



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: August 17, 2020

Approved

Date

8/20/2020

SUBJECT: AFFORDABLE HOUSING IMPACT FEE FUND ANNUAL REPORT FOR FISCAL YEAR 2019-2020

RECOMMENDATION

Accept this Fiscal Year 2019-2020 Annual Report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status of the City's Affordable Housing Impact Fee.

OUTCOME

Accepting this memorandum with the attached Annual Report of required information will allow the City of San José to continue to use Affordable Housing Impact Fee ("AHIF") funds to fund affordable housing developments fully or partially. This memorandum provides the City Council with information on the AHIF collected in Fiscal Year 2019-2020.

BACKGROUND

The Mitigation Fee Act

The Mitigation Fee Act ("The Act") requires public agencies to account for and make specific findings regarding mitigation fees collected by an agency as a condition of development approval. The Act regulates how public agencies may establish, collect, maintain, and spend impact fees imposed on developers. The 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 available to the public an annual report within 180 days after the last day of each fiscal year¹. The annual report is due by December 27, 2020. In

¹ California Government Code Section 66006(b)(1).

accordance with this requirement, staff is presenting the following annual impact fee report for the fiscal year ending June 30, 2020.

Affordable Housing Impact Fee

On November 18, 2014, the City Council adopted the Housing Impact Fee Resolution establishing the AHIF program. Under the Housing Impact Fee Resolution, Developers of new rental housing developments of three to nineteen² apartments are required to pay an impact fee per net rentable square foot. Revenue from the AHIF must be used to increase the supply of affordable housing for extremely low-, very low-, low- and moderate-income households including acquisition, financing, construction, and development of residential units and any necessary and reasonable costs for administering the AHIF fund. The Housing Impact Fee Resolution included an expenditure plan. That expenditure plan provided a list of proposed affordable housing projects as examples of the types of rental housing developments that could be funded with Housing Impact Fee revenues. In August 2018, the Housing Department issued a \$100 million Notice of Funding Availability (NOFA), stating the City's intent to fund affordable housing developments that meet the City's priorities. **Attachment A** is a list of potential developments resulting from the NOFA process. These projects will be eligible for AHIF Funds consistent with the expenditure plan.

As required by law, the AHIF is segregated from the General Fund and accounted for in special revenue funds, which earn interest. These funds, including interest, must be held for the purpose for which the fees are collected (Section 66001).³ The revenues from the AHIF are held in a Housing Impact Fee Fund reserve in the Multi-Source Housing Fund. As part of the 2019-2020 Budget process the City created a separate internal tracking fund to account for the Housing Impact Fees.

ANALYSIS

The City's AHIF program is consistent with the State's Mitigation Fee Act (Government Code Section 66000 *et seq*)⁴. The annual report for FY 2019-2020 is as follows:

A. A brief description of the type of fee in the account or fund.

The City adopted the housing impact fee 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. This occurs because new market-rate residential rental development leads to a net increase in goods and

² At its adoption, the AHIF applied to new rental housing developments with three or more apartments. The unit cap adjusted due to State legislation (Assembly Bill 1505) and City Council action to activate the Inclusionary Housing Ordinance to apply towards rental developments of 20 or more units, effective January 1, 2018.

³ Unless otherwise specified, all references are to the California Government Code.

⁴ California Government Code Section 66006(b)(2).

services required by these new residents, which leads to an increase in job creation in the City. These include service and retail sector jobs (e.g., teachers, restaurant workers, pet care workers, maintenance workers, etc.) with wages that are too low to afford market-rate rental apartments. This creates a demand for new housing that is affordable to extremely low-, very low-, low-, and moderate-income households, which an affordable housing impact fee would be used to help provide.

The housing impact fee may include either rental housing and purchase assistance programs for starter housing. Such loans and grants will require the beneficiary to record an affordability restriction which will be enforceable by the City. Currently, the City is focused on providing affordable rental housing, limited funding for the construction of for-sale homes, but it is not anticipated that any funds will be invested in down payment assistance programs.

B. The amount of the fee.

The initial fee at its adoption was \$17 per each livable square foot of rentable space built within the residential development. Each year the AHIF per square foot increases annually by 2.4% each on July 1. The AHIF during the reporting period was \$18.26 per square foot (FY 2019-2020). The current fee is \$18.70 per square foot. See **Table A** which summarizes the AHIF rate schedule.

Table A. Affordable Housing Impact Fee Rate Schedule

AHIF	Fiscal Year	AHIF per Sq Ft
Original fee	July 1, 2016 - June 30, 2017	\$17.00
Fee from prior period	July 1, 2018 - June 30, 2019	\$17.83
Fee during reporting period	July 1, 2019 - June 30, 2020	\$18.26
Current fee	July 1, 2020 - June 30, 2021	\$18.70

C. The beginning and ending balance of the account or fund.

On July 1, 2019, the AHIF fund balance totaled: \$1,677,785.61

On June 30, 2020, the AHIF fund balance totaled: \$11,383,269.96

D. The amount of the fees collected and the interest earned.

In FY 2017-2018, one project made an AHIF payment, in FY 2018-2019 another project provided its AHIF payment and in FY 2019-2020 seven projects made their AHIF payments:

Table B. Affordable Housing Impact Fee Payments Made

Fiscal Year	Project	Council District and Location	Impact Fee Paid	Interest Earned	Total
2017-2018	Ohlone Block B	CD6: Auzerais and Sunol	229,586.25	2,260.10	231,846.35
2018-2019	Holden of San Jose	CD9: 4606 Almaden Expy	1,410,406.49	35,532.77	1,445,939.26
2019-2020	7 th & Empire	CD3: 535 N 7 th Street	1,522,317.94	71,051.85	9,705,484.85
	2898 Joseph Ave	CD9: 2898 Joseph Ave	113,942.40		
	Hanover Diridon	CD6: 715 W. Julian Street	3,606,112.62		
	Sparta Student	CD3: 525 E. Santa Clara St.	1,177,587.40		
	Firestone	CD3: 477 S. Market Street	1,392,069.36		
	Holden of SJ II	CD6: 1015 S. Bascom Ave	736,462.32		
	Belmont Village	CD9: 5175 Union Ave	1,085,940.46		
	Current Total Balance		\$11,274,425.24	\$108,844.72	\$11,383,269.96

E. 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.

Revenue from the Affordable Housing Impact Fee is intended to be used to increase the supply of affordable housing for extremely low-, very low-, low- and moderate-income households (Housing Impact Fee Program). Funding may be used towards acquisition, financing, construction, and development of Housing Facilities and any necessary and reasonable costs for administering the Housing Impact Fee Fund. This funding will help address demand from workers in jobs created by the increased demand for goods and services resulting from the increased City population occupying new market-rate rental housing developments.

The Housing Department issued a NOFA for \$100 million in August 2018, stating the City’s intent to fund affordable housing developments that meet the City’s priorities. These AHIF funds are included in this NOFA. **Attachment A** is a list of potential developments resulting from the NOFA process. These projects have been added to the Expenditure Plan for the AHIF Funds. Projects are required to provide progress reports every six months to ensure they are moving forward as planned. Additionally, on [June 30, 2020](#) City Council approved a

funding commitment for Habitat for Humanity to acquire 101 S Jackson Avenue for the development of 14 affordable for-sale townhomes.

- 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.**

To date no expenditures have made from the AHIF Fund on housing facilities. The expenditures for the 101 South Jackson Avenue are anticipated to occur during FY 2020-2021 in the amount of \$2,200,000 made to Habitat for Humanity East Bay/Silicon Valley, Inc as an Acquisition loan. Construction is expected to begin in 2021 and to be completed in 2023. This is in compliance with the Mitigation Fee Act and the Housing Impact Fee Resolution which states that the City has five years from its collection to spend the AHIF funds.

- 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 2019-2020, no fees were transferred and no loans have been made from the AHIF fund.

- H. The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.**

In FY 2019-2020, no refunds were made from the AHIF fund.

EVALUATION AND FOLLOW-UP

This item will be reported annually to the City Council. The next report (FY 2020-2021) will be presented to Council in Fall 2021.

PUBLIC OUTREACH

This report will be made available to the public on August 21, 2020, on the City of San José website prior to the City Council meeting scheduled for September 1, 2020.

HONORABLE MAYOR AND CITY COUNCIL

August 17, 2020

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COORDINATION

This report has been coordinated with memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

As part of cost recovery and the City's AHIF program, application processing fees, monitoring fees and additional staff time charges were used to administrator the program. No AHIF funds were used for staffing.

Accepting the report of required information will allow the City of San José to comply with State law and continue the use of AHIF funds to partially fund affordable housing projects.

The AHIF Program implements several City policy objectives that are articulated in the Envision San José 2040 General Plan. See **Attachment B** for a list of the General Plan Policies.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

JACKY MORALES-FERRAND
Director, Housing Department

For questions please contact Rachel Vander Veen, Deputy Director at (408) 535-8231.

Attachments

Attachment A

The following list of NOFA projects presents additional examples of types of rental housing developments that could be funded with the Housing Impact Fee Fund:

Proposed Project	Developer	80% AMI	60% AMI	50% AMI	30 % AMI	Total Aff. Units
226 Balbach	SAHA	0	30	38	18	86
Page Street	Charities Housing	0	0	54	27	81
The Kelsey	The Kelsey	49	16	0	24	89
Tamien Station TOD	Core Development	0	44	45	45	134
Alum Rock Family Housing	Affirmed Housing	0	16	18	51	85
Blossom Hill	Charities Housing	0	0	97	48	145
West San Carlos	Danco Communities	0	20	19	40	79
Roosevelt Park Apartments	FCH	4	0	66	9	79
Gallup Mesa	Eden Housing	4	2	27	12	45
961 Meridian	ROEM	0	179	0	49	228

Attachment B

General Plan Policies

- H-1.2 Facilitate the provision of housing sites and structures across locations, types, price, and status as rental or ownership that responds to the needs of all economic and demographic segments of the community, including seniors, families, the homeless, and individuals with special needs.
- H-1.6 Foster the production of housing to serve the “starter” housing market by leveraging financial resources such as purchasing assistance programs, and by encouraging market-rate building typologies that service the “starter” housing market.
- H-1.9 Facilitate the development of housing to meet San José’s fair share of the County’s and region’s housing needs.
- H-1.10 Facilitate housing that is affordable to those employed in population-serving, business-support, and driving industries.
- H-2.0 Preserve and improve San José’s existing affordable housing stock and increase its supply such that fifteen percent (15%) of all new housing stock developed is affordable to low- very low-, and extremely low-income households.
- H-2.1 Facilitate the production of extremely low-, very low-, low-and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels, and various other programs.
- H-2.8 Coordinate and implement housing policies and goals contained in the City’s Consolidated Plan, and its 5-Year Investment Plan.
- H-2.11 Seek permanent sources of affordable housing funds.
- H-3.3 Situate housing in an environment that promotes the health, safety, and well-being of the occupants, and is close to services and amenities.
- H-4.2 Minimize housing’s contribution to greenhouse gas emissions and locate housing consistent with our City’s land use and transportation goals and policies to reduce vehicle miles traveled and auto dependency.