

**City of Morgan Hill
Traffic, Sewer, and Utility Undergrounding Fee Deferral Program**

Program Guidelines

January 2010

This loan program enables commercial development projects to defer up to 80% of their traffic, sewer and/or utility undergrounding fees for up to five (5) years. Program participants must pay a minimum of 20% of their total financed fees as a down payment prior to obtaining building permits. The deferral amounts are fully amortized with interest charged is the Local Agency Investment Fund (LAIF) rate plus ½% at the time of loan initiation. Prepayment is permitted without penalty.

Eligibility

1. The program is available to property owners or business owners of commercial development projects within the City limits .
2. Applicants must be a fee title owner or a commercial tenant
3. Only City traffic, sewer and/or utility undergrounding fees may be deferred

Program Requirements

1. Program participants must pay a minimum of 20% of the total fees to be financed as a down-payment
2. Total fees to be deferred after the down-payment must be equal to or exceed \$5,000
3. Fee deferral requests up to \$99,999 are approved by City staff; fee deferral requests of \$100,000 or more must be approved by the City Council.
4. All deferrals must be approved and down-payment made prior to issuance of building permits
5. The deferral term shall not exceed 60 installments or extend beyond five (5) years
6. The interest rate will be the Local Agency Investment Fund rate for the most recent calendar quarter prior to initiation, plus one-half percent (LAIF + ½%); interest will be compounded annually and begin to accrue on the date of building permit issuance, when the down-payment is made
7. Payments on the deferral amount will be fully amortized
8. Prepayment is permitted without penalty

Loan Security

Any portion of the financed fees must be adequately secured. The form of security must be approved by the City Manager or designee.

For loans more than \$10,000 the following will be required:

1. A deposit of money, either with the City or a responsible escrow agent or trust company, or bank, at the option of the City

2. An instrument of credit from one or more financial institutions acceptable to the City and subject to regulation by the state or federal government and pledging that the funds necessary are on deposit and guaranteed for payment, or a letter of credit by such financial institution acceptable to the City
3. A note secured by a recorded deed of trust in real property, provided that the total of all loans against the property, including the proposed fees to be financed, do not exceed ninety percent (90%) of the appraised value of the property
4. A personal guarantee or other security deemed satisfactory by the City Manager

For loans \$10,000 or less, borrower shall, at a minimum, execute an Agreement and Promissory Note.

Other:

1. The borrower pays all escrow and closing costs
2. The City Manager may impose other conditions to minimize risk to the City
3. The City Manager, or his designee, may reject any deferral where he believes there is inadequate security or where the potential for payback appears to be in jeopardy
4. Fees not paid by the borrower will become an obligation of successor property or business owners until fully paid
5. The City Manager has the authority to modify the program provisions with the exception of the maximum loan amount, which requires City Council approval of the loan terms
6. The City Manager may suspend this program at any time if it is determined that the traffic, sewer, or undergrounding funds are negatively affected by continuation of the program
7. All program participants will be required to enter into an agreement with the City of Morgan Hill