fire Fees](#), 3. [Resolution - Workforce Change](#), 4. [Resolution - Budget Amendment](#), 5. [Presentation](#)

Text

Title

Public Hearing to Consider Adoption of Resolution Amending Master Fee Resolution No. 12191 to Add New and Revise Existing Fire Department Fees; and

Adoption of Resolution Approving Workforce Changes to Add One Division Chief Position to the Fire Department Fire Prevention Services Division Effective March 6, 2019, for an Annual Cost of \$355,000; and

Adoption of Resolution Amending the General Fund Budget for Fiscal Year 2018-19 by \$188,000 for Costs Associated with the Purchase of a Vehicle and the Addition of One Fire Marshal Position at the Division Chief Rank in the Fire Prevention Services Division. (Fire 3200)

Body

To: Honorable Mayor and Members of the City Council

From: David L. Rudat, Interim City Manager

EXECUTIVE SUMMARY

The City of Alameda (City) contracted with NBS, Inc. to conduct a detailed cost of services study of user fee activities in the Fire Department's Fire Prevention Services Division. The primary purpose for conducting this study was to ensure that existing fees do not exceed the costs of service and to provide an opportunity for the City Council to re-align fee amounts with the adopted cost recovery policies.

The analysis of Fire Prevention Services indicates that fees currently being charged are not adequate to capture the actual costs of the services provided. In response, the Fire Department recommends the following:

- Implement the proposed fire prevention fees incrementally over the next four years with a total annual cost recovery target not to exceed 59% across all fees for service in aggregate;
- Implement two new cost recovery fees: Emergency Medical Services (EMS) First Responder Fee and Vehicle Accident Collision Fee;
- Add one Fire Marshal position at the Division Chief rank to the Fire Prevention Services Division in order to provide key management and oversight;
- Authorize the purchase of a vehicle to be assigned to the Fire Marshal position; and
- Authorize the Fire Chief, or designee, to administer fee inquires and code exceptions.

BACKGROUND

California cities are permitted by State law to impose user fees for services and regulatory activities they provide. User fee activities are those services and functions the City provides to individuals who receive a direct or personal material benefit from the services, while regulatory fees are those imposed to recover costs associated with the City's power to govern certain activities such as development and construction. Per State law, fees may not exceed the estimated and reasonable cost of providing the service or performing the activity.

The City of Alameda contracted with NBS, Inc. to conduct a detailed cost of services study of user fee activities in the Fire Department's Fire Prevention Services Division. The primary purpose for conducting this study was to ensure that existing fees do not exceed the costs of service and to provide an opportunity for the City Council to re-align fee amounts with the adopted cost recovery policies.

The Fire Prevention Services Division was recently reinstated in order to ensure the safety of the community. At the start of Fiscal Year 2009-10, in response to declining revenue during the economic downturn and in order to achieve a balanced budget, the City made significant cuts in staffing throughout the organization. As a result, Fire Prevention was reduced from seven positions (four sworn and three non-sworn) to two non-sworn positions. In April of 2017, City Council approved the reinstatement of Fire Prevention with the addition of three sworn positions: one supervisor at the Fire Captain rank and two Fire Inspectors at the Firefighter or Apparatus Operator rank. The Fire Department indicated that it would return to City Council for consideration of additional staffing at a later date.

DISCUSSION

Scope of Study and Method of Analysis

The study primarily examined all the fee categories administered by the Fire Department's Fire Prevention Services Division. This division provides consultation and review of new construction projects to ensure plans are in compliance with fire and life safety specifications required by City and State fire codes. Sworn and non-sworn members of the Fire Department also perform inspections of buildings and regulate the storage of hazardous materials. Inspection criteria are established by City and State statutes and fire codes designed to protect the public's safety.

Fees examined in the study included:

- Fire Code Initial Permits
- State Mandated & Fire Department Annual Occupancy Inspections
- Fire Life Safety Review of Construction Permits
- Fire Sprinkler Systems
- Fire Alarm Systems

The study included a cost of service analysis, which evaluated direct and indirect labor costs, specific direct non-labor costs, allocated non-labor costs, and allocated Citywide overhead. This analysis was used to derive a fully burdened labor rate for the department. Organizational and service time analyses were performed for each activity, followed by a cost recovery analysis, which compared the existing fee for each service or activity to the average full cost to provide the service. The final step was to establish fees based on the full cost of service and cost recovery targets.

New cost recovery fees evaluated by staff included:

- EMS First Responder Fee
- Vehicle Accident Collision (VAC) Fee

Calculation of these fees is described later in this staff report.

Fee Study Results

The analysis of Fire Prevention Services indicates that fees currently being charged are not adequate to capture the actual costs of the services provided. The City's Fire Prevention fees currently recover approximately 29% of the total cost of providing services. Through the current fiscal year, the City collected approximately \$300,000 in revenues based on the currently adopted fees. At full cost recovery, the fully burdened hourly rate would be \$306 per hour and the same demand for these services would recover approximately \$1.75 million, which is the recoverable cost of the Fire Prevention Division annual budget.

The Fire Department staff recommends recovering additional costs in phases over the course of a four-year period, with a total annual cost recovery target not to exceed 59% annually across all fees for service. Where individual current fees are recovering greater than 100% of the calculated full cost outcome, these fees are recommended to be reduced to no more than 100% cost recovery. Where individual fees are recovering greater than proposed 59%, these fees are recommended not to change.

Since it is still in the process of rebuilding its operational capacity, the Fire Department does not consider it appropriate to increase fees subject to the fully burdened hourly rate calculated by NBS at \$306 per hour. In general, the Fire Department recommends increasing fees to not more than a \$200 hourly rate for purposes of this fee study. This was an effort to not overburden the business community. City Council may review and choose to set the cap at a different hourly rate.

The recommended increased fee amount in year one is approximately \$150 per hour, to recover 48% of the total costs of providing fee related services. In year two, the fee would increase to a cap of around \$180 per hour, or recovery of 57% of the total recoverable costs of providing services. Fees would remain static for year three at \$180 per hour. In year four, the cap would increase to \$200 per hour, or recovery of 59% of the recoverable costs of providing services. After the proposed increases in year four, staff recommends using the annual Consumer Price Index (CPI) rate increases, when appropriate, as used for other citywide fees.

| Recommended Cost Recovery Levels | | | | | |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|
| | Current | Year 1 | Year 2 | Year 3 | Year 4 |
| Estimated Revenue | \$499,970 | \$847,541 | \$995,471 | \$995,471 | \$1,037,591 |
| Estimated Recoverable Expenditures | \$1,750,000 | \$1,750,000 | \$1,750,000 | \$1,750,000 | \$1,750,000 |
| Net Cost to General Fund | \$1,250,030 | \$902,459 | \$754,529 | \$754,529 | \$712,409 |
| Fully Burdened Hourly Rate Fee | varies | \$150 | \$180 | \$180 | \$200 |
| Cost Recovery | 29% | 48% | 57% | 57% | 59% |

To provide a comparison of the recommended City of Alameda Fire Department Fees, staff provides the below table of similar communities and their associated fee structure in the greater East Bay.

| City | Inspection Per Hour | Plan Review Per Hour |
|--|---------------------|----------------------|
| Alameda - Proposed Year 1 | \$150.00 | \$150.00 |
| Hayward | \$885.00 | \$221.00 |
| San Leandro | \$120.00 | \$241.00 |
| Oakland | \$369.51 | \$174.00 |
| Berkeley | \$374.00 | \$374.00 |
| Walnut Creek | \$837.00 | \$279.00 |
| Newark | \$305.00 | \$131.00 |
| Fremont | \$192.00 | \$95.00 |
| Average (excluding Alameda) | \$440.36 | \$216.43 |
| <i>*Berkeley pro-rates by the quarter hour</i> | | |

In addition, staff is recommending changing the existing Fire False Alarm fees from its current tracking on a six months basis to annual. This will correspond with all other existing fees and provide staff with the necessary tools and data to accurately track residential and commercial occupancies' false fire alarm history, and allow the Department's current contracted biller the ability to invoice these fees accurately.

Adoption of New Cost Recovery Fees

In addition to the incremental fee increase outlined above, the Fire Department recommends adopting two additional fees in order to offset the cost of providing specific services.

- EMS First Responder Fee

This fee covers the total time to complete an EMS call for service, including response time, mitigation, clean-up, return to station, and restocking the ambulance with supplies. The fee would be included on all Ambulance Transport invoices, however insurers such as Medicare and Medi-Cal are exempt from this fee and will not be charged. Private insurers, such as Kaiser and Blue Shield, are not exempt.

To determine the fee amount, the Fire Department performed a three- and five-year Time and Response Study. The average response time calculated was one hour. The proposed fee was calculated at \$388 per incident using the following cost data elements:

| Fee Components | Expense | Note |
|----------------|---------|------|
| | | |

| | | |
|--------------------|---------------------------|---|
| 3 Person Crew rate | \$223 | Average hourly rate (fully burdened) |
| Dispatch Costs | \$42 | Cost per call (Alameda County Regional Emergency Communications Center) |
| Supplies | \$20 | Vendor estimate (Boundtree) |
| Vehicles Expenses | \$45 | OES reimbursement rate (1/2 hour) |
| City Admin Rate | \$58 | OES reimbursement rate (0.19279) |
| | | |
| TOTAL | \$388 per incident | |

The Fire Department currently has over 5,000 billable EMS responses per year. However, the annual cost recovery is estimated at \$332,000, which equates to about 856 incidents. Currently, only private insurance companies, such as Kaiser and Blue Shield, reimburse fire agencies for the cost of providing EMS first response. At this time, 19% of the total patients that the Department provides care for have private health insurance. This factor was determined in the calculations of the potential new revenue from this fee. Thus, not all Fire Department incident responses are reimbursable.

- **Vehicle Accident Collision (VAC) Fee**

This fee covers emergency responses to vehicle accidents and is a billable item for automobile insurance in the State of California. The cost analysis and methodology is identical to the fee components from the proposed EMS Fees of \$388 per incident.

The Fire Department currently has over 200 billable vehicle accident collision responses per year. The annual cost recovery is estimated at \$70,000 and is based on a 90% cost recovery factor as determined by our current ambulance billing provider.

The below table illustrates the cost recovery process to determine the estimated revenues for the new fees.

| Proposed Fee | Call Volume | Fee Amount | Private Insurance Factor | Collection Rate | Estimated Cost Recovery |
|--------------|-------------|------------|--------------------------|-----------------|-------------------------|
| EMS | 5000 | \$388 | 19% | 90% | \$332,000 |
| VAC | 200 | \$388 | n/a | 90% | \$70,000 |

The table below provides a comparison of the EMS cost recovery fee from similar East Bay fire response agencies to the proposed City of Alameda fee.

| | |
|--------------------------------|----------|
| City of Berkeley | \$425.00 |
| City of Oakland | \$450.00 |
| Moraga/Orinda Fire District | \$380.00 |
| San Ramon Valley Fire District | \$495.00 |
| Alameda County Fire Department | \$200.00 |
| City of Albany | \$350.00 |
| City of Alameda (proposed fee) | \$388.00 |
| Average (excluding Alameda) | \$383.33 |

Addition of Fire Marshal Position

Fire Prevention is a complex and crucial division of the Fire Department. Although Fire Prevention was reinstated in 2017, it was reinstated with less staff and without a Fire Marshal to manage the division when compared to the staffing prior to 2008.

The Department currently has five Division Chiefs. Three Division Chiefs are assigned to fire suppression operations and work 24-hour shifts. Two Division Chiefs are assigned administrative assignments. One administrative assignment is to act as the Deputy Fire Chief. This Chief Officer position not only acts in the absence of the Fire Chief, but also oversees the Emergency Medical Services and Disaster Preparedness for the City. The other administrative assignment has responsibility for one or more of the Fire Department's divisions. This Division Chief oversees the operations division as well as the training and recruitment division. None of the existing Division Chiefs have the capacity to oversee the Fire Prevention Division. For the Fire Prevention Division to maintain the current inspection workload, development and fire code responsibilities, as well as anticipated growth in new construction, this key management position is requested to be added to the Fire Department's authorized staffing.

In July 2018, the City Council provided direction that the addition of this position would need to be covered by fire prevention

fees and not impact the General Fund. The fee increases outlined above cover the annual expense of adding a Fire Marshal position at the Division Chief rank.

At this time, the Fire Department is recommending that the Fire Marshal position be reinstated to perform the following management and oversight:

- Manage the Fire Prevention Division and assigned personnel
- Coordinate comprehensive Fire Code & Fire Protection Ordinance adoption
- Facilitate and provide oversight for comprehensive commercial and multi-unit residential inspection program
- Coordination of enforcement of fire safety codes and regulations
- Administer permit, license, developer fees, hazardous materials, and private fire alarms
- Manage suppression fire company inspections
- Maintain inspection schedules, records of commercial, industrial, institutional, and sprinklered occupancies
- Monitor and make recommendations on appropriate budgets and programs
- Provide education for special events and public outreach
- Establish priorities for inspections
- Evaluate personnel
- Investigates complaints, public inquiries, and provides subject matter expert opinions
- Provide reports on activities, programs, budgets, goals, and objectives to fire administration staff, City departments, and City leaders
- Work in conjunction with the Building Department, Public Works, and City Attorney on all aspects of code compliance.

The current annual cost of adding a Fire Marshal at the Division Chief level is estimated at \$355,000. This includes salary and benefits but does not include long-term PERS increases. Approximately 97% of the position cost will be covered by the proposed fee increases identified above, estimated at \$847,541 for year one, an increase of \$347,571 from the current fee collection level of \$499,970. With the adoption of the proposed new fee schedule and the proposed increase in re-inspection fees, estimated at an additional \$25,000 annually, the change in the Division's revenue estimate is expected to fully cover the cost of the Fire Marshal salary and benefits in the first year. The Division's cost recovery will be 48% in the first year, rising to 59% by year four.

With current development rates of construction, tenant improvement increases and the sizeable backlog of inspections needing to be performed and managed, the Fire Marshal position is crucial to ensuring the life safety needs of our community are met and slowdowns to key developments do not occur due to the current lack of management and oversight in this major division of the Fire Department.

Authorization to Oversee Fee Inquiries and Code Exceptions

With the implementation of the new and revised fees, the Fire Department requests that City Council authorize the Fire Chief, or designee, to administer fee inquiries and code exceptions. By adopting the latest version of the California Fire Code in 2016, this authorization exists within the Code provisions and adding this language to the Master Fee Resolution for the Fire Department will ensure continuity and assist development with Code exceptions and changes specific to each project and building requirement.

Compliance with Proposition 26

Proposition 26 was adopted by the voters in November 2010 and amended the State Constitution to provide a definition of "tax" for local government purposes. Tax is defined as any levy, charge or exaction of any kind that does not fall within certain enumerated exceptions. As to local governments, any fees and charges subject to Proposition 26 that are newly imposed or increased on or after November 3, 2010, require voter approval.

Staff has reviewed the proposed changes to the fee schedule and concludes the fees fall within various exceptions under Proposition 26. Specifically, the fees and charges are (a) imposed for a specific benefit conferred directly to the payor that is not provided to those not charged and does not exceed the reasonable cost to the local government of conferring the benefit, (b) imposed for a specific government service or product provided directly to the payor that is not provided to those not charged and which does not exceed the reasonable costs of the local government of providing such service or product, (c) imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, and the administrative enforcement and adjudication thereof, and/or (d) imposed as a condition of property development.

As explained in the staff report and as set forth in great detail in the Comprehensive Fee Study prepared by NBS, there is ample evidence that the fees and charges are not "taxes;" the amount of the fees and charges are no more than what is necessary to cover the cost of the governmental activity (and indeed, in some cases, the fees and charges that the City

proposes to impose are less than the reasonable cost that the City incurs to provide the services) and the manner in which the costs are allocated to a payor bears a reasonable relationship to the payor's burden on, or benefits received from, the governmental activity.

FINANCIAL IMPACT

While the fees do not cover 100% of the Fire Prevention Division's expenses, the amounts collected do reduce the impact to the General Fund. The NBS User Fee Study identified \$1.75 million in costs eligible for recovery from fees for service. In Fiscal Year 2017-18, the Fire Prevention Division collected \$499,970, which is approximately 29% overall cost recovery.

The Fire Department is recommending phasing in the fee increase over a four-year period, with a total annual cost recovery target not to exceed 59% annually across all fees for service starting in year four. Staff believes that the proposed increases and phasing in period is cost sensible for the business community even though it places a greater burden on the General Fund. With the fee increase, year one cost recovery would increase to 48% with approximately \$847,541 collected from fees for service. Once the fees are adopted and implemented, only a small portion of this additional revenue would be realized in the current fiscal year (FY) 2018-19 budget. Staff will propose an increase in the current year revenues as part of the Mid-Year Update. Subsequent budgets will reflect the annual increase in fees collected.

The annual cost of a Fire Marshal (Division Chief) in the Fire Prevention Bureau will be \$355,000. The expense for FY 2018-19 will cover four months and is estimated at \$118,000 for salaries and benefits. In addition, staff is requesting the City Council to authorize the purchase of a vehicle to be used by the Fire Marshal, which is estimated at \$70,000. The increased Fire Prevention fees were calculated to cover the expense of the additional position's salary and benefits only but does not include long-term PERS increases. The fees will raise revenue to cover 59% of the recoverable costs by year four based on the current level of expenditures.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This action is consistent with the Alameda Municipal Code.

ENVIRONMENTAL REVIEW

Adoption of a revised fee schedule is not subject to environmental review in that it is not a "project" as defined by California Environmental Quality Act (CEQA). A "project" does not include the creation of governmental funding mechanisms or other governmental fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. CEQA Guidelines, section 15378(b)(4).

RECOMMENDATION

Adopt a Resolution amending Master Fee Resolution No. 12191 to add new and revise existing Fire Department fees; and adoption a Resolution approving workforce changes to add one Division Chief position to the Fire Department Fire Prevention Services Division effective March 6, 2019, for an annual cost of \$355,000; and adopt a Resolution amending the General Fund Budget for Fiscal Year 2018-19 by \$188,000 for costs associated with the purchase of a vehicle and the addition of one Fire Marshal at the Division Chief rank in the Fire Prevention Services Division

Respectfully submitted,
Edmond Rodriguez, Fire Chief

By,
Rick Zombeck, Deputy Chief

Financial Impact section reviewed,
Elena Adair, Finance Director

Exhibit:
1. Fee Study