



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Nanci Klein  
Chris Burton

**SUBJECT:** SEE BELOW

**DATE:** March 24, 2022

Approved

Date

03/24/22

## SUPPLEMENTAL

**SUBJECT: ACTIONS RELATED TO IMPLEMENTATION AND AMENDMENT OF THE COMMERCIAL LINKAGE FEE ORDINANCE**

### REASON FOR SUPPLEMENTAL

This supplemental memorandum provides a revised timeline for the planned feasibility study for the Commercial Linkage Fee and provides additional analysis related to staff's exploration of historic preservation and environmental sustainability credits.

### ANALYSIS

#### *Feasibility Study*

Staff worked with its consultant, Keyser Marston Associates, to revise the timeline included in the previous supplemental memorandum dated March 7, 2022. Under the revised timeline, the study will be published for public review in September 2022 and brought forward for City Council consideration 60 days later in November 2022. Staff recommends a minimum 60-day period to engage all key stakeholders in the review process if any change to the fee is being considered based on the results of the study.

<b>Feasibility Study Timeline</b>	
May 2022	<ul style="list-style-type: none"> <li>• Execute amended contract with consultant</li> <li>• Define scope of work for study</li> </ul>
June – August 2022	<ul style="list-style-type: none"> <li>• Consultant and staff work on study</li> </ul>
Early September	Release draft feasibility study
September - October 2022	60-day public review <ul style="list-style-type: none"> <li>• Conduct public outreach meetings</li> <li>• Collate and summarize feedback</li> <li>• Prepare staff report</li> </ul>
November 2022	Housing & Community Development Commission and City Council

***Consideration of Current Market Conditions***

The initial Commercial Linkage Fee was adopted in 2020 during the height of the early pandemic. Staff recommended adoption of the fee so current entitlements could plan for the fee and know that it would apply to their project. Once the local economy demonstrated signs of a sustained recovery then staff would be in a position to reassess the appropriate fee level.

The recovery has taken longer than anticipated in 2020. While there remains a significant amount of approved office space, this has not translated to more construction. As the pandemic enters its third year, only two new large-scale office buildings have started construction citywide. Only one lease, which is not in the downtown, over 100,000 sq. ft. was completed for newly constructed office space. This lack of comparable data means a new study at the present time is unlikely to show a significant change from 2020. Additionally, inflation-adjusted rents for commercial office have not recovered to pre-pandemic levels, which is a key indicator for the ability of new development to start construction.

Staff believes that it will be a minimum of 12 to 18 months before conditions indicate a higher fee can be justified. The indicators of the appropriate conditions would be increased leasing activity and sustained increases to rents. However, staff is prepared to move forward with an updated feasibility study to be released in September 2022 as previously directed by the City Council in 2020.

***Additional Analysis of Historic Preservation Credit***

Staff is not recommending a credit for historic preservation. The primary reason is that this credit is unrelated to the provision of affordable housing. The City Council also specified that the credit

March 24, 2022

**Subject: Actions Related to Implementation and Amendment of the Commercial Linkage Fee Ordinance**

Page 3

should be capped at 20% of the total Commercial Linkage Fee obligation. Staff worked with the consultant, Keyser Marston Associates, to conduct additional analysis of the historic preservation credit. The consultant explored the impact a historic credit would have on a hypothetical project. This analysis concluded that a credit is unlikely to materially incentivize historic preservation, as the credit is likely to be minor relative to the cost of preservation work. While staff is not recommending the credit, staff prepared a summary approach to creating the credit in the policy alternatives section of the staff memorandum dated February 15, 2022.

***Clarifying Environmental Sustainability Credit Recommendations***

Staff is not recommending a credit for sustainability in the current action. The primary reason is that this credit is unrelated to the provision of affordable housing. Staff found that a credit specific to Net Zero, as it is currently defined, would be impractical as Net Zero certification requires post-occupancy performance data which would be unknown at the time of the Commercial Linkage Fee payment. However, staff is recommending that such a credit be considered when City staff returns to City Council with the Carbon Neutral by 2030 implementation that is anticipated in June 2022. This will facilitate an understanding of the pros and cons of such a credit in the context of its application and would more appropriately fit within the context of this work. Like the historic preservation credit, staff prepared a summary approach to creating the credit in the policy alternatives section of the staff memorandum.

/s/  
JACKY MORALES-FERRAND  
Director of Housing

/s/  
NANCI KLEIN  
Director of Economic  
Development

/s/  
CHRIS BURTON  
Director, Planning, Building  
and Code Enforcement

For questions, please contact Rachel VanderVeen, Deputy Director of the Housing Department at 408-535-8231 or Jerad Ferguson, Housing Catalyst, Office of Economic Development and Cultural Affairs at 408-535-8176.