



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Erik L. Soliván

SUBJECT: See Below

DATE: November 19, 2024

Approved:

Date:

11/25/24

COUNCIL DISTRICT: Citywide

**SUBJECT: Fiscal Year 2023-2024 Affordable Housing Impact Fee and
Commercial Linkage Fee Annual Report**

RECOMMENDATION

Accept the Fiscal Year 2023-2024 Affordable Housing Impact Fee and Commercial Linkage Fee Annual Report prepared in accordance with the California Mitigation Fee Act (Government Code section 66000 et seq.) on the status and expenditure plans for the City's Affordable Housing Impact Fee and Commercial Linkage Fee.

SUMMARY AND OUTCOME

The Fiscal Year (FY) 2023-2024 Affordable Housing Impact Fee (AHIF) and Commercial Linkage Fee (CLF) Annual Report outlines the collection, disbursement, and planned use of fees to fund the creation of affordable housing, as required by the California Mitigation Fee Act.¹

During FY 2023-2024, no new fees for the AHIF program were collected, although one residential development repaid the City \$27,213.38 in interest on an AHIF-funded loan from a previous fiscal year. Currently, the City's AHIF fund has \$5,023,101 encumbered for the construction of the Parkmoor Community Apartments, which will offer 81 units, of which 79 will be restricted affordable units for extremely low-, very low-, and low-income renters and two will be unrestricted managers' apartments.

During FY 2023-2024, City staff collected \$4,915,231.56 in CLF revenues. These revenues comprised \$4,893,301.56 in linkage fees collected from six developments, \$23,595 in application fees collected from 21 developments, and \$1,665 in refund transactions disbursed to three developers. The CLF revenue funds were carried into FY 2024-2025 as part of the Unrestricted Ending Fund Reserves.

¹ [California Government Code Section 66000 et seq.](#)

BACKGROUND

The California Mitigation Fee Act

The California Mitigation Fee Act requires public agencies to account for and make specific findings regarding mitigation fees collected by an agency as a condition of development approval.² The Mitigation Fee Act regulates how public agencies 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 provide an annual report available to the public within 180 days after the last day of each fiscal year.³ In accordance with this requirement, staff is presenting the FY 2023-2024 AHIF and CLF Annual Report in this memorandum.

AHIF Program Background Information

On November 18, 2014, City Council established the AHIF program.⁴ The AHIF was assessed on market-rate rental residential developments to offset their impact on the demand for affordable homes for lower- and moderate-wage workers. On December 19, 2017,⁵ City Council approved a framework for residential development projects with 20 or more rental units to transition to instead being subject to the Inclusionary Housing Ordinance between January 1, 2018, and June 30, 2018. Staff also clarified that residential rental developments with three to 19 units would still be subject to the AHIF and for-sale residential development projects with 19 or fewer units would be exempt from both the AHIF program and the Inclusionary Housing Ordinance.

CLF Program Background Information

On September 22, 2020, City Council adopted the CLF program.⁶ The purpose of the CLF program is to offset the increased need for affordable housing in San José due to the creation of commercial space and its resulting workers. The CLF is a one-time impact fee paid to the City that applies to new non-residential developments located in San José. CLF revenues are eligible to fund the creation of affordable housing for households with extremely low, very low, low, and moderate incomes. CLF revenue funds are used to supplement other public funding sources to facilitate the development of affordable housing units in San José.⁷

² [California Government Code Section 66001\(a\).](#)

³ [California Government Code Section 66006\(b\)\(1\).](#)

⁴ [Resolution No. 77218.](#)

⁵ [Resolution No. 78473.](#)

⁶ Adopted by [Ordinance No. 30475](#) on September 22, 2020, and amended by [Ordinance No. 30744](#) on April 12, 2022.

⁷ CLF is in Chapter 5.11 of the San José Municipal Code.

As required by law, CLF revenue funds are segregated from the City's General Fund and held in internal tracking special revenue funds (accounts that earn interest) within the City's Multi-Source Housing Fund (Fund #448).

ANALYSIS

The City's AHIF and CLF programs are operated consistent with the state's Mitigation Fee Act. The following is a summary of activity for FY 2023-2024 AHIF and CLF funds. Additional details are also available in **Attachment A** – FY 2023-2024 AHIF Annual Report and **Attachment B** – FY 2023-2024 CLF Annual Report.

FY 2023-2024 AHIF Program

In the last eight years, the AHIF program has generated \$26,607,575.36 in fee revenues and interest. For FY 2023-2024, no AHIF fees were committed to developing new affordable housing. However, there were \$72,732.35 in project development expenditures during this reporting period for the Parkmoor Community Apartments development in City Council District 6.

FY 2023-2024 CLF Program

Since its inception in 2021, the CLF program has generated a total of \$5,838,952.23 in fee revenues and interest. CLF collections have been modest, given the post-COVID-19 pandemic market conditions affecting the development of commercial properties. For FY 2023-2024, staff collected \$4,916,896.56 in CLF revenues.

Since the CLF revenue fund balance was very limited throughout FY 2023-2024 (the majority of CLF revenue funds were collected at the end of the fiscal year), no CLF revenue funds were allocated to developing new affordable housing during this reporting period. However, in the upcoming year, staff intend to commit the available CLF revenue funds in the next funding cycle for affordable housing developments, which will be released in early 2025.

EVALUATION AND FOLLOW-UP

This is an annual report to the City Council. The next AHIF and CLF annual report for FY 2024-2025 will be presented to City Council in fall 2025.

COORDINATION

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

PUBLIC OUTREACH

Government Code Section 66006 requires a 15-day public notice period to make the information in this report available to the public before a public meeting is held. Before the date of this published memorandum, the information in this report will be made available to the public in print during business hours (Monday – Friday, 8 a.m. – 5 p.m.) from November 19, 2024 through December 10, 2024, in the Housing Department lobby at 200 E. Santa Clara Street, 12th floor, San José, California. During this period, the Housing Department also posted the information in this report on its website at www.sjhousing.org. Furthermore, this memorandum will be posted on the City's Council Agenda website for the December 10, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

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

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Erik L. Soliván
Housing Director

The principal authors of this memorandum are Elisha St. Laurent, Development Officer, and Pedro Leal, Analyst II. For questions, please contact Kristen Clements, Division Manager, at Kristen.clements@sanjoseca.gov or (408) 535-8236.

ATTACHMENTS:

Attachment A: FY 2023-2024 AHIF Annual Report

Attachment B: FY 2023-2024 CLF Annual Report

ATTACHMENT A

FY 2023-2024 AHIF Annual Report

In accordance with Government Code Section 66006(b)(1), the requirements for the FY 2023-2024 AHIF 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 moderate-income rental housing or purchase assistance programs for first-time homebuyers.

B. The Amount of the Fee

The initial fee for the AHIF program 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 in 2017.

Table 1 – AHIF Rate Schedule

AHIF Rate	Fiscal Year	AHIF per Square Foot
Initial Fee	July 1, 2016 - June 30, 2017	\$17.00
Fee During Reporting Period	July 1, 2020 - June 30, 2021	\$18.70
Fee During Reporting Period	July 1, 2021 - June 30, 2022	\$19.15
Fee During Reporting Period	July 1, 2022 - June 30, 2023	\$19.61
Final Fee Level Due To Sunset	July 1, 2023 - June 30, 2024	\$20.08

ATTACHMENT A

FY 2023-2024 AHIF Annual Report

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

On July 1, 2023, the AHIF fund balance totaled \$13,215,392. As of June 30, 2024, the AHIF fund balance totaled \$12,859,354.86.

D. The Amount of the Fees Collected and Interest Earned

Table 2 summarizes AHIF revenues from FY 2023-2024. During FY 2023-2024, no new fees from the AHIF program were collected, although one residential development repaid the City interest on an AHIF-funded loan from a previous fiscal year. Additionally, the interest earned since adoption also has a carrying balance.

Table 2 – FY 2023-2024 AHIF Collected and Interest Earned

Source of Revenue	Month/Year of Payment Received	Impact Fee Paid	Interest Earned	Monitoring/Processing Fee Paid	Total
Fees Collected	FY 2023-2024	-	-	-	-
AHIF-Funded Loan Repayment	FY 2023-2024	-	\$27,213	-	\$27,213
Interest Earned Since Adoption on Balances	Ongoing	-	\$415,199	-	\$415,199

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 2023-2024.

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 of the California Government Code, and the public improvement remains incomplete.

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

ATTACHMENT A

FY 2023-2024 AHIF Annual Report

Table 3 – AHIF Construction Timelines

Development	Restricted Number of Units	AHIF Amount Disbursed	Total AHIF Committed	Construction Start	Estimated Construction Completion
Parkmoor Community Apartments	79	\$ 72,732.35	\$5,023,101	November 2023	Summer 2026
Total Disbursed	79	\$ 72,732.35	\$5,023,101	-	-

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 2023-2024, no fees were transferred nor any loans 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 2023-2024, no refunds were disbursed from the AHIF fund.

ATTACHMENT B FY 2023-2024 CLF Annual Report

In accordance with California Government Code Section 66006(b)(1), the requirements for the FY 2023-2024 CLF 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 the 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 of non-residential space. The initial fee of \$3.16 per square foot of industrial/research and development (R&D) space, \$5.26 per square foot of hotel space, \$5.26 per square foot of warehouse space, \$6.32 per square foot of residential care space, and \$15.79 per square foot of office space. **Table 1** summarizes the CLF rate schedule since the fee was adopted in 2022.

Table 1 – CLF Rate Schedule

CLF Rate	Fiscal Year	CLF per Square Foot
Initial Fee	July 1, 2022 - June 30, 2023	\$3.16 (Industrial/R&D)
		\$5.26 (Hotel)
		\$5.26 (Warehouse)
		\$6.32 (Residential Care)
		\$15.79 (Office)
Fee From Prior Period	July 1, 2021 - June 30, 2022	N/A
Fee During Reporting Period	July 1, 2022 - June 30, 2023	\$3.16 (Industrial/R&D)
		\$5.26 (Warehouse)
		\$5.26 (Hotel)
		\$6.32 (Residential Care)
		\$15.79 (Office)
Fee During Reporting Period	July 1, 2023 - June 30, 2024	\$3.49 (Industrial/R&D)
		\$5.81 (Hotel)
		\$5.81 (Warehouse)
		\$6.98 (Residential Care)
		\$17.44 (Office)
Current Fee	July 1, 2024 - June 30, 2025	\$3.58 (Industrial/R&D)
		\$5.96 (Warehouse)
		\$5.96 (Hotel)
		\$7.16 (Residential Care)
		\$17.89 (Office)

**ATTACHMENT B
FY 2023-2024 CLF Annual Report**

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

On July 1, 2023, the CLF account balance totaled \$942,320.31. On June 30, 2024, the CLF fund balance totaled \$5,885,613.96.

D. The Amount of the Fees Collected and Interest Earned

Table 2 summarizes the non-residential development projects that have made CLF payments and/or are subject to the CLF ordinance.

Table 2 – FY 2023-2024 CLF Collected

Non-Residential Development Project	Date of Payment Received	Impact Fee Paid
Project H21-003: 1953 Concourse, Warehouse – N. SJ and Nearby	December 6, 2023	\$95,876.62
Project PD22-001: Stack SVY, Industrial – N. SJ and Nearby	December 14, 2023	\$4,391.82
Project H22-014: Piercy XC, Warehouse – Edenvale	May 14, 2024	\$610,677.65
Project H21-040: Qume and Commerce, Warehouse – N. SJ and Nearby	June 27, 2024	\$2,040,185.23
Project PD22-009: King XC, Warehouse – Downtown and Nearby	June 30, 2024	\$388,912.10
Project PD23-002: Kaiser Hospital, Office – Edenvale	June 30, 2024	\$1,753,258.14

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 2023-2024, the City did not approve any disbursements of CLF funds. No new affordable housing developments received an expenditure 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 of the California Government Code, and the public improvement remains incomplete.

In FY 2023-2024, no affordable housing developments were funded with CLF funds. As such, there are currently no affordable housing development construction timelines to report.

ATTACHMENT B
FY 2023-2024 CLF Annual 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 2023-2024, no fees were transferred or any loans 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 2023-2024, three refunds totaling \$1,665 were disbursed from the CLF fund. The refunds were made to correct the dollar amounts received for the CLF Satisfaction Plan Applications for three non-residential development projects. **Table 3** summarizes details for each refund.

Table 3 – FY 2023-2024 CLF Refunds

Non-Residential Development Project	Amount Original Collected Paid	Correct Amount	Refund Amount
Project H22-015: 550 Piercy Road	\$1,726.00	\$895.00	\$831.00
Project H22-035: 0 Piercy Road	\$1,726.00	\$895.00	\$831.00
Project H21-026: 17 South 4 th Street	\$1,729.00	\$1,726.00	\$3.00