



Housing

Commercial Linkage Fee Proposed Amendments

March 8, 2022

Item 8.3

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Background

In 2014, City Council directed staff to research a non-residential linkage fee consistent with the Mitigation Fee Act



In 2018, City Council directed staff to return with a nexus study and feasibility study for a Commercial Linkage Fee



In 2020, City Council approved an ordinance and adopted a resolution establishing the Commercial Linkage Fee program

Proposed Amendments



Credit against fees for construction of new affordable housing



Increase the threshold for exemption for office developments under 100,000 sq. ft to exempt the first 50,000 sq. ft.



Adopt a deferred secured payment option for office and industrial research & development projects of 100,000 sq. ft. or more



Reduce Fee for all commercial developments when fees are paid prior to issuance of building permits



Credit for New Affordable Housing

- For each new unit of affordable housing provided, CLF is satisfied for a specified amount of commercial floor area. The amount of credit depends on the income level of the affordable unit.

Area Median Income for Affordable Units	Office Space >100,000 sq. ft. in Downtown	All Other CLF Projects
Extremely Low Income	20,323 sq. ft.	60,971 sq. ft.
Very Low Income	15,605	46,817
Low Income	12,097	36,292
Moderate Income	2,903	8,710



Example of Affordable Housing Credit



10 New Residential
Units for Extremely
Low-Income tenants



20,323 SF

For each Residential Unit



203,230

Square feet credit

1,000,000



203,230

Credit



796,770

Square Footage for CLF

Support for Small Developments

\$0 CLF



For the first 50,000
sq. ft.

(previous threshold was 40,000 sq. ft.)



Modified Payment Options



- Developments have the option to pay at Building permit issuance **or** Scheduling of final building inspection
- Office and Industrial Research & Development projects of 100,000 sq. ft. or more have all three options

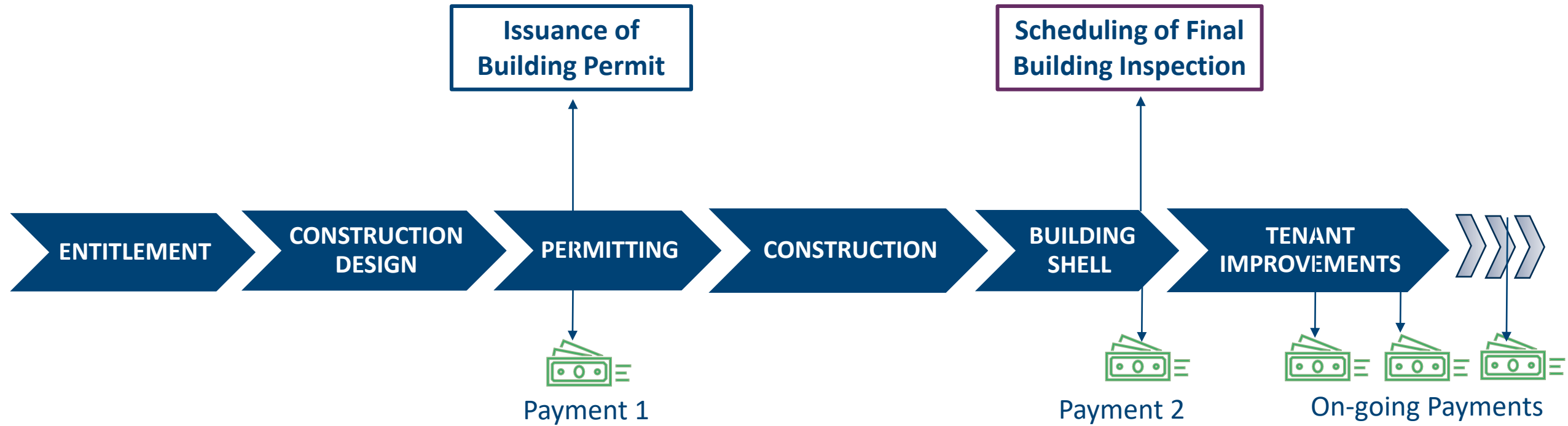
Option 1: Pay 80% of CLF at issuance of building permit

Option 2: Pay 100% of CLF by final building inspection

Option 3: Deferred Secured payment option

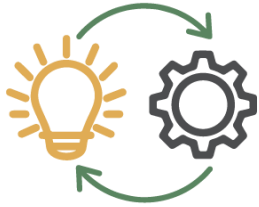


Deferred Secured Payment Option



Security: The deferred payments must be secured by a bond or letter of credit

Expected Outcomes



Create a more sustainable CLF program that doesn't inhibit commercial development



Produce more affordable housing



Improve efficiency of CLF program administration





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Fee Resolution for Downtown and Nearby

Non-Residential Use		Fee Per Square Foot (sq.ft)
Office (>100,000 sq.ft.)	\$15.00	Deferred Secured Payment option available
Office (<100,000 sq.ft.)	\$0	Under 50,000 sq.ft.
	\$3.00	Over 50,000 sq.ft.
Retail	\$0	
Hotel	\$5.00	Excludes Common Area
Industrial/Research and Development (>100,000 sq.ft.)	\$3.00	Deferred Secured Payment option available
Industrial/Research and Development (<100,000 sq.ft.)	\$0	
Warehouse	\$5.00	
Residential Care	\$6.00	Excludes Common Area

Fee Resolution for North San José and Nearby & West San José Urban Villages

Non-Residential Use	Fee Per Square Foot (sq.ft)	
Office (>100,000 sq.ft.)	\$5.00	Deferred Secured Payment option available
Office (<100,000 sq.ft.)	\$0	Under 50,000 sq.ft.
	\$3.00	Over 50,000 sq.ft.
Retail	\$0	
Hotel	\$5.00	Excludes Common Area
Industrial/Research and Development (>100,000 sq.ft.)	\$3.00	Deferred Secured Payment option available
Industrial/Research and Development (<100,000 sq.ft.)	\$0	
Warehouse	\$5.00	
Residential Care	\$6.00	Excludes Common Area

Fee Resolution for Edenvale & Monterey Corridor

Non-Residential Use	Fee Per Square Foot (sq.ft)	
Office (>100,000 sq.ft.)	\$5.00	Deferred Secured Payment option available
Office (<100,000 sq.ft.)	\$0	Under 50,000 sq.ft.
	\$3.00	Over 50,000 sq.ft.
Retail	\$0	
Hotel	\$5.00	Excludes Common Area
Industrial/Research and Development (>100,000 sq.ft.)	\$0	
Warehouse	\$5.00	
Residential Care	\$6.00	Excludes Common Area

Fee Resolution for South & East San José Growth Areas

Non-Residential Use	Fee Per Square Foot (sq.ft)	
Office (>100,000 sq.ft.)	\$0	
Retail	\$0	
Hotel	\$5.00	Excludes Common Area
Industrial/Research and Development (<100,000 sq.ft.)	\$3.00	
Industrial/Research and Development (>100,000 sq.ft.)	\$3.00	Deferred Secured Payment option available
Warehouse	\$5.00	
Residential Care	\$6.00	Excludes Common Area