



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** November 14, 2022

Approved

Date

11/22/22

**SUBJECT: AFFORDABLE HOUSING IMPACT FEE FISCAL YEAR 2021-2022  
ANNUAL REPORT**

## **RECOMMENDATION**

Accept the Fiscal Year 2021-2022 Affordable Housing Impact Fee 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 and to update the expenditure plan for the Affordable Housing Impact Fee.

## **OUTCOME**

Accepting this recommendation with the attached Affordable Housing Impact Fee Annual Report (Annual Report) of required information will allow the City of San José to continue to use Affordable Housing Impact Fees (AHIF) to fund affordable housing developments fully or partially.

## **EXECUTIVE SUMMARY**

The Fiscal Year (FY) 2021-2022 Annual Report documents the collection, disbursement, and planned use of fees to fund the development of affordable housing. During FY 2021-2022, \$8,830,505 AHIF were collected. The City collected this revenue from one development that moved forward with its construction process and paid its AHIF obligation.

In the past five FYs, the Housing Impact Fee Resolution adopted by the City Council in 2014 resulted in the collection of \$21,002,287 to fund affordable housing for extremely low-, very low-, low-, and moderate-income households. Currently, the AHIF fund has disbursed \$2,200,000 to the 101 S. Jackson project. It is anticipated that three additional affordable housing projects will receive commitments of AHIF funds in FY 2022-2023.

## **BACKGROUND**

### ***Mitigation Fee Act***

The 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. 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 available to the public an annual report within 180 days after the last day of each FY<sup>1</sup>. In accordance with this requirement, staff is presenting the following Annual Report for the FY ending June 30, 2022.

### ***AHIF***

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 nineteen<sup>2</sup> apartments with applications for first approval completed before June 29, 2021 were 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. This includes 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 provided a list of proposed affordable housing projects as examples of the types of rental housing developments that could be funded with AHIF revenues. The Housing Department released a Notice of Funding Availability in December 2021 seeking developments for investment of AHIF and other funds.

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 (Cal. Gov't Code section 66001). Through FY 2020-2021, the revenues from the AHIF were held in a reserve in an internal tracking fund within the Multi-Source Housing Fund. Starting in FY 2021-2022, the AHIF fund is a separate individual fund.

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<sup>1</sup> California Government Code (Cal. Gov't Code) Section 66006(b)(1).

<sup>2</sup> <https://www.sanjoseca.gov/home/showpublisheddocument/69450/637491533154630000>

## **ANALYSIS**

The City's AHIF program is consistent with the State's Mitigation Fee Act (Cal. Gov't Code section 66000 *et seq.*).

### **Expenditure Plan Includes Moderate Income Rental**

The AHIF has been used to fund several developments that included moderate income affordable rental units. The 2014 Expenditure Plan suggested that the City would focus on funding moderate income affordable for-sale units (households earning 80% to 120% of the area median income). The plan has been updated in the subsequent annual reports to include projects with moderate income rental units, but in the interest of clarity, it was decided to expressly update the plan to state that AHIF funds will be used to fund *both* moderate income rental and for-sale units, as these units are increasing common in affordable projects due to changes in the federal tax credit rules. Units to be funded with AHIF will include moderate rental units (serving households earning up to 80% of area median income) as well as those affordable housing uses originally listed in the Expenditure Plan or added by subsequent annual reports.

### **Annual Report**

In accordance with Cal. Gov't Code section 66006(b)(1), the requirements for the FY 2021-2022 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 Residential Nexus Analysis was 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 the AHIF will be used to provide. Additionally, the City's General Plan includes goals and 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 fee at its adoption was \$17 per each livable square foot of rentable space built within a residential development. Each year, the AHIF per livable square foot of rentable space increases by 2.4% on July 1. The AHIF, during this reporting period, was \$19.15 per square foot. The

current fee is \$19.61 per square foot. Table A summarizes the AHIF rate schedule since its adoption.

**Table A. Affordable Housing Impact Fee Rate Schedule**

<b>AHIF</b>	<b>Fiscal Year</b>	<b>AHIF per Sq. Ft</b>
Initial fee	July 1, 2016 - June 30, 2017	\$17.00
Fee from prior period	July 1, 2020 - June 30, 2021	\$18.70
Fee during reporting period	July 1, 2021 - June 30, 2022	\$19.15
Current fee	July 1, 2022 - June 30, 2023	\$19.61

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

On July 1, 2021, the AHIF fund balance totaled \$11,373,941. On June 30, 2022, the AHIF fund balance totaled \$12,426,974.

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

Table B summarizes the projects that have made AHIF payments and/or are subject to the AHIF Ordinance since its adoption. Seven projects made an AHIF payment in FY 2019-2020 and two projects made an AHIF payment in FY 2020-2021. One project made an AHIF payment in FY 2021-2022. A full accounting of fees collected is included in **Attachment A**.

**Table B. Affordable Housing Impact Fee Rate Schedule**

<b>Fiscal Year</b>	<b>Project</b>	<b>Date of payment received</b>	<b>Impact Fee Paid</b>	<b>Interest Earned</b>	<b>Monitoring/ Processing Fee</b>	<b>Total</b>
2016- 2017	<b>Ohlone Block B</b>	December 2017	\$0	\$0	\$3,200	\$3,200
2017-2018	<b>Holden SJ</b>	August 2018	\$229,586	\$2,260	\$203,160	\$435,006
2018-2019	<b>Holden SJ</b>	August 2018	\$1,410,406	\$34,845	\$33,800	\$1,479,051
2019-2020	<b>7<sup>th</sup> &amp; Empire</b>	July 2019	\$1,522,318	\$88,029	\$10,266	\$9,732,728
	<b>2898 Joseph Ave</b>	December 2019	\$113,942			
	<b>Hanover Diridon</b>	December 2019	\$3,606,112			
	<b>Sparta Student</b>	February 2020	\$1,177,587			
	<b>Firestone 477 Market St</b>	March 2020	\$1,392,069			
	<b>Holden of SJ II 1015 Bascom</b>	June 2020	\$736,462			
	<b>Belmont Village 1015 Bascom</b>	June 2020	\$1,085,940			

2020-2021	Morningstar	June 2021	\$789,869	\$162,977	\$3,042	\$1,063,378
	4094 Hamilton Ave	May 2021	\$107,488			
2021-2022	Gateway Station	April 2022	\$8,830,505	\$128,967	\$0	\$8,959,472
Current Total Balance			\$21,002,284	\$417,078	\$253,468	\$21,672,835

**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**

Table C lists the developments that received an allocation of AHIF funds for the acquisition, financing, construction, and development of new affordable housing. In FY 2021-2022, the City approved a loan commitment allocating \$2,200,000 in AHIF funds for the 101 S. Jackson. In the Annual Report for FY 2020-2021, staff indicated that Gallup Mesa, Roosevelt, and Blossom Hill developments would receive commitments; however, only the Kelsey Ayer Station affordable housing development received an allocation of \$5,400,000 in AHIF funds in FY 2022-2023. Additionally, staff anticipates an 81-unit affordable housing development located at 1510 Parkmoor Avenue to apply for approximately \$5,000,000 of future AHIF funds. **Attachment B** provides additional details related to these affordable developments.

**Table C. AHIF Disbursements**

Development	Amount Disbursed/ Committed	Date of Disbursement	Total Development Cost	Percentage of Development Funded	Date of City Council Commitment
101 S. Jackson	\$2,200,000	June 30, 2022	\$12,692,818	17.3%	June 18, 2020
The Kelsey Ayer Station	\$5,400,000	July 29, 2022	\$72,848,435	7.4%	April 21, 2021
<b>Total Committed</b>	<b>\$7,600,000</b>	--	<b>\$85,541,253</b>	<b>8.9%</b>	--

**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 Cal. Gov't Code Section 66001, and the public improvement remains incomplete.**

Table D summarizes construction timelines. Habitat for Humanity expects to begin construction on the 101 S. Jackson, a for-sale development for low-income buyers, in the coming months and plans to complete construction in summer 2024. The Kelsey Ayer Station development intends to start construction in summer 2022 and complete construction by spring 2024.

**Table D. Affordable Housing Impact Fee Construction Timelines**

<b>Development</b>	<b>Amount Disbursed</b>	<b>Construction Start</b>	<b>Estimated Construction Completion</b>
101 S Jackson For-Sale Development	\$2,200,000	Winter 2022	Summer 2024
The Kelsey Ayer Station	\$0	Summer 2022	Spring 2024
<b>Total Disbursed</b>	<b>\$2,200,000</b>		

**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 2021-2022, 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 and any allocations pursuant to subdivision (f) of Section 66001.**

In FY 2021-2022, no refunds were made from the AHIF fund.

## **CONCLUSION**

The recommendations set forth within this memorandum are to accept the Annual AHIF report. Approval of the staff recommendation will complete the Mitigation Fee Act reporting requirement process.

## **EVALUATION AND FOLLOW-UP**

This item will be reported annually to the City Council. The next report, FY 2022-2023, will be presented to City Council in fall 2023.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

Cal. Gov't Code section 66006 includes a minimum 15-day requirement to make the information in the report available to the public before a public meeting is held. This report and a copy of the nexus study have been made available for in-person viewing during business hours from November 15, 2022 until November 20, 2022 at the Housing Department's lobby located at 200 East Santa Clara Street, 12<sup>th</sup> floor in San José. The report will be posted on the City of San José website prior to the City Council meeting scheduled for December 6, 2022. The memorandum can be found on the Housing Department's Resource Library page located [here](#).

## **COORDINATION**

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

## **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

## **FISCAL/POLICY ALIGNMENT**

Acceptance of the Annual Report and required supporting information will allow the City of San José to comply with State law and continue the use of AHIF funds to finance affordable housing projects. The AHIF program implements several City policy objectives that are articulated in the Envision San José 2040 General Plan. See **Attachment C** for a list of those General Plan policies.

HONORABLE MAYOR AND CITY COUNCIL

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**Subject: Affordable Housing Impact Fee Fiscal Year 2021-2022 Annual Report**

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**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 of Housing

The principal author of this memorandum is Darius Brown, Senior Development Officer. For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

**Attachments:**

- Attachment A: City's Affordable Housing Impact Fee Account Summary
- Attachment B: Affordable Housing Unit Breakdown for AHIF Projects
- Attachment C: General Plan Policies



**Attachment A**  
**City's Affordable Housing Impact Fee Account Summary**

*Table 1. Payments received*

<b>AHIF Account</b>	<b>FY 18</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>Total</b>
AHIF Pipeline Annual Fee	\$59,160	\$17,000	\$10,266	--	--	\$86,426
AHIF Pipeline Application Fee	\$144,000	\$16,000	--	--	--	\$160,000
Affordable Housing Compliance Fee	--	--	--	\$3,042	--	\$6,242
AHIF	\$229,586	\$1,410,406	\$9,634,432	\$ 897,356	\$8,830,505	\$21,002,287
AHIF Admin Fee	--	\$800	--	--	--	\$800
<b>Total</b>	<b>\$432,746</b>	<b>\$1,444,206</b>	<b>\$9,644,698</b>	<b>\$900,398</b>	<b>\$8,830,505</b>	<b>\$21,255,755</b>

*Table 2. Interest and Expenditures*

	<b>FY 18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY 21</b>	<b>FY 22</b>
Beginning Balance	<b>\$3,200</b>	<b>\$438,206</b>	<b>\$1,813,644</b>	<b>\$11,373,941</b>	<b>\$12,426,974</b>
Revenue	\$432,746	\$1,444,206	\$9,644,698	\$900,399	\$8,830,505
Interest Earned	\$2,260	\$34,844	\$88,029	\$162,978	\$128,968
Total Source	<b>\$435,006</b>	<b>\$1,479,050</b>	<b>\$9,732,727</b>	<b>\$1,063,377</b>	<b>\$8,959,474</b>
Expenditures	--	(\$103,613)	(\$172,430)	(\$10,345)	(\$2,377,692)
<b>Ending Balance</b>	<b>\$438,206</b>	<b>\$1,813,644</b>	<b>\$11,373,941</b>	<b>\$12,426,974</b>	<b>\$19,008,757</b>

## Attachment B

### Affordable Housing Unit Breakdown for Projects Funded by AHIF

**The following list of developments are approved to receive from the AHIF Fund**

<b>Development</b>	<b>Developer</b>	<b>Progress</b>	<b>Expected date of Completion</b>	<b>120% AMI</b>	<b>80% AMI</b>	<b>60% AMI</b>	<b>50% AMI</b>	<b>40% AMI</b>	<b>30 % AMI</b>	<b>Below 30% AMI</b>	<b>Total Affordable Units</b>
<b>101 S. Jackson Development</b>	Habitat for Humanity East Bay/Silicon Valley, Inc.	In progress	Summer 2024	2	12	0	0	0	0	0	14
<b>The Kelsey Ayer Station</b>	The Kelsey	In Progress	Spring 2024	0	26	22	31	0	0	34	113
<b>Parkmoor Community Apartments</b>	Allied Housing	In Progress	Fall 2025	0	0	15	24	0	40	0	79
<b>TOTAL</b>				<b>2</b>	<b>38</b>	<b>37</b>	<b>55</b>	<b>0</b>	<b>40</b>	<b>34</b>	<b>206</b>

## **Attachment C**

### **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.