

City of San Leandro

Park Development Impact Fee Study Final Report

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Executive Summary

The City of San Leandro retained NBS Government Finance Group to prepare this study to analyze the impacts of new development on the City's parks and to calculate impact fees based on that analysis. The methods used in this study are intended to satisfy all legal requirements of the U.S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000 et seq.) and the Quimby Act (Government Code Section 66477) where applicable.

Organization of the Report

Chapter 1 of this report provides an overview of the legal requirements for establishing and imposing such fees, and methods that can be used to calculate impact fees.

Chapter 2 contains data on existing and future residential development used in this report.

Chapter 3 analyzes the impacts of development on park land and improvements and calculates park land in-lieu fees, park land impact fees, and park improvement impact fees.

Chapter 4 contains recommendations for adopting and implementing impact fees, including suggested findings to satisfy the requirements of the Mitigation Fee Act.

Appendix A to this report provides a comparison of San Leandro's existing park impact fees and the impact fees calculated in this report with the cities of Alameda, Concord, Dublin, Hayward, and Walnut Creek. The purpose of the comparison is to provide a sense of the regional and/or comparable pricing for impact fees, and to use that information to gauge the need for possible adjustments to the recommended fees. It should be noted that comparisons to other agencies do not provide information about the cost recovery policies or procedures followed in relation to their impact fees. A "market based" decision to price services below the maximum impact fee calculation, is the same as deciding to subsidize that service. Survey efforts are sometimes also non-conclusive for certain fee categories and development types because of varied terminology and approaches to calculating impact fees.

Development Data

Chapter 2 of this report presents estimates of existing residential development in San Leandro and a forecast of future development through 2035. San Leandro is a largely built-out city and new development mostly involves infill or intensification and redevelopment, so forecasting future development involves considerable uncertainty. It is important to note that the methods used to calculate impact fees in this report do not depend on forecasts of future development.

It is important to note that because of provisions of AB 602 that were incorporated into California law effective in 2022, impact fee categories for residential development in this study are defined in terms of unit size categories, broken down by square footage. Prior to the adoption of AB 602 it was common practice to base residential impact fees on unit type categories (e.g., single-family or multi-family units).

Impact Fee Analysis

The impact fee analysis in this report documents the relationship, or nexus, between development and the need for park facilities. The impact fees are based on capital costs needed to mitigate the impacts of additional development. Impact fees may not be used for maintenance or operating costs.

One change brought about by AB 602 is that if impact fees exceed the level required to maintain the existing level of service, an explanation is required. The term “level of service” is not defined in the law, but the level of service for parks is typically stated in terms of the relationship between population and the number of acres of parks provided to serve that population. The impact fees calculated in this report are based on the existing level of service, so no justification is required. The existing levels of service for the parks facilities are defined in Chapter 3 and summarized further below. Impact fees calculated in this report are shown on page S-3 of this Executive Summary.

Parks Facilities. Chapter 3 of this report calculates impact fees for park land acquisition and park improvements. Three types of fees are calculated in that chapter: (1) Quimby Act fees in lieu of park land dedication which apply only to development that involves a subdivision; (2) park land impact fees which apply to residential development not involving a subdivision; and (3) park improvement impact fees which apply to all residential development. Of the first two fees, a project would be subject to one or the other, not both.

With respect to Quimby Act in-lieu fees, this study calculates a schedule of in-lieu fees based on an estimated average cost per acre of land in the City. The alternative is to establish in-lieu fees case-by-case based on an appraisal of land value for each project. That is the method prescribed in San Leandro’s Quimby Act ordinance (San Leandro Municipal Code Article 8). However, the method established in the ordinance to determine the acreage of park land to be dedicated by a developer does not appear to satisfy the requirements of the Quimby Act. We recommend that the existing ordinance be amended to establish park land dedication requirements consistent with the statute, using the population per unit factors shown in Table 2.1 in Chapter 2 of this report

The impact fees calculated in Chapter 3 are based on the City’s existing level of service in terms of improved park acreage per capita. The estimated cost per acre for park land and improvements is used to determine a cost per capita which is then converted into fees per unit of residential development based on the estimated average population per unit for each type of residential development defined in this report. Because parks facilities are intended to serve residents of the City, these fees apply only to residential development.

Impact Fee Summary

The Impact fees per unit calculated in this report are summarized in Table S.1, below. Note that the total column includes park land impact fees but not park land in-lieu (Quimby) fees because only one of those fees would be charged to an individual project, and the fees calculated in this report for park land are equal in amount.

The fees shown in Table S.1 are the maximum supported impact fees per unit. The City Council has the authority to adopt the fees at amounts up to, but not exceeding, the maximum supported

amounts shown below. Decisions to adopt fees at amounts lower than the maximum supported amount often depend on local policy considerations.

Table S.1: Summary of Impact Fees Calculated in This Study

Development Type	Unit Type ¹	Park Land	Park Imprvmts	Total
Residential: <550 Sq. Ft.	DU	8,542	6,798	\$ 15,340
Residential: 550-750 Sq. Ft.	DU	10,677	8,498	\$ 19,175
Residential: >750-1,150 Sq. Ft.	DU	16,372	13,030	\$ 29,402
Residential: >1,150-1,650 Sq. Ft.	DU	22,778	18,129	\$ 40,907
Residential: >1,650-1,950 Sq. Ft.	DU	29,184	23,228	\$ 52,413
Residential: >1,950 Sq. Ft.	DU	36,302	28,894	\$ 65,196

¹ DU = dwelling unit

Table S.2 shows the City's existing impact fees. Note that the total column includes park land impact fees but not park land in-lieu (Quimby) fees because those fees are currently assessed on a case by case basis. Also, because of the differences between the residential development categories used in this study and those used for the City's existing fees, the impact fees shown in Table S.2 for the smallest two-unit size categories are the existing accessory dwelling unit (ADU) impact fees, the middle two unit size categories are the existing multi-family unit impact fees, and the two largest unit size categories are the existing single-family unit impact fees.

Table S.2: Summary of Existing Impact Fees

Development Type	Unit Type ¹	Park Land	Park Imprv	Total
Residential: <550 Sq. Ft.	DU	6,693	1,140	\$ 7,833
Residential: 550-750 Sq. Ft.	DU	6,693	1,140	\$ 7,833
Residential: >750-1,150 Sq. Ft.	DU	15,444	2,630	\$18,074
Residential: >1,150-1,650 Sq. Ft.	DU	15,444	2,630	\$18,074
Residential: >1,650-1,950 Sq. Ft.	DU	17,670	3,009	\$20,679
Residential: >1,950 Sq. Ft.	DU	17,670	3,009	\$20,679

¹ DU = dwelling unit

Table S.3 shows the difference between the existing impact fees in Table S.2 and the impact fees calculated in this study from Table S.1.

Table S.3: Difference Between Existing Fees and Fees Calculated in This Study

Development Type	Unit Type ¹	Park Land	Park Imprvmnts	Total
Residential: <550 Sq. Ft.	DU	1,849	5,658	\$ 7,507
Residential: 550-750 Sq. Ft.	DU	3,984	7,358	\$ 11,342
Residential: >750-1,150 Sq. Ft.	DU	928	10,400	\$ 11,328
Residential: >1,150-1,650 Sq. Ft.	DU	7,334	15,499	\$ 22,833
Residential: >1,650-1,950 Sq. Ft.	DU	11,514	20,219	\$ 31,734
Residential: >1,950 Sq. Ft.	DU	18,632	25,885	\$ 44,517

¹ DU = dwelling unit

Chapter 1. Introduction

Purpose

The purpose of this study is to analyze the impacts of development on the need for parks facilities provided by the City of San Leandro. This report documents the approach, data and methodology used in the analysis of impact fees for park land, park improvements, and park maintenance vehicles and equipment, as well as park land dedication requirements and in-lieu fees under the Quimby Act.

The methods used to calculate impact fees and in-lieu fees in this report are intended to satisfy all legal requirements governing such fees, including provisions of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000-66025) and the Quimby Act (Government Code Section 66477), where applicable.

Legal Framework for Impact Fees

This brief summary of the legal framework for development fees is intended as a general overview. It was not prepared by an attorney and should not be treated as legal advice.

U. S. Constitution. Like all land use regulations, development exactions, including impact fees, are subject to the 5th Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against “regulatory takings.” A regulatory taking occurs when regulations unreasonably deprive landowners of property rights protected by the Constitution.

In two landmark cases dealing with exactions, the U. S. Supreme Court has held that when a government agency requires the dedication of land or an interest in land as a condition of development approval or imposes ad hoc exactions as a condition of approval on a single development project that do not apply to development generally, a higher standard of judicial scrutiny applies. To meet that standard, the agency must demonstrate an “essential nexus” between such exactions and the interest being protected (See *Nollan v. California Coastal Commission*, 1987) and make an “individualized determination” that the exaction imposed is “roughly proportional” to the burden created by development (See *Dolan v. City of Tigard*, 1994).

Until recently, it was widely accepted that legislatively enacted impact fees that apply to all development in a jurisdiction are not subject to the higher standard of judicial scrutiny flowing from the *Nollan* and *Dolan* decisions. But after the U. S. Supreme Court decision in *Koontz v. St. Johns Water Management District* (2013), state courts have reached conflicting conclusions on that issue. The California Supreme Court has held that the heightened scrutiny required by *Nollan* and *Dolan* does not apply to development fees that are generally applicable to a broad class of property owners through legislation. However, in April 2024, the U. S. Supreme Court ruled that even legislatively adopted impact fees are subject to *Nollan* and *Dolan*. What that means as a practical matter remains to be determined. The Supreme Court did not decide whether conditions imposed on a class of properties through legislation must be tailored with the same degree of specificity as conditions that target a particular development (in keeping with the individualized determination required by

Dolan). That was left for state courts to decide, and the case was remanded to the California Court of Appeal for further consideration.

We expect that the methods used to calculate impact fees in this study will satisfy any standards the California courts ultimately apply to legislatively adopted impact fees.

Defining “Nexus.” The nexus required to justify exactions and impact fees can be thought of as having the three elements discussed below. We think proportionality is logically included as one element of that nexus, even though it was discussed separately in *Dolan v. Tigard*. The elements of the nexus discussed below mirror the three “reasonable relationship” findings required by the Mitigation Fee Act for establishment and imposition of impact fees.

Need or Impact. Development must create a need for the facilities to be funded by impact fees. All new development in a community creates additional demands on some or all public facilities provided by local government. If the capacity of facilities is not increased to satisfy the additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is related to the development project subject to the fees.

The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate impacts created by the development projects upon which they are imposed. In this study, the impact of development on facility needs is analyzed in terms of quantifiable relationships between various types of development and the demand for public facilities based on applicable level-of-service standards. This report contains all of the information needed to demonstrate compliance with this element of the nexus.

Benefit. Development must benefit from facilities funded by impact fees. With respect to the benefit relationship, the most basic requirement is that facilities funded by impact fees be available to serve the development paying the fees. A sufficient benefit relationship also requires that impact fee revenues be segregated from other funds and expended in a timely manner on the facilities for which the fees were charged. Nothing in the U.S. Constitution or California law requires that facilities paid for with impact fee revenues be available exclusively to development projects paying the fees.

Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fee Act, as are procedures to ensure that the fees are either expended in a timely manner or refunded. Those requirements are intended to ensure that developments benefit from the impact fees they are required to pay. Thus, over time, procedural issues as well as substantive issues can come into play with respect to the benefit element of the nexus.

Proportionality. Impact fees must be proportional to the impact created by a particular development project. Proportionality in impact fees depends on properly identifying development-related facility costs and calculating the fees in such a way that those costs are allocated in proportion to the facility needs created by different types and amounts of development. The section on impact fee methodology, below, describes methods used to allocate facility costs and calculate impact fees that meet the proportionality standard.

California Constitution. The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for local governments in California to impose impact fees on development. Some impact

fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIII A. However, that objection is valid only if the fees charged to a project exceed the cost of providing facilities needed to serve the project. In that case, the fees would also run afoul of the U. S. Constitution and the Mitigation Fee Act.

Articles XIII C and XIII D, added to the California Constitution by Proposition 218 in 1996, require voter approval for some “property-related fees,” but exempt “the imposition of fees or charges, as a condition of property development.” Thus, impact fees are exempt from those requirements.

The Mitigation Fee Act. California’s impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature and took effect in January 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time, the impact fee statute has been amended from time to time, and in 1997 was officially titled the “Mitigation Fee Act.” Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Mitigation Fee Act does not limit the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include “public improvements, public services and community amenities.” Although the issue is not specifically addressed in the Mitigation Fee Act, it is clear both in case law and statute (see Government Code Section 65913.8) that impact fees may not be used to pay for ongoing maintenance or operating costs. Consequently, the fees calculated in this report are based on the cost of capital assets only.

The Mitigation Fee Act does not use the term “mitigation fee” except in its official title. Nor does it use the common term “impact fee.” The Act simply uses the word “fee,” which is defined as “a monetary exaction, other than a tax or special assessment...that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project”

To avoid confusion with other types of fees, this report uses the widely accepted term “impact fee” which should be understood to mean “fee” as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees and requires annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the implementation chapter of this report.

Required Findings. Section 66001 (a) requires that an agency establishing, increasing or imposing impact fees, must make findings to:

1. Identify the purpose of the fee
2. Identify the use of the fee; and
3. Determine that there is a reasonable relationship between the use of the fee and the development type on which it is imposed
4. Determine that there is a reasonable relationship between the need for the facility and the type of development on which the fee is imposed

In addition, Section 66001 (b) requires that in any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public

facility or portion of the public facility attributable to the development on which the fee is imposed.

The requirements outlined above are discussed in more detail below.

Identifying the Purpose of the Fees. The broad purpose of impact fees is to protect public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund acquisition or construction of certain capital assets that will be needed to mitigate the impacts of planned new development on City facilities, and to maintain an acceptable level of public services as the City grows.

This report recommends that findings regarding the purpose of an impact fee should define the purpose broadly, as providing for the funding of adequate public facilities to serve additional development.

Identifying the Use of the Fees. According to Section 66001(a)(2), if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose but is not mandatory if the facilities are identified in a General Plan, a Specific Plan, or in other public documents. Section 66002 (b) requires that if a capital improvement plan is used to identify the facilities, it must be updated annually.

However, a new provision in Section 66016.5, which was added by AB 602 in 2021, requires that large jurisdictions adopt a capital improvement plan as part of an impact fee study. That requirement applies to impact fee studies adopted after January 1, 2022. "Large jurisdiction" means a county of 250,000 or more or any city within that county. AB 602 does not provide any detail about what must be included in the capital improvement plan or how it should relate to the impact fee study, but Section 66002(a) describes the general contents of a CIP. The mandatory CIP requirement in AB 602 appears to override the original language of Section 66001(a)(2), but it appears that the annual update requirement in Section 66002(b) still applies.

Reasonable Relationship Requirement. As discussed above, Section 66001 requires that, for fees subject to its provisions, a "reasonable relationship" must be demonstrated between:

1. the use of the fee and the type of development on which it is imposed;
2. the need for a public facility and the type of development on which a fee is imposed;
and,
3. the amount of the fee and the facility cost attributable to the development on which the fee is imposed.

Development Agreements and Reimbursement Agreements. The requirements of the Mitigation Fee Act do not apply to fees collected under development agreements (see Govt. Code Section 66000) or reimbursement agreements (see Govt. Code Section 66003). The same is true of fees in lieu of park land dedication imposed under the Quimby Act (see Govt. Code Section 66477).

Existing Deficiencies. In 2006, Section 66001(g) was added to the Mitigation Fee Act (by AB 2751) to clarify that impact fees "shall not include costs attributable to existing deficiencies in public facilities..." The legislature's intent in adopting this amendment, as stated in the bill, was to codify the holdings of *Bixel v. City of Los Angeles* (1989), *Rohn v. City of Visalia* (1989), and *Shapell Industries Inc. v. Governing Board* (1991).

That amendment does not appear to be a substantive change. It is widely understood that other provisions of law make it improper for impact fees to include costs for correcting existing deficiencies.

However, Section 66001(g) also states that impact fees “may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) *refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.*” (Emphasis added.)

Impact Fees for Existing Facilities. Impact fees may be used to recover costs for existing facilities to the extent that those facilities are needed to serve additional development and have the capacity to do so. In other words, it must be possible to show that fees used to pay for existing facilities meet the need and benefit elements of the nexus. As a practical matter, such fees are difficult to implement unless the fees can be used to repay outstanding debt related to the facilities in question.

Recent Legislation

Several new laws enacted by the State of California since 2019 to facilitate development of affordable housing bear on the implementation of impact fees calculated in this study. Below are brief overviews of some key bills passed since 2019.

SB 330 – The Housing Crisis Act of 2019. Amendments to existing law contained in SB 330 prohibit the imposition of new approval requirements on a housing development project once a preliminary application has been submitted. That provision applies to increases in impact fees and in-lieu fees, except when the resolution or ordinance establishing the fee authorizes automatic, inflationary adjustments to the fee or exaction.

AB 1483 – Housing Data: Collection and Reporting. AB 1483 requires that a city, county or special district must post on its website a current schedule of its fees and exactions, as well as associated nexus studies and annual reports. Updates must be posted within 30 days.

SB 13 – Accessory Dwelling Units. SB 13 prohibits the imposition of impact fees on accessory dwelling units (ADUs) smaller than 750 square feet and provides that impact fees for ADUs of 750 square feet or more must be proportional to the square footage of the primary dwelling unit. The proportionality requirement means that impact fees for ADUs of 750 square feet or more must be calculated on a case-by-case basis during the approval process.

Existing law requires a water or sewer connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit’s size or the number of its plumbing fixtures. SB 13 revises the basis for calculating the connection fee or capacity charge to either the accessory dwelling unit’s square feet or the number of its drainage fixture units.

AB 602 – Amendments to the Planning and Land Use Law and the Mitigation Fee Act. AB 602, which was passed and signed in 2021, adds section 65940.1 to the Planning and Land Use Law requiring cities, counties and special districts that have internet websites to post schedules of fees, exactions and affordability requirements, annual fee reports, and an archive of nexus studies on that website, and to update that information within 30 days after any changes.

AB 602 also adds Section 66016.5 to the Mitigation Fee Act imposing several new requirements for impact fees that went into effect in 2022, including:

- A nexus study must identify the existing level of service for each facility, identify the proposed new level of service (if any), and explain why the new level of service is appropriate.
- If a nexus study supports an increase in an existing fee the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.
- Large jurisdictions (counties over 250,000 and cities within those counties) must adopt a capital improvement plan as part of the nexus study.
- All impact fee nexus studies shall be adopted at a public hearing with at least 30 days' notice, and the local agency shall notify any member of the public that requests notice of intent to begin and impact fee nexus study of the date of the hearing.
- Nexus studies shall be updated at least every eight years, from the period beginning on January 1, 2022.
- A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units in the development. A nexus study is not required to comply with this requirement if the local agency makes certain findings specified in the law. A local agency that imposes a fee proportionately to the square footage of units in the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.
- Authorizes any member of the public, including an applicant for a development project, to submit evidence that impact fees proposed by an agency fail to comply with the Mitigation Fee Act, and requires the legislative body of the agency to consider such evidence and adjust the proposed fee if deemed necessary.

AB 516 – Amendments to the Mitigation Fee Act. AB 516, which took effect on January 1, 2024, amends Government Code Section 66006 to add certain requirements to the annual reports mandated by that section. Specifically, Section 66006 now requires that:

- Annual reports indicate whether construction on public improvements identified in previous annual reports began on the approximate date shown in the previous annual report; and,
- If a project failed to start construction on schedule, the annual report must explain the reason for the delay and provide a revised approximate date when construction will begin.

AB 516 also amends Section 66023 to provide that when a person requests an audit of a fee or charge levied by a local agency, that audit may address when revenue generated by that fee or charge is scheduled to be expended, and when the public improvement to be funded by that fee or charge is scheduled to be completed. Prior to this amendment, the only stated purpose of such an audit was to determine whether such a fee or charge exceeds the amount reasonably necessary to cover the cost of any product, public facility or service provided by the local agency.

Impact Fee Calculation Methodology

Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics of, and planning requirements for, the type of facility being addressed. To some extent those methods are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

Allocating facility costs to various types and amounts of development is central to all methods of impact fee calculation. Costs are allocated by means of formulas that quantify the relationship between development and the need for facilities. In a cost allocation formula, the impact of development represented by some attribute of development such as added population or added vehicle trips that represent the impacts created by different types and amounts of development.

Although it is not mandatory, this study adopts the nomenclature used in the Impact Fee Nexus Study Templates prepared by the Turner Center for Housing Innovation at UC Berkeley to describe impact fee calculation methods. Those templates were prepared for The California Department of Housing and Community Development pursuant to Section 50466.5 of the Health and Safety Code.¹

Planned Facility Method. With this method, impact fees are calculated so that new development will pay for the planned expansion of facilities at the future standard attributable to new development. To calculate the cost per unit of demand, the cost of planned facilities is divided by the amount of demand that will be created by new development. The impact fees depend on the cost of planned future facilities and a plan for future development, so the fees should be recalculated if facility plans or development plans change.

Existing Inventory Method. With this method, impact fees are calculated so that new development will fund expansion of facilities at the same standard currently used to serve existing development. To calculate the cost per unit of demand, the value of existing facilities is divided by the amount of demand associated with existing development. This method allows impact fees to be calculated without a list of planned facilities. However, per AB 602's requirements, a Capital Improvement Plan still must be adopted with any new impact fee nexus study for "large jurisdictions".² This approach can be used to calculate impact fees for many types of public facilities but is usually not appropriate for facilities such as transportation improvements or water, wastewater or drainage systems where improvement needs must be determined by engineering analysis.

System Plan Method. With this method, impact fees are calculated so that new development pays for its share of the cost of an integrated system of facilities at the future standard attributable to new development. To calculate the cost per unit of demand, the value of existing facilities plus the cost of planned facilities is divided by the combined demand associated with both existing development and planned development. This approach is especially appropriate for impact fees for fire protection and EMS facilities because new facilities must be planned to integrate geographically with existing facilities.

¹ California Government Code 66016.5(a)(9) The city, county, or special district may use the impact fee nexus study template developed by the Department of Housing and Community Development pursuant to Section 50466.5 of the Health and Safety Code.

² See definition of large jurisdictions provided in AB 602 description on preceding page

In this study, the method used to calculate impact fees is the Existing Inventory Method. That is the same method specified in the Quimby Act for calculation of park land impact fees.

Impact Fees for Accessory Dwelling Units (ADUs).

As mentioned earlier, recent amendments to Section 65852.2 of the Government Code provide that impact fees may not be imposed on ADUs smaller than 750 square feet. It also establishes the following requirement for impact fees imposed on ADUs of 750 square feet or more:

“Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.”

The proportionality requirement necessitates that impact fees for ADUs must be calculated on a case-by-case basis, so this report does not calculate a schedule of impact fees for ADUs.

Although it is not spelled out in Section 65852.2, it seems obvious that when calculating ADU impact fees in cases where the primary unit is a single-family detached unit, the starting point for the proportionality calculation is the fee that would apply to the primary single-family unit.

The law also allows for ADUs on lots or parcels where the primary unit is a multi-family unit. In that situation, it seems logical that the ADU impact fee should be proportional to the impact fee that applies to a multi-family unit, but since there may be existing multi-family units of different sizes the responsible agency should use discretion in determining the basis for calculating impact fees for multi-family ADUs.

The formula for calculating proportional ADU impact fees would be:

$$\text{Primary unit impact fee} \times (\text{ADU square feet} / \text{Primary unit square feet})$$

One thing that becomes obvious in that formula is that, for an ADU of a particular size, a larger primary unit results in lower impact fees for the ADU. For example, if the ADU is 1,000 square feet and the primary unit is 2,000 square feet, the proportional impact fee for the ADU would be 50% of the impact fee that would apply to the primary unit. But if the primary unit is 1,200 square feet, the impact fee for the same-sized ADU would be 83.33% of the primary unit fee.

One advantage of the new requirement that impact fees be based on square footage is that those fees will tend to reduce the inequity created by the proportionality language of Section 65852.2 because the fees that apply to a smaller primary unit will be less than the fees that apply to a larger primary unit.

Facilities Addressed in this Study

Impact/in-lieu fees for the following types of facilities are addressed in this report:

- Park land Acquisition
- Park Improvements
- Park Maintenance Vehicles and Equipment

The next chapter, Chapter 2, contains information on existing and future development used in this study. Chapter 3 presents the impact fee analysis and fee calculations for parks.

Chapter 2. Development Data

This chapter presents data on existing and future development that will be used to calculate impact fees in subsequent chapters of this report. The information in this chapter may be used to establish levels of service, analyze facility needs, and allocate the cost of capital facilities among various types of development.

Development data presented in this chapter are based on information from the City of San Leandro Community Development Department, the U.S. Census Bureau and the American Community Survey (ACS), the California Department of Finance (DOF) Demographic Research Unit, and other sources as noted in this chapter.

Study Area and Time Frame

The study area for this study is the City of San Leandro. The timeframe for this study extends from the present time to 2035. Although the future development projected in this chapter is expected to occur by 2035, the actual timing of development cannot be predicted with certainty. The impact fee calculations in this report do not depend on when future development occurs.

Development Types

The impact fees calculated in this report will be applied only to residential development. The residential development types defined in this study are listed below. Traditionally, impact fees for residential development are based on the type of unit, e.g., single-family, multi-family or mobile home. However, Government Code Section 66016.5(a)(5)(A) which was added to the Mitigation Fee Act by AB 602 in 2021 contains the following requirement:

“A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development. A local agency that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development”

But that requirement is not absolute. Section 66016.5(a)(5)(B) provides that a nexus study is not required to comply with Section 66016.5(a)(5)(A) if the local agency makes a finding that includes all of the following:

1. An explanation as to why square footage is not the appropriate metric to calculate fees imposed on a housing development project.
2. An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden imposed by the development.
3. That other policies in the fee structure support smaller developments or otherwise ensure that smaller developments are not charged disproportionate fees

The proportionality requirement in Section 66016.5(a)(5)(A) is commonly interpreted to mean that impact fees must have a linear relationship to unit square footage. That means the fees must increase by the same amount for every added square foot of unit size. Such a fee structure results in impact fees that are necessarily five times as high for a 3,000 square-foot single-family unit as for

a 600 square apartment. That type of fee structure is justified only if the actual impact of a 3,000 square-foot unit is five times greater than the impact of a 600 square-foot unit.

Otherwise, the impact fees could violate the “rough proportionality” requirement set forth in the U. S. Supreme Court in *Dolan v. Tigard* [512 U. S. 374 (1994)]. The recent U. S. Supreme Court decision in *Sheetz v. County of El Dorado* [601 U. S. ___ (2024)] made clear that *Dolan* applies to all impact fees, whether they are applied ad hoc or legislatively adopted.

This study uses added population to represent the impact of new development on parks facilities. While the potential for added population may be five times as great for the largest residential units compared with the smallest units, that increase is not linear. In the real world, population per unit does not increase in a tiny increment for each added square foot. It increases in a stairstep fashion, jumping from one person to two persons to three persons per unit and so on. So, a fee structure that results in large units paying five times as much as small units would appear disproportionate to the actual demand created by units of different sizes.

This study breaks down residential development into tiered square-feet-per-unit ranges and calculates an impact fee for each range or category. That approach allows impact fees to be graduated by unit size while avoiding the distortions that result from a rigid, fixed fee per square foot approach, and while respecting the need for rough proportionality between the fees and the impact of development as set forth in *Dolan v. Tigard*.

Based on the foregoing discussion, we propose that the San Leandro City Council adopt the following findings pursuant to Government Code Section 66016.5(a)(5)(B) to justify the use of tiered square footage ranges for residential development in this study rather than a fixed fee-per-square-foot approach:

1. A fixed fee-per-square-foot approach would not reflect the actual impact of different-sized residential units on the facilities addressed in this study and would not meet the rough proportionality standard set forth in *Dolan v. Tigard*.
2. The use of tiered square footage ranges rather than a fixed fee per square foot approach better reflects the relationship between the fees charged and the actual burden imposed by the development.
3. Calculating impact fees for tiered square footage ranges rather than a fixed fee per square foot still ensures that smaller developments are not charged disproportionate fees because that approach allows the impact fees to be tailored to the actual impacts created by smaller developments, while protecting larger units from excessive fees.

As discussed above, residential development categories are defined in this study by ranges of unit sizes rather than by unit types (e.g., single-family or multi-family) as is the case for the City’s existing impact fees. Unit-size ranges used to define residential development in this study are listed below.

Residential: <550 Sq. Ft.

Residential: 550-750 Sq. Ft.

Residential: >750-1,150 Sq. Ft.

Residential: >1,150-1,650 Sq. Ft.

Residential: >1,650-1,950 Sq. Ft.

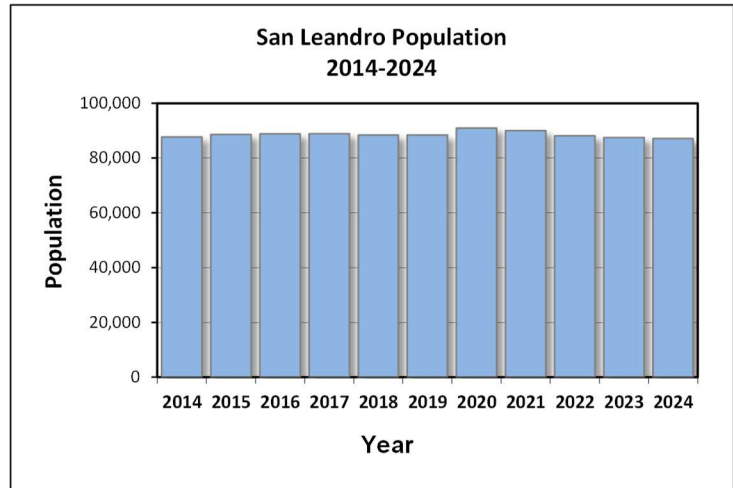
Residential: >1,950 Sq. Ft.

Each of these unit-size ranges is typical of units with a certain number of bedrooms, ranging from studio apartments up to single-family units with five or more bedrooms.

Residential Development and Population

The chart below shows the California Department of Finance (DOF) official January 1 population estimates for the City of San Leandro for the years from 2014 through 2024, except for the 2020 population which is based on the 2020 Census count.

This chart indicates a very small decrease in San Leandro's population since 2014. The 2020 Census bar shows an increase over DOF estimates for the preceding years, but DOF estimates for the years since 2020 show population declining slightly to the point that the 2024 population is slightly below the 2014 population.



Units of Development

In this study, the amount of existing and planned residential development is measured in terms of dwelling units.

Demand Variables

In calculating impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Certain measurable attributes of development such as population, vehicle trips or police department calls for service are used in those formulas to reflect the impact of different types and amounts of development on the demand for specific public services and the facilities that support those services.

Those attributes are referred to in this study as “demand variables.” Because the need for parks facilities is typically defined in terms of the population to be served, the demand variable used to represent the impact of development on the need for those facilities in this report is population.

Every demand variable has a specific value for each type of development. Those values may be referred to as “demand factors.” In this study, the demand factor for each category of residential development is the population per unit for that category (see Exhibit 2A and Table 2.1 below).

Demand Factors

Exhibit 2A shows how population per unit factors were estimated for residential unit size categories used in this study. The Census Bureau and Department of Finance collect data on population per unit, by unit type (single-family, multi-family, mobile home) rather than by unit size. Consequently,

we must estimate the population per unit for the unit size categories used in this study as shown in Exhibit 2A.

Those population-per-unit factors were estimated by NBS using data on the distribution of units by number of bedrooms from the Census Bureau’s American Community Survey (ACS). The estimated population per unit for each unit-size category is adjusted so that the total population and average population per unit approximately equal the total population and average population per unit from known data. The results are cross-checked with data on the distribution of household sizes from ACS Table 25009.

Exhibit 2A: Population per Unit by Unit Size Category

Unit Size in Sq Ft ¹	No. of Bedrooms	No. of Units ²	% of Units	Est Pop per Unit ³	Population by Unit Size ⁴
<550	0	1,343	4.2%	1.20	1,612
550-750	1	6,047	18.8%	1.50	9,071
>750 - 1,150	2	8,786	27.4%	2.30	20,208
>1,150 - 1,650	3	11,499	35.8%	3.20	36,797
>1,650 - 1,950	4	3,592	11.2%	4.10	14,727
>1,950	5+	833	2.6%	5.10	4,248
Total/Average		32,100	100.0%	2.70	86,662

¹ Estimated square-feet-per-unit ranges based on number of bedrooms and typical sizes for recently-constructed units in each category, based information provided by the City of San Leandro, Community Development Department

² Distribution of units by number of bedrooms from American Community Survey (ACS) Table B25041, 2022 1-Year Estimates

³ Estimated population per unit used in this study

⁴ Population by unit size = number of units X estimated population per unit

Table 2.1 shows the population-per-unit factors used for each type of development defined in this study.

Table 2.1: Demand Factors

Development Type ¹	Unit Type ²	Pop per Unit ³
Residential: <550 Sq. Ft.	DU	1.20
Residential: 550-750 Sq. Ft.	DU	1.50
Residential: >750-1,150 Sq. Ft.	DU	2.30
Residential: >1,150-1,650 Sq. Ft.	DU	3.20
Residential: >1,650-1,950 Sq. Ft.	DU	4.10
Residential: >1,950 Sq. Ft.	DU	5.10

¹ The square-feet-per-unit ranges shown in this table for residential development include all types of residential development including single-family, multi-family and mobile homes

² DU = dwelling unit

³ See Exhibit 2A for population per unit for residential categories

Existing and Future Development

Tables 2.2 through 2.4 on the following pages present data on existing and future development in San Leandro. Data from those tables will be used throughout this report. Table 2.2 shows existing development as of January 2024.

It is important to note that in Tables 2.2 through 2.4, all residential development is grouped into a single category. As discussed previously, the Mitigation Fee Act now requires that impact fees for residential development must be based on square footage, rather than unit type, but it is not possible to forecast the mix of future residential units by unit-size.

Table 2.2: Existing Development January 1, 2024 - City of San Leandro

Development Type	Unit Type ¹	No. of Units ²	Popu- lation ³
All Residential	DU	33,252	86,200

¹ DU = dwelling unit

² Number of existing residential units based on the January 2024 CA Department of Finance E-5 report;

³ Existing household population from 2024 CA Department of Finance E-5 report

Table 2.3 presents a forecast of future development in the City to 2035.

Table 2.3: Projected Future Development to 2035 - City of San Leandro

Development Type	Unit Type ¹	No. of Units ²	Popu- lation ³
All Residential	DU	8,393	27,450

¹ DU = dwelling unit

² Added residential units based on Housing Element SEIR page 4.6-5

³ Added population based on Housing Element SEIR page 4.6-5

Table 2.4 shows forecasted development in the City as of 2035. The 2035 totals for households (equivalent to residential units) were provided by the City of San Leandro Community Development Department.

Table 2.4: Total 2035 Development - City of San Leandro

Development Type	Unit Type ¹	No. of Units ²	Popu- lation ³
All Residential	DU	41,645	113,650

Note: The figures shown in Table 2.4 represent the sum of the corresponding figures from Tables 2.2 and 2.3

Growth Potential

The numbers in Table 2.4 represent an increase of 32% in population between 2023 and 2035. The fees calculated in subsequent chapters of this report are intended to pay for the parks and other recreation facilities needed to serve the additional demand created by future development.

All of the fees calculated in this report are based on the cost to maintain the existing level of service for parks, so that the amount of future development does not affect the impact fee calculations. Future development numbers are used only to project revenue from the impact fees. The timing of future development is not a consideration in the impact fee calculations.

Chapter 3. Parks Land and Park Improvements

This chapter calculates impact fees for park land acquisition, park improvements, and park maintenance vehicles and equipment.

As authorized by the Quimby Act (Government Code Section 66477), Article 8. Dedications and Reservations of the City's Municipal Code requires that residential subdivisions dedicate land for parks or pay a fee in-lieu of dedication. That chapter contains formulas for determining the amount of land to be dedicated and the amount of any fees to be paid in-lieu of dedication.

Those requirements apply only to residential development projects that involve a subdivision or parcel map. This chapter calculates updated park land in-lieu fees, which the City may choose to adopt instead of the case-by-case in-lieu fee calculations required by the current ordinance.

The park improvement impact fees calculated in this chapter, which include the cost of improvements to park land, as well as park maintenance vehicles and equipment, are intended to apply to all residential development in the City, in addition to any in-lieu fees or impact fees for park land acquisition.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain that existing level of service as the City grows.

Service Area

The impact fees calculated in this chapter are intended to apply Citywide.

Demand Variable

A “demand variable” is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for parks in this chapter is population. Population is used here because the need for parks is almost universally defined in terms of the relationship between population and acres of parks.

Impact fees calculated in this chapter for different categories of residential development vary depending on the estimated average population per unit for each unit-size category. The population per unit factors used to calculate park impact fees are from Table 2.1 in Chapter 2.

Because population growth is driven by new residential development, the impact fees calculated in this chapter apply only to residential development.

Existing Parks and Existing Level of Service

The Open Space, Parks, and Conservation element of the City of San Leandro's General Plan establishes a standard of five acres of improved park land per 1,000 residents.

In this chapter, calculation of impact fees for park land acquisition and park improvements is based on the City's existing level of service at the time of this study. In 2021, AB 602 added Section 66016.5

to the Mitigation Fee Act. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service. If the level used in the impact fee study exceeds the existing level of service, an explanation is required. The impact fees calculated in this chapter are based on the existing level of service as shown in Table 3.2, below, so there is no level-of-service issue in the calculation of impact fees in this chapter with respect to Section 66016.5.

Existing Parks. Table 3.1 on the following page lists the City’s existing parks and shows both City-owned acres and improved acres of parks. For purposes of analysis, many of the City’s park sites in this table will show variances to how they are displayed and considered in other City plans and studies, including the General Plan and Parks Master Plan, due to differences in methodology and purpose of analysis. Factors affecting the improved acreage in Table 3.1 include site ownership, funding of improvements, and use agreements. For example, Shoreline Park is owned by the City and still in the design phase for improvements, Cherry Grove and Floresta parks are built on land owned by the School District. However, the City built 100% of the improvements and the use of the sites are solely dedicated to parks and not shared with other school-related activities. Finally, all school sites shown in the table have a history of jointly funded improvements and joint use between the school and the City, therefore these sites are considered as 50% improved and accessible for evaluation of the level of parks services available to San Leandro residents.

Table 3.1: Existing Parks

Park Name	Park Type	City-Owned Park Acres	Improved Park Acres
Chabot	Community	4.80	4.80
Marina	Community	17.90	17.90
Shoreline Park	Community	10.00	-
Washington Manor	Community	14.00	14.00
Bonaire	Neighborhood	5.40	5.40
Cherry Grove	Neighborhood	-	7.26
Floresta	Neighborhood	-	0.80
Grover Cleveland	Neighborhood	1.00	1.00
Halcyon	Neighborhood	4.90	4.90
McCartney	Neighborhood	1.60	1.60
Memorial	Neighborhood	2.70	2.70
Mulford	Neighborhood	1.40	1.40
Siempre Verde	Neighborhood	1.80	1.80
Stenzel	Neighborhood	9.30	9.30
Thrasher	Neighborhood	4.20	4.20
Toyon	Neighborhood	2.10	2.10
Halcyon Dr Linear	Mini	0.70	0.70
Heron Bay Entrance	Mini	1.40	1.40
Root	Mini	0.80	0.80
Victoria Circle	Mini	0.30	0.30
Warden	Mini	0.30	0.30
Cherrywood	Mini	0.90	0.90
Cherry Glen	Mini	0.30	0.30
Farrelly Pool	Special Use	0.50	0.50
Heath Tennis Courts	Special Use	0.70	0.70
Burrell/ Pacific Sports	Special Use	13.70	13.70
San Leandro Ball Park	Special Use	5.60	5.60
Monarch Bay Golf Club	Special Use	178.00	178.00
Bancroft	School	-	1.59
Corvallis	School	-	1.21
Dayton	School	-	1.80
Garfield	School	-	0.75
Lewelling	School	-	2.10
Madison	School	-	1.43
McKinley	School	-	0.69
Muir	School	-	1.39
Roosevelt	School	-	0.46
Washington	School	-	0.79
Washington Manor	School	-	2.45
Wilson	School	-	1.39
Total		284.30	298.39

Source: City of San Leandro General Plan, Open Space and Conservation
Element with additional information provided by City staff

Table 3.2 calculates the existing levels of service in terms of developed acres per capita and acres per 1,000 population for total City-owned park land and City-improved park land, meaning improved parks on City-owned land as well as improved parks on land owned by another entity, such as a school district, for which the City has funded park improvements.

Table 3.2: Existing Level of Service

Asset Type	Existing Acres ¹	Existing Population ²	Acres per Capita ³	Acres per 1,000 ⁴
City-Owned Park Land	284.30	86,200	0.00330	3.30
City-Improved Park Land	298.39	86,200	0.00346	3.46

¹ See Table 3.1

² See Table 2.2

³ Acres per capita = existing acres / existing population

⁴ Acres per 1,000 population = acres per capita X 1,000

The level-of-service standard used to calculate development impact fees for park land acquisition and fees in-lieu of land dedication in this study is the existing ratio of City-owned park land to population as shown in Table 3.2. Park improvement impact fee calculations are based on the existing ratio of City-improved park land to population as shown in Table 3.2. This is discussed further below in the Cost per Capita section of this chapter.

Existing Park Maintenance Equipment. The park improvement impact fees also include the cost of park maintenance vehicles and equipment. Table 3.3 on the following page lists the City's existing park maintenance equipment and the replacement cost for each item. The cost of park maintenance equipment will be incorporated into the impact fees for park improvements. Replacement cost is used here to reflect the cost of acquiring the additional equipment that will be needed to maintain additional parks needed to serve new development. Impact fees may not be used for operations or maintenance activities, so it is important to note that the cost associated with park maintenance equipment in this study is the capital cost of that equipment only.

Table 3.3: Existing Park Maintenance Vehicles & Equipment

Description	Model Year ¹	Quantity	Replacement Cost Per Item ²	Total Impact Fee Cost Basis
JACOBSEN DTB-B-126 TRAILER	2006	1.00	\$ 18,387	\$ 18,387
JOHN DEERE X740 GARDEN TRACTOR	2006	1.00	\$ 28,879	\$ 28,879
JOHN DEERE 1200A 3 WHEEL BUNKER RAKE	2006	1.00	\$ 25,811	\$ 25,811
FORD F350 STANDARD CAB-DUMPBED	2008	2.00	\$ 62,833	\$ 125,666
MASSEY FERGUSON MF1648L TRACTOR LOADER-OPEN CAB	2009	1.00	\$ 58,956	\$ 58,956
FORD F350 STANDARD CAB-DUMPBED	2013	1.00	\$ 143,669	\$ 143,669
FORD F350 STANDARD CAB-DUMPBED	2014	2.00	\$ 85,983	\$ 171,966
FORD F350 STANDARD CAB-DUMPBED	2014	2.00	\$ 85,983	\$ 171,966
FORD F250 STANDARD CAB-SERVICE BODY	2015	1.00	\$ 61,941	\$ 61,941
VENTRAC 4500P ARTICULATING TRACTOR	2016	1.00	\$ 49,752	\$ 49,752
FORD F150 STANDARD CAB	2016	1.00	\$ 31,883	\$ 31,883
FORD F250 STANDARD CAB-UTILITY BODY- DUMP INSERT	2016	1.00	\$ 62,833	\$ 62,833
FORD F250 STANDARD CAB-DUMPBED- SERVICE BODY	2017	1.00	\$ 34,678	\$ 34,678
FORD F250 STANDARD CAB	2017	1.00	\$ 62,833	\$ 62,833
FORD F250 STANDARD CAB-DUMPBED INSERT	2017	1.00	\$ 62,833	\$ 62,833
COLUMBIA PAYLOADER ELECTRIC CART	2018	1.00	\$ 13,185	\$ 13,185
JOHN DEERE TS GATOR GROUNDS UTILITY VEHICLE	2018	1.00	\$ 9,515	\$ 9,515
FORD F150 SUPERCAB	2018	1.00	\$ 39,151	\$ 39,151
KUBOTA L3901 TRACTOR; 4-IN-1 BUCKET	2019	1.00	\$ 43,152	\$ 43,152
FORD E450 STANDARD CAB-UTILITY BODY	2019	1.00	\$ 133,320	\$ 133,320
TORO SANDPRO5040 3 WHEELED BUNKER RAKE	2020	1.00	\$ 29,269	\$ 29,269
IRONBULL TRAILER ETB831805258 TRAILER	2020	1.00	\$ 6,362	\$ 6,362
COLUMBIA PAYLOADER ELECTRIC CART	2021	1.00	\$ 15,281	\$ 15,281
FORD F350 STANDARD CAB-REFUSE BODY- PERKINS	2022	1.00	\$ 118,901	\$ 118,901
Total				\$ 1,520,189

¹ This table excludes vehicles and equipment over 20 years old

² Replacement cost per item estimated by the City of San Leandro Public Works Department

The standard used to calculate impact fees for park maintenance vehicles and equipment in this study is the existing cost per capita as shown in Table 3.4.

Table 3.4: Cost per Capita - Vehicles and Equipment

Total Replacement Cost ¹	Existing Population ²	Cost per Capita ³
\$1,520,189	86,200	\$17.64

¹ See Table 3.3

² See Table 2.2

³ Cost per capita = total replacement cost / existing population

Cost Per Capita

Table 3.5 shows per-capita costs for park land, park improvements, and park maintenance vehicles and equipment. Per-capita costs for park land acquisition are based on the existing City-owned park acres per capita from Table 3.2; per-capita costs for park improvements are based on existing City-

improved park acres per capita from Table 3.2. The per-capita cost for park maintenance vehicles and equipment is from Table 3.4.

Table 3.5: Cost per Capita - Park Land and Park Improvements

Fee Type	Acres per Capita ¹	Cost per Acre ²	Cost per Capita ³
Park Land In-Lieu Fees (Quimby)	0.00330	\$ 2,158,225	\$ 7,118.14
Park Impact Fee (Park Land Acquisition)	0.00330	\$ 2,158,225	\$ 7,118.14
Park Impact Fee (Park Improvements)	0.00346	\$ 1,631,579	\$ 5,647.78
Park Impact Fee (Vehicles and Equipment)			\$ 17.64

¹ Acres per capita for park land in-lieu fees and park land acquisition fees based on the existing level of service; see Table 3.2

² Park land acquisition cost per acre based on recent sales of residentially zoned parcels in the City; improvement cost per acre estimated by the City

³ Cost per capita for park and improvements = acres per capita X cost per acre
Cost per capital for Vehicles and Equipment, see Table 3.4

As noted previously, the park land impact fees calculated here apply only to residential development projects that are exempt from the park land dedication or in-lieu fee requirements of San Leandro Municipal Code Article 8 because they do not involve a subdivision or parcel map. The two types of fees for park land acquisition result in the same cost per capita amount because both the Quimby Act and Mitigation Fee Act allow fees for park land acquisition to be based on the existing level of service.

Impact Fees per Unit

In this section, the per-capita costs from Table 3.5 are used to calculate in-lieu fees and impact fees per unit of development.

Quimby Act Park Land Acquisition In-Lieu Fees (Subdivisions). Table 3.6 shows the calculation of Quimby Act park land in-lieu fees per unit of development, by development type. Those fees are calculated using per-capita costs from Table 3.5 and average population per dwelling unit from Table 2.1.

Table 3.6: Quimby Act Park Land In-Lieu Fees per Unit (Subdivisions)

Development Type	Units ¹	Cost per Capita ²	Population per DU ³	In-Lieu Fee per Unit ⁴
Residential: <550 Sq. Ft.	DU	\$7,118.14	1.20	\$ 8,541.76
Residential: 550-750 Sq. Ft.	DU	\$7,118.14	1.50	\$ 10,677.20
Residential: >750 - 1,150 Sq. Ft.	DU	\$7,118.14	2.30	\$ 16,371.71
Residential: >1,150 - 1,650 Sq. Ft.	DU	\$7,118.14	3.20	\$ 22,778.04
Residential: >1,650 - 1,950 Sq. Ft.	DU	\$7,118.14	4.10	\$ 29,184.36
Residential: >1,950 Sq. Ft.	DU	\$7,118.14	5.10	\$ 36,302.50

¹ Units of development: DU = dwelling unit

² See Table 3.5

³ See Table 2.1

⁴ In-lieu fee per unit = cost per capita X population per dwelling unit

Article 8 of the San Leandro Municipal Code sets forth standards and a formula for dedication of land, and also requires that fees paid in lieu of dedication of land be calculated case-by-case using the fair market value of the land being developed in a particular project. This report recommends that the formula for dedication of land and the acreage requirement in MC 7-1-820 be amended to reflect the population per dwelling unit and 3.3 acres per 1,000 population standards in this report. Then, the City may either adopt the In-Lieu Fee per Unit shown in Table 3.6 or continue to use the fair market value of the land being developed in a particular project to set the actual Park Land In-Lieu fee amount.

Park Land Acquisition Impact Fees (Non-Subdivision Projects). Table 3.7 shows the calculation of park land impact fees per unit of development, by development type. Those fees are calculated using per-capita costs from Table 3.5 and average population per dwelling unit from Table 2.1.

Table 3.7: Park Land Impact Fees per Unit (Non-Subdivision Projects)

Development Type	Units ¹	Cost per Capita ²	Population per DU ³	Impact Fee per Unit ⁴
Residential: <550 Sq. Ft.	DU	\$7,118.14	1.20	\$8,541.76
Residential: 550-750 Sq. Ft.	DU	\$7,118.14	1.50	\$10,677.20
Residential: >750 - 1,150 Sq. Ft.	DU	\$7,118.14	2.30	\$16,371.71
Residential: >1,150 - 1,650 Sq. Ft.	DU	\$7,118.14	3.20	\$22,778.04
Residential: >1,650 - 1,950 Sq. Ft.	DU	\$7,118.14	4.10	\$29,184.36
Residential: >1,950 Sq. Ft.	DU	\$7,118.14	5.10	\$36,302.50

¹ Units of development: DU = dwelling unit

² See Table 3.5

³ See Table 2.1

⁴ Impact fee per unit = cost per capita X population per dwelling unit

Park Improvement Impact Fees (All Residential Development). Table 3.8 shows the calculation of impact fees per unit of development, by development type, for park improvements. The park improvement impact fees also include the cost of park maintenance vehicles and equipment. The

park improvement impact fees are calculated using the combined per-capita costs for park improvements and park maintenance vehicles and equipment from Table 3.5.

Table 3.8: Park Improvement Impact Fees per Unit

Development Type	Units ¹	Cost per Capita ²	Population per DU ³	Impact Fee per Unit ⁴
Residential: <550 Sq. Ft.	DU	\$5,665.42	1.20	\$6,798.50
Residential: 550-750 Sq. Ft.	DU	\$5,665.42	1.50	\$8,498.12
Residential: >750 - 1,150 Sq. Ft.	DU	\$5,665.42	2.30	\$13,030.46
Residential: >1,150 - 1,650 Sq. Ft.	DU	\$5,665.42	3.20	\$18,129.33
Residential: >1,650 - 1,950 Sq. Ft.	DU	\$5,665.42	4.10	\$23,228.21
Residential: >1,950 Sq. Ft.	DU	\$5,665.42	5.10	\$28,893.62

¹ Units of development: DU = dwelling unit

² Includes combined cost per capita for park improvements and park maintenance vehicles and equipment; see Table 3.5

³ See Table 2.1

⁴ Impact fee per unit = cost per capita X population per dwelling unit

Projected Revenue

The impact fees per unit in the previous tables are based on residential unit size in square feet. Although Table 2.3 in Chapter 2 shows a forecast of total future residential units to 2035, it is not possible to forecast the number of units in each unit-size category. Consequently, potential revenue from impact fees calculated in this chapter is estimated based on the population added by new development and the cost per capita for park land acquisition and park improvements.

Projected Revenue – Park Land Fees. Since the fee calculations for park land acquisition are based on the same level of service, the revenue projections for park land fees in Table 3.9 are based on total added population from Table 2.3.

Table 3.9: Projected Revenue from Park Land In-Lieu Fees

Development Type	In-Lieu Fee per Capita ²	Added Pop ³	Projected Revenue ⁴
All Residential	\$ 7,118.14	27,450	\$ 195,392,847

¹ Units of development: DU = dwelling unit

² See Table 3.5

³ See Table 2.3

⁴ Projected revenue = fee per capita X added population

The combined revenue from the two types of park land fees totals \$195.4 million, which would be enough revenue to acquire about 90 acres of additional park land based on the cost per acre shown in Table 3.5.

Projected Revenue – Park Improvement Impact Fees. Table 3.10 calculates projected revenue for the park improvement impact fees, using the cost per capita from Table 3.5 and the added population from Table 2.3.

Table 3.10: Projected Revenue from Park Improvement Impact Fees

Development Type	Impact Fee per Capita ²	Added Pop ³	Projected Revenue ⁴
All Residential	\$5,665.42	27,450	\$ 155,515,674

¹ Units of development: DU = dwelling unit

² See Table 3.8

³ See Table 2.3

⁴ Projected revenue = fee per unit X future units

The revenue from the park improvement impact fees shown in Table 3.11 would be enough to fund about 95 acres of park improvements, based on the cost per acre shown in Table 3.5

Updating the Fees

The impact fees calculated in this chapter are based on the current estimated cost of park land and park improvements. We recommend that the fees be reviewed annually and adjusted as needed using local cost data or an index such as the *Engineering News Record* Construction Cost Index (CCI). See the Implementation Chapter for more on indexing of fees.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

- a. The use of the fee and the development type on which it is imposed;
- b. The need for the facility and the type of development on which the fee is imposed;
and
- c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the “rational nexus” and “rough proportionality” standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see “Legal Framework for Impact Fees” in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to mitigate the impact of new residential development on the need for parks in San Leandro and to prevent a reduction in the level of service provided to residents of the City as a result of new development.

Use of the Fee. Impact fees calculated in this chapter will be used to provide additional parks or park improvements to mitigate the impacts of new residential development in the City. Specific projects and costs to be funded by these impact fees can be found in the City's Capital Improvement Plan.

As provided by the Mitigation Fee Act, revenue from impact fees may also be used for temporary loans from one impact fee fund or account to another.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to provide additional parks or park improvements to mitigate the impact of added population associated with new development on the need for parks in San Leandro.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. New development increases the need for parks to maintain the existing level of service as described earlier in this chapter. Without additional park space and improvements, the increase in population associated with new residential development would result in a reduction in the level of service provided to all residents of the City.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the impact fees for park land and park improvements calculated in this chapter depend on the estimated increase in population per unit associated with residential development unit-size category. The fees per unit of development calculated in this chapter for each unit-size category are based on the estimated average population per unit for that type of development in San Leandro. Thus, the fee charged to a development project reflects the impact of that project on the need for parks in the City.

Chapter 4. Implementation

This chapter of the report contains recommendations for adoption and administration of impact fees, and for the interpretation and application of the development impact fees calculated in this study. It was not prepared by an attorney and is not intended as legal advice.

Statutory requirements for the adoption and administration of fees imposed as a condition of development approval (impact fees) are found in the Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

Adoption

The form in which development impact fees are enacted should be determined by the City attorney. The specific requirements are different for impact fees under the Mitigation Fee Act, and for park land dedication and in-lieu fees under the Quimby Act. The latter requirements must be adopted by ordinance and are subject to the same noticing and public hearing procedures as any ordinance.

Procedures for adoption of fees subject to the Mitigation Fee Act, including notice and public-hearing requirements, are specified in Government Code Sections 66016 and 66018. It should be noted that Section 66018 refers to Government Code Section 6062a, which requires that the public hearing notice be published at least twice during the 10-day notice period. However, Section 66016.5 added by AB 602 in 2021 requires that impact fee nexus studies be adopted at a public hearing with at least 30-days' notice.

Government Code Section 66017 provides that fees subject to the Mitigation Fee Act do not become effective until 60 days after final action by the governing body.

Actions establishing or increasing fees subject to the Mitigation Act require certain findings, as set forth in Government Code Section 66001 and discussed in Chapter 1 of this report.

Administration

The California Mitigation Fee Act (Government Code Sections 66000 *et seq.*) mandates procedures for administration of impact fee programs, including collection and accounting, reporting, and refunds. References to code sections in the following paragraphs pertain to the California Government Code.

Notices and Statute of Limitations. Section 66006 (f) provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." The required notification could refer to the improvements identified in this study or to a capital improvement plan.

Section 66020 (d) (1) requires that the agency, at the time it imposes an impact fee, provide a written statement of the amount of the fee and written notice of a 90-day period during which the imposition of the fee can be protested. Failure to protest imposition of the fee during that period may deprive the fee payer of the right to subsequent legal challenge.

Section 66022 (a) provides a separate procedure for challenging the establishment of an impact fee. Such challenges must be filed within 120 days of enactment.

Collection of Fees. Section 66007(a) provides that a local agency shall not require payment of fees by developers of residential projects prior to the date of final inspection, or issuance of a certificate of occupancy, whichever occurs first.

However, "utility service fees" (not defined, but likely referring to water and sewer connections) may be collected upon application for utility service. In a residential development project of more than one dwelling unit, Section 66007 (a) allows the agency to choose to collect fees either for individual units or for phases upon final inspection, or for the entire project upon final inspection of the first dwelling unit completed.

Section 66007 (b) provides two exceptions when the local agency may require the payment of fees from developers of residential projects at an earlier time: (1) when the local agency determines that the fees "will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy" or (2) the fees are "to reimburse the local agency for expenditures previously made."

Statutory restrictions on the time at which fees may be collected do not apply to non-residential development.

Notwithstanding the foregoing restrictions, some cities collect impact fees for all facilities at the time building or grading permits are issued, and builders may find it convenient to pay the fees at that time.

In cases where the fees are not collected upon issuance of building permits, Sections 66007 (c) (1) and (2) provide that the City may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid.

Earmarking and Expenditure of Fee Revenue. Section 66006 (a) mandates that fees be deposited "with other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected." Section 66006 (a) also requires that interest earned on the fee revenues be placed in the capital account and used for the same purpose.

Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (i.e., streets, park improvements), but not for individual projects.

Impact Fee Exemptions, Reductions, and Waivers. In the event that a development project is found to have no impact on facilities for which impact fees are charged, such project must be exempted from the fees.

If a project has characteristics that will make its impacts on a particular public facility or infrastructure system significantly and permanently smaller than the average impact used to calculate impact fees in this study, the fees should be reduced accordingly to meet the requirement that there must be a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed. The fee reduction is required if the fee is not proportional to the impact of the development on relevant public facilities.

In some cases, an agency may desire to voluntarily waive or reduce impact fees that would otherwise apply to a project as a way of promoting goals such as affordable housing or economic development. Such a waiver or reduction is within the discretion of the governing body but may not result in increased costs to other development projects. So, the effect of such policies is that the lost revenue must be made up from sources other than impact fees.

Credit for Improvements Provided by Developers. If the City requires a developer, as a condition of project approval, to dedicate land or construct facilities or improvements for which impact fees are charged, the City should ensure that the impact fees are adjusted so that the overall contribution by the developer does not exceed the impact created by the development.

In the event that a developer voluntarily offers to dedicate land, or construct facilities or improvements in lieu of paying impact fees, the City may accept or reject such offers and may negotiate the terms under which such an offer would be accepted. Excess contributions by a developer may be offset by reimbursement agreements.

Credit for Existing Development. If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project that represents a net increase in demand for relevant City facilities, applying the measure of demand used in this study to calculate that impact fee.

Annual Report. Section 66006 (b) (1) requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. A brief description of the type of fee in the account or fund;
2. The amount of the fee;
3. The beginning and ending balance of the account or fund;
4. The amount of the fees collected and interest earned;
5. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
6. Identification of the approximate date by which the construction of a public improvement will commence, if the City determines sufficient funds have been collected to complete financing of an incomplete public improvement;
7. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
8. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (e) and (f).

The annual report must be reviewed by the City Council at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public, per Section 66006 (b) (2).

Five-Year Findings and Refunds under the Mitigation Fee Act. Prior to 1996, The Mitigation Fee Act required that a local agency collecting impact fees was required to expend or commit impact fee

revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693, adopted in 1996 as an amendment to the Mitigation Fee Act, changed that requirement in material ways.

Now, Section 66001 (d) requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006 (b), and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the reasonable relationship between the fee and the purpose for which it is charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency could be required to refund the moneys in the account or fund, per Section 66001 (d).

Once the agency determines that sufficient funds have been collected to complete financing on incomplete improvements for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced (Section 66001 (e)). If the agency fails to comply with that requirement, it must refund impact fee revenue in the account according to procedures specified in Section 66001 (d).

For a useful discussion of the foregoing requirements, see “The Mitigation Fee Act’s Five-Year Findings Requirement: Beware Costly Pitfalls” by Glen Hansen, Senior Counsel, Abbott and Kindermann, and Rick Jarvis, Managing Partner, Jarvis, Fay and Gibson, presented at the 2022 League of California Cities City Attorneys Spring Conference.

Audit Requests. Section 66023 provides that any person may request an audit to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency. The legislative body of the local agency may retain an independent auditor to conduct the audit but is not required to conduct an audit if an audit has been performed for the same fee within the previous 12 months.

The agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency’s reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the amount that was deposited.

However, if the local agency fails to comply with the annual report requirement of Section 66006 following the establishment, increase or imposition of a fee, but requires payment of that fee in

connection with the approval of a development project for three consecutive years, the agency shall not require a deposit for the independent audit and shall pay the cost of the audit.

Indexing of In-Lieu/Impact Fees. In-lieu fees and impact fees calculated in this report are based on current costs and should be adjusted periodically to account for changes in the cost of facilities or other capital assets that will be funded by those fees. That adjustment is intended to account for escalation in costs for land, construction, vehicles and other relevant capital assets. We are not aware of any price index specific to park improvements. The *Engineering News Record Building Cost Index (BCI)* and *Construction Cost Index (CCI)* may be useful for indexing park construction costs. The BCI is more appropriate for buildings while the CCI is more appropriate for roads and engineering improvements. Of the two, the CCI seems better related to general park improvements. Where land costs are covered by an impact fee or in-lieu fee, land costs should be adjusted based on changes in local land prices.

Requirements Imposed by AB 602

In 2021, the California Legislature passed AB 602 and the Governor signed it into law. AB 602 creates some new requirements for impact fees that went into effect in 2022. The new law amends Government Code Section 65940.1 and adds Section 66016.5 to impose the following requirements:

- 1) A city, county or special district that has an internet website shall post on its website:
 - a) A current written schedule of fees, exactions and affordability requirements applicable to a proposed housing development project, and shall present that information in a manner that identifies the fees, exactions and affordability requirements that apply to each parcel and the fees that apply to each new water and sewer utility connection
 - b) All zoning ordinances and development standards and specifying the zoning, design and development standards that apply to each parcel
 - c) A list of the information that will be required from any applicant for a development project, as specified in Government Code Section 69540
 - d) The current and five previous annual fee reports required by Government Code Section 66006 and Subsection 66013 (d).
 - e) An archive of impact fee nexus studies, cost of service studies or equivalent conducted on or after January 1, 2018.
- 2) The above information shall be updated within 30 days of any changes
- 3) A City or County shall request from a development proponent, upon issuance of a certificate of occupancy or final inspection, the total amount of fees and exactions associated with the project for which the certificate is issued. That information must be posted on the website and updated at least twice a year.
- 4) Before adoption of an impact fee, an impact fee nexus study shall be adopted.
- 5) When applicable, the nexus study shall identify the existing level of service for each public facility, identify the proposed new level of service and explain why the new level of service is appropriate

- 6) If a nexus study supports the increase of an existing fee, the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.
- 7) A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of the proposed units of the development. A local agency that imposes a fee proportionately to the square footage if the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development. A nexus study is not required to comply with this requirement if the agency makes certain findings outlined in the statute.
- 8) Large jurisdictions as defined in Section 53559.1 (d) of the Health and Safety Code (counties of 250,000 or more and cities in those counties) shall adopt a capital improvement plan as part of a nexus study.
- 9) All studies shall be adopted at a public hearing with at least 30-day's notice, and the local agency shall notify any member of the public that requests notice of intent to begin an impact fee nexus study of the date of the hearing.
- 10) Studies shall be updated at least every eight years, beginning on January 1, 2022.

Training and Public Information

Effective administration of an impact fee program requires considerable preparation and training. It is important that those responsible for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale.

It is also useful to pay close attention to handouts that provide information to the public regarding impact fees. Impact fees should be clearly distinguished from other fees, such as user fees for application processing, and the purpose and use of particular impact fees should be made clear.

Finally, anyone responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues. Fees must be expended for the purposes identified in the impact fee nexus study in which they were calculated, and the City must be able to show that funds have been properly expended.

Recovery of Administrative Costs

To recover the cost of periodic impact fee update studies and ongoing staff costs for capital budgeting, annual reports, eight-year updates and other requirements of the Mitigation Fee Act, an administrative charge may be added to the impact fees calculated in this report. That fee should be based on the cost of providing administrative services. See City's Staff Report for a discussion of an administrative charge to recover some costs for administration and updating of impact fees, if applicable.

Appendix

Fee Comparison

City of San Leandro 2024 Impact Fee Study - Fee Comparison

CITY OF SAN LEANDRO				COMPARISON AGENCIES				
Impact Fee Type	Units ¹	Current Fee ²	Updated Fee Calculation from Study ³	ALAMEDA ⁴	CONCORD ⁵	DUBLIN ⁶	HAYWARD ⁷	WALNUT CREEK ⁸
Residential - Single-Family								
Park Land	DU	\$17,670	\$29,184	\$6,307	\$16,691	\$13,359	\$18,817	\$12,000
Parks/Rec Improvements	DU	\$3,009	\$23,228	\$2,333		\$9,654		
Total Residential - Single-Family		\$20,679	\$52,413	\$8,640	\$16,691	\$23,013	\$18,817	\$12,000
Residential - Multi-Family								
Park Land	DU	\$15,444	\$16,372	\$4,608	\$9,914	\$8,155	\$5,973	\$6,000
Parks/Rec Improvements	DU	\$2,630	\$13,030	\$1,704		\$5,889		
Total Residential - Multi-Family		\$18,074	\$29,402	\$6,312	\$9,914	\$14,044	\$5,973	\$6,000
Commercial - Retail								
Park Land	KSF					\$1,603		
Parks/Rec Improvements	KSF					\$1,049		
Total Commercial - Retail		\$0	\$0	\$0	\$0	\$2,652	\$0	\$0
Office								
Park Land	KSF					\$2,154		
Parks/Rec Improvements	KSF					\$1,411		
Total Office		\$0	\$0	\$0	\$0	\$0	\$0	\$0
Industrial								
Park Land	KSF					\$798	\$960	
Parks/Rec Improvements	KSF					\$522		
Total Industrial		\$0	\$0	\$0	\$0	\$0	\$0	\$0

Notes:

¹ DU = dwelling unit; KSF = 1,000 gross sq ft of building area² San Leandro existing impact fees³ Impact fees from NBS Park Development Impact Fee Study; single-family residential impact fees based on the 1,650-1,950 square foot fee category; multi-family residential impact fees based on the 750-1,150 square foot fee category⁴ Alameda impact fees for 2022-23⁵ Concord impact fees effective July 1, 2018⁶ Dublin impact fees effective July 1, 2023⁷ Hayward impact fees for FY 2024; Park land impact fees are charged by the number of bedrooms; this table assumes a single-family unit = 3 BR and a multi-family unit = 1 BR⁸ Walnut Creek impact fees for 2023