

CITY OF SAN MATEO
RESOLUTION NO. 84 (2016)

**ESTABLISHING AN AFFORDABLE HOUSING COMMERCIAL LINKAGE FEE FOR
NONRESIDENTIAL DEVELOPMENT PROJECTS**

WHEREAS, on January 5, 2015 the City Council of the City of San Mateo adopted its 2015 - 2023 Housing Element which contemplates, among other things, an ordinance to provide a mechanism to increase the supply of affordable housing in the City pursuant to Housing Element Programs described in Goal H.2 "Encourage New Housing Construction"; and

WHEREAS, to implement the affordable housing goals, policies and programs of the City's 2015 - 2023 Housing Element, the City Council has considered and introduced on the same date an affordable housing ordinance that, among other things, authorizes the imposition of an affordable housing commercial linkage fee for nonresidential development projects to mitigate the impact of such projects on the need for affordable housing in the City (the "Commercial Linkage Fee Ordinance"); and

WHEREAS, to ensure that future nonresidential development projects mitigate their impact on the need for affordable housing in the City of San Mateo, and to ensure that any adopted fees do not exceed the actual affordable housing impacts attributable to the development projects to which the fees relate, the City agreed to participate in the preparation of a nexus study through the countywide 21 Elements collaboration project; and

WHEREAS, the City has received and considered a report from Strategic Economics and Vernazza Wolfe Associates, Inc. dated September 2015 entitled "Commercial Linkage Fee Nexus Study" (the "Nexus Study"); and

WHEREAS, the Nexus Study uses widely used, appropriate methodology to determine the maximum amount needed to fully mitigate the burdens created by nonresidential development on the need for affordable housing; and

WHEREAS, to ensure that development projects remain economically feasible, the recommended fees as shown in the attached Exhibits are lower than the maximum amount needed to fully mitigate the burdens created by new development on the need for affordable housing as determined by the Nexus Study; and

WHEREAS, the City Council now desires to adopt fees for certain nonresidential development projects as authorized by the Commercial Linkage Fee Ordinance, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development projects to which the fees relate, as determined by the Nexus Study; and

WHEREAS, the Commercial Linkage Fee Ordinance authorizes the City Council to adopt the amount of the fees by resolution and the City Council desires to do so; and

WHEREAS, the Commercial Linkage Fee Ordinance allows the City Council to adopt by resolution the percentage of affordable units needed to fully mitigate the impact of nonresidential development projects on the need for affordable housing, and the City Council desires to do so; and

WHEREAS, the Commercial Linkage Fee Ordinance authorizes the City Council to adopt by resolution a fee for processing applications for waivers from or modifications to the fees, and the City Council desires to do so; and

WHEREAS, the City Council has determined that the development of an area standard wage policy would enhance local job opportunities and increase wages of workers and residents in the City; and

WHEREAS, the City has determined that the payment by commercial development projects of "Area Standard Wages" which are defined as the general prevailing wage determinations for San Mateo County as made by the State of California Director of the Department of Industrial Relations, will increase certain households' ability to afford housing in the County, thereby reducing the impact of those Commercial development projects on the need for affordable housing in the City; and

WHEREAS, at least ten days prior to the date this resolution is being heard, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues, in accordance with Government Code Section 66016; and

WHEREAS, at least fourteen days prior to the date this resolution is being heard, notice was provided to any persons or organizations who had requested notice, in accordance with Government Code Section 66016; and

WHEREAS, notice of the hearing on the proposed fee was published twice in the manner set forth in Government Code Section 6062a as required by Government Code Sections 66004 and 66016-66019; and

WHEREAS, the City Council has reviewed the information contained in this Resolution and the accompanying staff report and any attachments at a meeting held on August 15, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MATEO, CALIFORNIA, HEREBY RESOLVES that:

1. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.
2. The findings of the Nexus Study have been considered and are hereby incorporated into this Resolution by this reference.
3. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the Nexus Study for which the corresponding fee is charged, and that there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged, as is described in more detail in the Nexus Study.
4. The Nexus Study sets forth cost estimates, in 2015 dollars, that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs.

5. The City Council hereby adopts those fees for nonresidential development projects shown on Exhibit "A", attached hereto and incorporated by reference herein.
6. All fees collected shall be deposited by the City's Affordable Housing Fund to be used to increase and preserve the supply of housing affordable to households of, very low, low, and moderate incomes (including necessary administrative costs).
7. The City Council may review these fees from time to time. For any annual period during which the City Council does not review the fee, fee amounts shall be adjusted once by the community development director based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California.
8. The City Council further determines that the following number of affordable units will mitigate the impacts of nonresidential development on the need for affordable housing:

Required Affordable Units Per 100,000 SF in Nonresidential Project*	
	Low Income
Office/ R&D/Medical	8
Retail/Restaurant/Services.	1
Hotel	3

*Definitions of project types and affordability category are contained in the Nexus Study.

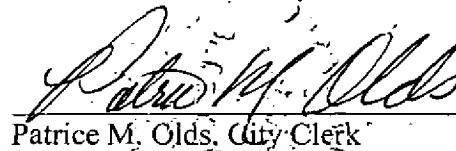
9. The City Council hereby adopts a fee for processing applications for waivers from or modifications as shown on Exhibit "B", attached hereto and incorporated by reference herein.
10. Commercial development projects where the developer voluntarily enters into an "Area Standard Wage Participation Agreement" (the "Agreement") with the City will be entitled to a reduction of 25% of the Commercial Linkage Fee that would otherwise be applicable to the development project, if the Agreement (1) applies to construction of the development project and related public works that are within the customary jurisdiction of the construction trades and crafts, whether performed on or offsite, but need not include off-site work performed by materialmen, as defined under California law; and (2) provides that all employees performing construction work for a project subject to the Agreement shall be paid not less than the Area Standard Wage or the prevailing rate of per diem wages as determined and published by the California Department of Industrial Relations subject to California Labor Code Section 1733 from the commencement of construction until the issuance of the final inspection, but excluding tenant improvements. Nothing in this Resolution shall be construed to prohibit payment of more than Area Standard Wages, and nothing in this Resolution shall preclude enforcement by the California Division of Labor Standard Enforcement for any matter over which the Division has jurisdiction.
11. The City Council finds that all of the fees adopted pursuant to this Resolution do not exceed the actual affordable housing impacts of the development projects to which those fees relate, as further set forth in the Nexus Study.

12. In accordance with California Environmental Quality Act (CEQA) Guidelines section 15378(b)(4), this action is not a project subject to CEQA, because it involves the creation of a funding mechanism and will not result in a potentially significant physical impact on the environment.
13. This Resolution shall take effect on the effective date of the Ordinance establishing an Affordable Housing Commercial Linkage Fee.

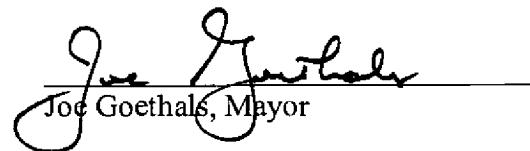
RESOLUTION NO. 84 (2016) adopted by the City Council of the City of San Mateo, California, at a regular meeting held on August 15, 2016, by the following vote of the City Council:

AYES: Council Members Goethals, Lim, Bonilla, Freschet and Papan
NOES: None
ABSENT: None

ATTEST:



Patrice M. Olds, City Clerk



Joe Goethals, Mayor

Exhibit "A"

Affordable Housing Commercial Linkage Fees
for Nonresidential Development Projects

All commercial linkage fees for nonresidential projects, including new construction and conversion of a residential use to a nonresidential use shall be calculated using the gross floor area of net new nonresidential space, excluding structured parking.

Nonresidential Use	Fee per Square Foot of Net New Gross Floor Area
Hotel	\$10
Retail, Restaurants and Services	\$5
Office, Medical Office and Research and Development Uses	\$25

Exhibit "B"

Fees for Processing Waiver Applications

Initial Deposit of \$1,000 to be charged on a cost recovery basis, where the staff charges their time and other costs against the initial deposit, recovering the actual cost of project review.