

SUBJECT: DRAFT- Affordable Housing Impact Fee and Commercial Linkage Fee Fiscal Year 2024-2025 Annual Report

BACKGROUND

The Mitigation Fee Act

California's Mitigation Fee Act (Government Code Section 66000 et seq)¹ requires public agencies to account for and make specific findings regarding mitigation fees collected by an agency as a condition of development approval. The Mitigation Fee Act regulates how public agencies may establish, collect, maintain, and spend impact fees imposed on developers. The Mitigation Fee Act also requires that the local or lead agency review and make available to the public an annual report that accounts for the mitigation fees held by the agency. The City is required to make an annual report available to the public within 180 days after the last day of each Fiscal Year. In accordance with this requirement, staff is presenting the Annual Impact Fee Report for the Fiscal Year ending June 30, 2025, for the Affordable Housing Impact Fee and the Commercial Linkage Fee.

Affordable Housing Impact Fee

On November 18, 2014, the City Council adopted by resolution the Affordable Housing Impact Fee establishing the AHIF program. The AHIF program was assessed on market-rate rental residential developments to offset their impact on the demand for affordable homes for lower- and moderate-wage workers. The AHIF has been amended several times since its adoption. On February 23, 2021, the Inclusionary Housing Ordinance was amended to lower the minimum threshold to apply to new residential developments of 10 or more units, which was previously 20 or more units (Ordinance No. 30538).² As part of City Council action, the direction included sunsetting the AHIF program. On June 29, 2021, City Council passed Resolution No. 80149³ suspending AHIF for new projects that submitted applications for first approval on or after June 29, 2021.

Commercial Linkage Fee

City Council established the CLF through adoption of Ordinance No. 30475⁴ on September 22, 2020, based on a July 2020 nexus and feasibility study by Keyser Marston Associates. The study identified how new non-residential developments create affordable housing needs and outlined the maximum and financially feasible fee levels for different commercial uses and locations. The CLF is an impact fee paid by non-residential developers that is intended to create a funding mechanism to increase the supply of affordable housing in San José. The fee is codified under Chapter 5.11 of the San José Municipal Code.⁵

ANALYSIS

The City's Affordable Housing Impact Fee (AHIF) and Commercial Linkage Fee (CLF) are consistent with the State's Mitigation Fee Act. Detailed reports are attached to this memorandum as **Attachments A and B**, respectively.

Affordable Housing Impact Fee

Since its inception, the AHIF program has generated \$25,627,437.65 in fee revenue and interest. For FY 2024-2025, all funds will be committed to the development of new affordable housing through the City's Gap Financing Program.

Commercial Linkage Fee

Since its inception, the CLF program has generated \$6,112,740.16 in fee revenue and interest and will be allocated for future development project as part of the City's Gap Financing Program. The City has been working towards improving the program's implementation and ensuring that the collected fees are used towards the intended purposes.

ATTACHMENT A: Fiscal Year 2024-2025 Affordable Housing Impact Fee Annual Report

ATTACHMENT B: Fiscal Year 2024-2025 Commercial Linkage Fee Annual Report

ATTACHMENT A: FY 2024-2025 Affordable Housing Impact Fee Annual Report

Annual Report

In accordance with Government Code Section 66006(b)(1), the requirements for the FY 2024-2025 annual report are as follows:

A. A Brief Description of the Type of Fee in the Account or Fund

The City adopted the AHIF to address the increased need for affordable housing connected with the development of new market rate residential rental units. A nexus study prepared by Keyser Marston Associates established a reasonable relationship between the need for affordable housing and new, market-rate rental residential development.

New market-rate residential rental development leads to a net increase in new residents, and the increase in goods and services required by these new residents leads to an increase in job creation in the City. These jobs include service and retail sector jobs (e.g., teachers, restaurant workers, pet care, maintenance workers, etc.). Workers employed in these lower-wage jobs find it challenging to obtain market-rate housing. This results in an increase in the need for new housing affordable to extremely low-, very low-, low-, and moderate-income households, which AHIF revenues will be used to provide. Additionally, the City's General Plan includes goals supporting the provision of affordable moderate-income housing. This may include either moderate-income rental housing or purchase assistance programs for first-time homebuyers.

B. The Amount of the Fee

The initial AHIF fee at adoption was \$17 per each livable square foot of rentable space built within the residential development. Each year on July 1, the per square foot AHIF program fee increased by 2.4%. When the program sunsetted for new developments that submitted AHIF applications for first approval on or after June 29, 2021 the final fee was \$20.08 per square foot. **Table 1** summarizes the AHIF rate schedule since the fee was adopted.

Table 1 - AHIF Rate Schedule

AHIF	Fiscal Year	AHIF per Sq. Ft
Initial fee	July 1, 2016 - June 30, 2017	\$17.00
Fee During Reporting period	July 1, 2017 - June 30, 2018	\$18.70
Fee During Reporting period	July 1, 2018 – June 30, 2019	\$19.15
Fee During Reporting period	July 1, 2019 – June 30, 2020	\$19.61
Final Fee Level Due To Sunset	July 1, 2021 - Current	\$20.08

C. The Beginning and Ending Balance of the Account or Fund

On July 1, 2024, the AHIF fund balance totaled \$12,859,354.86. On June 30, 2025, the AHIF fund balance totaled \$11,304,519.81.

D. The Amount of The Fees collected, and Interest Earned

Table 2 summarizes the AHIF revenues for, FY 2024-2025. During FY 2024-2025 one residential development paid an AHIF fee and one residential development repaid the City interest on and AHIF-funded loan. Additionally, the interest earned since adoption also has a carrying balance.

Table 2 - FY 2024-2025 AHIF Collected and Interest Earned

Source of Revenue	Year of Payment Received	Total
Impact Fees Collected	FY 2024-2025	\$0
AHIF-Funded Loan Repayment Interest Earned	FY 2024-2025	\$272,367.41
Interest Earned Since Adoption of Balances	Ongoing	\$451,914.11

E. Public Improvements Expenditures – An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

No developments received an allocation or commitment of AHIF funds in FY 2024-2025.

F. An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Table 3 summarizes construction timelines of developments with committed AHIF funds.

Table 3 - AHIF Construction Timelines

Development	AHIF Amount Disbursed	Construction Start	Construction Completion
Parkmoor Community Apartments	\$71,732.35	November 2023	September 2025

G. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned

fees 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.

In FY 2024-2025, no fees were transferred, and no loans were made from the AHIF fund.

H. The amount of refunds made pursuant to subdivision (e) of Section 66001 of the California Government Code and any allocations pursuant to subdivision (f) of Section 66001 of the California Government Code.

In FY 2024-2025, no refunds were made from the AHIF fund.

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ATTACHMENT B: Commercial Linkage Fee 2024-2025 Annual Report

Annual Report

In accordance with California Government Code Section 66006(b)(1), the requirements for FY 2024-2025 Annual Report are as follows:

A. A Brief Description of the Type of Fee in the Account or Fund

The CLF is an impact fee levied on commercial development for the provision of affordable housing. The City adopted the CLF to address the increased need for affordable housing connected with the development of new non-residential spaces. CLF funds are used to facilitate development of affordable housing for extremely low-, very low-, low-, and moderate-income households within the City of San José by supplementing other public funding sources.

B. The Amount of the Fee

The initial fee for the CLF program at adoption was set at different rates based on the type and location of non-residential space. The initial CLF fee at its adoption was \$15.79 per each square foot of office space, \$5.26 per each square foot of hotel space, \$3.16 per each square foot of industrial/research and development space, \$5.26 per each square foot of warehouse space, and \$6.32 per each square foot of residential care space. Table 1 summarizes the CLF rate schedule since its adoption.

Table 1 – CLF Rate Schedule

Geographic Area	Commercial Use	FY 24-25 CLF	FY 25-26 CLF
Downtown & Nearby	Office	≥ 100,000 sq. ft. \$14.31	≥ 100,000 sq.ft \$17.86
		< 100,000 sq. ft. \$17.89	>50,000 and ≤ 100,000 sq. ft \$3.57
	Hotel	\$5.96	\$5.95
	Industrial	>100,000 sq. ft. \$3.58	>100,000 sq.ft.3.57
	Warehouse	\$5.96	\$5.95
	Residential Care	\$7.16	\$7.15
North San Jose & Nearby; West SJ Urban Village	Office	≥ 100,000 sq. ft. \$5.96	≥ 100,000 sq.ft \$5.95
		<100,000 \$0	>50,000 and ≤ 100,000 sq. ft \$3.57
	Hotel	\$5.96	\$5.95
	Industrial	>100,000 sq. ft \$3.58	>100,000 sq. ft \$3.57
	Warehouse	\$5.96	\$5.95
	Residential Care	\$7.16	\$7.15

Edenvale & Monterey Corridor	Office	≥ 100,000 sq. ft. \$5.96 <100,000 sq. ft. \$0	≥ 100,000 sq.ft. \$5.95 >50,000 and ≤ 100,000 sq. ft \$3.57
	Hotel	\$5.96	\$5.95
	Industrial	\$5.96	\$0
	Warehouse	\$5.96	\$5.95
	Residential Care	\$7.16	\$7.15
South & East SJ Growth Areas	Office	\$5.96	\$0
	Hotel	\$5.96	\$5.95
	Industrial	\$5.96	>100,000 sq.ft. \$3.57
	Warehouse	\$5.96	\$5.95
	Residential Care	\$7.16	\$7.15

C. The Beginning and Ending Balance of the Account or fund

On July 1, 2024, the CLF account balance totaled \$5,885,613.96. On June 30, 2025, the CLF account balance totaled \$6,112,740.16.

D. The Amount of Fees Collected, and Interest Earned

In FY24-25 the department received \$25,944 in application fees from 20 applicants. The interest earned in FY24-25 is 201,182.00. As of June 30, 2025, the CLF revenue fund balance totaled \$227,126.20.

E. Public Improvements Expenditures - An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

In FY 2024-2025, the City did not approve any disbursements of CLF funds. There were no new affordable housing developments that received an allocation of CLF funds for the acquisition, financing, construction, or development of new affordable housing.

F. An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

In FY 2024-2025, no developments were funded with CLF funds. There are currently no construction timelines to report.

G. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned

fees 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.

In FY 2024-2025, no fees were transferred, and no loans were made from the CLF fund.

H. The amount of refunds made pursuant to subdivision (e) of Section 66001 of the California Government Code and any allocations pursuant to subdivision (f) of Section 66001 of the California Government Code.

In FY 2024-2025, no refunds were made from the CLF fund.

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