



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: HOUSING IMPACT FEE --
SUPPLEMENTAL REPORT

DATE: November 14, 2014

Approved

Date

11/14/14

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

As noted in the Analysis section below, there is new information on the issue of establishing a Housing Impact fee that has come to our attention subsequent to the submittal of the Housing Department's November 7, 2014 staff report and there are two corrections to the material that was included in that report.

ANALYSIS

There are five updates to the Housing Department's staff report on the Housing Impact Fee (dated November 7, 2014), as follows:

1. Included in the attachments to the November 7 memorandum was the Housing Director's response to an August 28, 2014 letter from the Building Industry Association (BIA). Staff inadvertently omitted Attachments 2 and 3 that were appended to that response letter. A copy of the complete response to the BIA is attached. (Please note that there is some confusion about the date of the BIA's letter. The letter was originally dated August 20 with signatures of officers of the BIA and the California Apartment Association. The same letter, with no change of date, was re-submitted to the Housing Department on August 28 with a third signature representing the Santa Clara County Association of Realtors added).
2. It has been suggested to the Department that the attachment to the November 7 memorandum that summarized comments made in the Department's outreach effort in connection with the Housing Impact Fee under-reported the testimony received at the September 11, 2014 meeting of the Housing and Community Development Commission. A revised version of Part D of Attachment 3 appended to the November 7 memorandum is attached.

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Subject: Housing Impact Fee – Supplemental Report

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3. On November 13, the Housing Department received a letter from Berg & Berg Enterprises stating objections to the Housing Impact Fee. A copy of that letter is attached.
4. The BIA's letter of October 28, 2014 (included as part of the correspondence attached the November 7 staff report) included a peer review of the Residential Nexus Analysis prepared by Keyser Marston Associates (KMA). A copy of KMA's response (dated November 14, 2014) is attached.
5. On November 13, 2014, the Housing and Community Development Commission considered the staff's recommendations on establishing a Housing Impact Fee. The Commission took no action on this matter. A summary of the public testimony at the Commission's meeting is attached.

Other than these updates, the Department's recommendations and content of the November 7, 2014 memorandum on the Housing Impact Fee remain unchanged.

/s/

LESLYE CORSIGLIA
Director of Housing

For questions, please contact Jacky Morales-Ferrand, Assistant Director of Housing, at (408) 535-3855.

Attachments

October 6, 2014

Ms. Patricia E. Sausedo
Government Affairs
BIA Bay Area, South Bay
69 Lester Ave.
San Jose, CA 95125

Re: Response to BIA Letter Dated August 28, 2014

Dear Pat,

Thank you for your letter dated August 28, 2014, which provides comments on the City's Residential Nexus Analysis and asks for information from the City and its consultant.

We have prepared the attached materials in response to your request. Attachment 1 contains the City's responses to the comments and questions labeled "general," which have been numbered and given a "G" prefix. Also attached are the City's responses to the comments and questions labeled "specific," which have been numbered and given an "S" prefix. Attachment 2 contains the tables provided by the City's consultant. And, Attachment 3 is BIA's original letter, which has been numbered to correspond with the City's responses.

I look forward to meeting you on Tuesday to discuss the staff recommendations.

Sincerely,



Leslye Corsiglia
Director

/attachment

cc: Joshua Howard, ED, CA Apartment Association
Anil Babbar, ED, Santa Clara County Assoc. Realtors
Hon. Chuck Reed, Mayor
Bob Glover, BIA CEO
Paul Campos, BIA General Counsel

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General

G-1. The City is not aware of any published studies in academic journals validating or criticizing residential affordable housing nexus studies. Articles discussing the use of affordable housing nexus studies can be found on the web, but the City has not requested a bibliography of these discussions and opinions. The City is aware of a report prepared for California Homebuilding Association criticizing affordable housing nexus studies.

G-2. With respect to peer review, which the City understands to mean a review of the work by a peer of the consultant, such as EPS, or David Rosen, the City has not contracted for such additional review.

G- 3/4/5. According the City's Consultant, Keyser Marston Associates, its nexus methodology was developed by the Consultant specifically for the purpose of preparing nexus analyses in support of affordable housing requirements on new development and continues to be the primary application. That specific methodology addresses the incomes and affordable housing needs of worker households which would not be applicable to other types of Mitigation Fee Act analyses such as traffic. The Consultant has, however, adapted the general methodology for use on other assignments that were unrelated to establishing fees on new development. Other consultants use their own specific methodology.

G- 6. The City's Consultant is aware of other residential nexus analyses prepared by other consulting firms for other jurisdictions. The Consultant has reviewed these studies in sufficient detail to see that the methodology is conceptually similar but has not reviewed in a sufficient level of detail nor recently enough to be in a position to prepare a comparison of assumptions:

G- 7/8. The City's Consultant prepared nexus studies using this methodology in the context of residential development prior to the *Patterson* and *Palmer* decisions. The City's Consultant prepared nexus studies in connection with local consideration of an affordable housing fee on nonresidential development in many jurisdictions including Sacramento, San Diego, Los Angeles, Seattle and San Francisco.

G-9. The City's Consultant is not aware of such a validation study; however, the analysis aligns with accepted economic principles that households demand goods and services and that the businesses and institutions that provide those goods and services need employees.

G-10. The City's Consultant prepared the nexus analysis to meet the reasonable relationship standard under the Mitigation Fee Act, and in the Consultant's opinion, the analysis meets this standard.

G-11. The City's Consultant has identified some examples of other factors that likely contribute to the overall need for affordable housing include stagnant incomes and increasing housing costs [as shown in attached Table A and B provided by the consultant] and the growth of senior population which includes low income individuals. In the Nexus Study, affordable housing demand from new market rate units is isolated and distinguished from other contributing sources of demand for affordable housing by limiting the analysis to only the housing needs of the net new worker households in sectors like education, retail, restaurants, and health care which is specifically related to services to residents of new market rate apartments. This differentiation is consistent with the reasonable relationship standard under the Mitigation Fee Act.

G-12. There has not been such an analysis. The City is unaware of any generally accepted model for conducting a sensitivity analysis of a Nexus Study and in the absence of such a consensus, the City does

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not believe a sensitivity analysis would be useful to support the Nexus Study. The data used in the Nexus Study is public data and is more specifically described in Response S-3 below.

G- 13. The City's Consultant has indicated that the impact of new market-rate housing is distinguished from the impact of other factors affecting demand for affordable housing in the Nexus Study by isolating only the incremental demand for goods and services from residents of new market rate apartments. The analysis then quantifies the resulting net new jobs in retail, restaurant and other sectors related to this incremental demand and quantifies the resulting affordable housing needs of the workers. Technical documentation is included in the Nexus Study. Since the analysis isolates only the incremental affordable housing impacts of new market rate apartment development, the City's Consultant was not asked to quantify additional sources of demand.

G- 14. Yes, the City's Consultant, consistent with the scope of services that has been posted on the City's website since last summer and further described during the initial developer stakeholder meeting held in July of 2013, gathered the data for the Nexus Study from published governmental sources including the California Employment Development Department and the U.S. Census and commercial data providers such as RealFacts as is more fully documented in the Nexus Study.

Specific

S- 1/2. The City's Consultant has indicated that full documentation of the inputs, data sources, and assumptions are provided in the Nexus Study. Additional documentation regarding data sources and assumptions used in the IMPLAN model is also available on IMPLAN's website at the following link: http://www.implan.com/index.php?option=com_content&view=article&id=821:researching-implan-data&catid=185:data-information.

S-3/4. The City's Consultant has indicated that the margins of error information for the data sets are as follows:

Compensations - The compensation data sets from EDD have a reported sampling error for each individual occupation and compensation level. That information is available for download from the EDD website at the following link: [http://www.calmis.ca.gov/file/occup\\$/oeswages/sjos\\$oes2013.xls](http://www.calmis.ca.gov/file/occup$/oeswages/sjos$oes2013.xls)
Employment by Occupation within Specific Industries: The occupational employment survey data used in the analysis reports a sampling error for each individual data point. The data set used is available for download at the following link: <http://www.bls.gov/oes/special.requests/oesm13nat.zip>. Reported employment for every major and detailed occupation category at the 4-digit NAICS code level of detail is used.

U.S. Census American Community Survey (ACS) – The ACS data used in the analysis is based upon sampling a subset of the total population and therefore has an associated sampling error. The margin of error for the data used to determine the number of workers per working household is 0.6%.

The 2010 Census is intended to represent a survey of 100% of the population and as a result does not report a sampling margin of error. IMPLAN also does not report a margin of error for its results because they are estimates based upon a model of the local economy as opposed to a statistical sampling. The City's Consultant has further indicated that the requested error propagation analysis would place significant time and cost burdens on the City. In the Consultant's experience, nexus analyses rarely, if ever, include the propagated margin of error in relation to their findings and is not required by law. Use of averages and estimates from published sources is standard and accepted practice.

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S-5/6. The Nexus Study lists the Consultant's assumptions made relating to the use/amount/source of a data point/information input. An analysis of this type inherently involves the use of professional judgment throughout the conduct of the work. The methodology, data sources, and assumptions described in the Nexus Study all reflect exercise of professional judgment by the Consultant.

S-7. The Nexus Study's conclusions do not set fees; they provide maximum ceilings for the setting of fees by the legislative body.

Since the October 2013 draft was released, KMA obtained additional clarification from the producers of the IMPLAN model regarding a recent modification to the data sources used in development of their County-level data sets. IMPLAN's data set released in December 2012 introduced the use of State averages to estimate the number of households by income category. Until that recent change, IMPLAN used County-specific data. Use of State averages was found to cause an underestimate in the share of household income available for expenditures. The underestimate was especially pronounced in Santa Clara County due to the greater percentage of high-income households compared to the State average. As a result of this change by IMPLAN to their model, prior draft analysis results were significantly understated. Since the IMPLAN model has the capability to accept either gross income or net income available for expenditures as its primary input, it was determined that KMA preparation of the adjustment specific to income levels used in the nexus analysis would produce more accurate results. With this revision, the input to the IMPLAN model is now the net income available for expenditures after State and Federal Taxes, Social Security, Medicare, savings and payments on household debt (which altogether total 35%) are deducted. Data sources used to make the adjustment include the IRS, Franchise Tax Board, and Bureau of Economic Analysis. The approach now being used is consistent with prior KMA residential nexus analyses prepared for San Francisco, Seattle and a number of others. IMPLAN released a new data set in late December 2013 which was also incorporated as part of the updated analysis.

S-8. The principal change to the analysis is described in response to the previous question. For-sale housing was removed from the Nexus Study and subsequently released Census and IMPLAN data sets were incorporated. No other changes to assumptions occurred.

The changes to the Study since the October 2013 version are described in S-7, above. With respect to evaluating the results based on empirical data, the City's Consultant conducted an analysis to confirm the reasonableness of the Nexus findings by comparing them to the existing number of jobs per 100 existing residential units in the City of San Jose (the attached Table C). This analysis found that the estimates in the Nexus Study are less than the actual existing number of jobs in San Jose per 100 residential units for every single category including resident-serving sectors like retail, food service, health care, and education. The same pattern holds at the County level (the attached Table D). For jobs in resident-serving sectors such as retail and health care, nexus estimates represent 60% and 54% of the actual existing jobs per 100 residential units for the City and County, respectively. The nexus estimates appear conservative based on this comparison to the actual existing relationships.

S-9. The City's Consultant used the IMPLAN Household Spending Pattern modeling option.

S-10. The nexus analysis includes all the impacts. For the apartment prototype, the breakdown is 30 direct and 5 each of indirect and induced. For the high-rise apartment prototype, 26.8 direct jobs and 4.5 each for indirect and induced are included.

S-11. The City's Consultant did not make a "selective departure". The IMPLAN model has the capability to estimate employment impacts using net household income after taxes, savings, and household debt. That capability was utilized consistent with the design of the model and advice of its creators. Published governmental sources including IRS, Franchise Tax Board, and Bureau of Economic Analysis were

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applied to directly estimate taxes, savings, and household debt as described in the Nexus Study. IMPLAN combines local and state data in estimating certain types of corporate or investment income but then makes the conservative assumption that none is spent locally and so does not contribute to estimated employment.

S-12. Correct, the “income available to spend” calculation is before deducting rent payments. IMPLAN advised that net income, after adjustment for taxes, savings and household debt, but prior to deduction of rent, is the appropriate input to the model. The income available to spend calculation was prepared in order to provide an input consistent with the appropriate use of the model.

IMPLAN derives its assumptions regarding household spending patterns, including housing, from the Consumer Expenditure Survey (CES). Although CES publishes summary information for the Bay Area, IMPLAN uses the national survey because it is the only data set that includes the required detail by household income category. IMPLAN then separates the spending information from the CES into a related set of industry categories. Table E, attached, summarizes the most recent CES data sets for the applicable income category along with the Bay Area specific CES information for comparison. As shown, there are differences in spending patterns between the Bay Area and nationally; notably, greater spending on housing and less on transportation. On the whole; however, the national data appears reasonably representative for the sectors where most employment documented in the Nexus Study is generated.

Expenditures represented in the CES and IMPLAN reflect a blend of rental and ownership housing. Ownership housing generates less employment than rental housing (no property management, leasing, or maintenance staff), so reflecting the blend built into the model produces lower (more conservative) results than adjusting to a purely rental analysis would. The blended tenure assumption reflected in the CES data used by IMPLAN means there isn't a specific rent assumption that can be provided which is directly comparable to the \$2,670 market rate apartment rental rate. Expenditures are allocated proportionately to the patterns derived from the CES.

S-13. IMPLAN has the capability to work with net income after taxes, etc. as its principal starting point or input. Utilization of that capability is not a “selective departure.” IMPLAN advised that net household income, after adjustment for taxes, savings and household debt, but not rent, to be the appropriate input for the analysis. The City's Consultant conducted the analysis consistent with the advice of the creators of the model. It is estimated that, of the total employment impacts shown, employment related to housing expenditures represents approximately 2 jobs, around 5% of the total (not 46%).

S-14. The compensation data from EDD incorporated into the nexus analysis is based on the assumption that all workers do have full time employment, which is a conservative assumption which overstates income in some cases. If adopted, impact fees will need to be held in a separate account and used for the affordable housing needs of working households (i.e. not senior housing). At this time, the City does not intend to preclude households that have one or more members who work part-time from qualifying for affordable housing constructed using impact fees.

S-15. There has been no nexus study identifying an employer share of affordable housing impacts. The maximum impact fees shown in the Nexus Study only mitigate affordable housing impacts as a result of new market rate residential rental development.

S-16. If a commercial linkage fee were being proposed, the Study would then include an analysis to ensure potential fees are within the maximums supported by the nexus after considering the possibility of overlap between the impacts mitigated by residential and commercial fees.

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S-17. The analysis adjusts from the number of workers to number of households by dividing by the existing average of 1.69 workers per working households. The ratio is calculated from the most recent Census information. The decision was made to use the most current Census information rather than look back to historic ratios.

The finding that 85% of households will earn less than 120% of median (\$126,600 for a family of four) is a conclusion of the analysis, rather than an assumption, which is based on local compensation levels for retail, food service, and other jobs linked to demand for goods and services by new residents. The conclusion that many worker households are below 120% of median comes as no surprise given the low compensation levels of many jobs in these sectors.

Due to a lack of published data regarding relative incomes of workers within multiple earner households, an assumption was required. The assumption that was made is not that all households have earners of equal income, but instead that on the average low/mod income household have earners of equal income.

S-18/19. The City is aware that new lower and moderate income worker households have been priced out of San Jose to a significant extent. The nexus analysis counts all net new workers and their housing needs consistent with the City's goals to provide safe, affordable housing for its workforce; accordingly, the Consultant did not need to analyze commute patterns or trends as part of its work program.

This question raises the notion of an existing available labor force already living locally (and therefore already housed) potentially available to fill the new jobs. The Nexus Study addresses this issue in the following ways:

- **Displaced Workers from Industries Experiencing Long-Term Declines** - The nexus analysis makes a downward adjustment to eliminate the housing needs of one out of every five workers (20% of all jobs) based on the potential that workers downsized from industry sectors experiencing long-term or permanent declines would be available to fill some of the jobs. Manufacturing has been an example of a declining sector historically. This adjustment is further described on page 26 of the Nexus Study. Despite the likelihood that many workers would simply retire rather than seek a new job in a sector like retail, every "down-sized" worker is assumed to be available to take a new job and therefore offset the need for new housing. Some displaced workers may go through a period of unemployment prior to taking a new job.
- **Changes in Labor Force Participation** - In the 1960s through the 1980s, there were significant increases in labor force participation, primarily among women. As a result, some of the new workers were re-entering the labor force and already had local housing, thus reducing demand for housing associated with job growth. In earlier nexus analyses, KMA would adjust the analysis to account for this. However, increases in participation rates by women have stabilized and even declined slightly, and labor force participation rates for men have been on a downward trajectory since 1970. As such, an adjustment for increase in labor force participation is no longer warranted in a nexus analysis.
- **Short term economic cycles** - The Nexus Study is intended to support a one-time impact requirement to address impacts generated over the life of a new market rate rental project. Recessionary conditions or a vigorous boom period, are not an appropriate basis for estimating impacts over the of the new rental units. During a recession, there may be an existing unemployed labor force available to fill jobs in sectors serving new residents. New rental construction is likely to be reduced or even halted entirely during a recession; however, to the extent new rental units are delivered during a declining or recessionary economy, net new employment may not be immediately experienced. However, over the long term, as the economy improves, added demand for goods services from new residents does result in

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increased employment. Although impacts may not be immediately experienced, they are experienced at some point.

S-20. Since the rate of turnover is not relevant to the Nexus Study or findings, no specific data was obtained on this topic. The specific rate of turnover of lower-compensation jobs has no bearing on the Nexus Study findings because, regardless of whether workers who change positions move from one lower paid position to another or are fortunate enough to move on to a better paid position, the resulting opening is simply filled by another lower-paid worker. There is no net effect on the number of lower-compensation jobs created.

ATTACHMENT 2 – TABLES PROVIDED BY CITY'S CONSULTANT

Table A. Growth in Rents

| | 2012, 1st Q | 2014, 1st Q | Percent Change |
|--|-------------|-------------|----------------|
| Average Monthly Rents (average asking rents in the City of San Jose across all unit sizes) | \$1,735 | \$2,066 | 19% |

Source: RealFacts

Table B. Growth in Incomes - Selected Occupations

| Compensation Selected Occupations | Average Annual Compensation: Santa Clara County | | Percent Change |
|--|---|-------------|-------------------|
| | 2012, 1st Q | 2014, 1st Q | |
| <i>Education</i> | | | |
| Preschool Teachers | \$37,000 | \$39,900 | 8% |
| Elementary School Teachers | \$62,800 | \$70,100 | 12% |
| Middle School Teachers | \$66,000 | \$68,000 | 3% |
| Teacher Assistants | \$31,500 | \$30,200 | -4% |
| <i>Healthcare</i> | | | |
| Registered Nurses | \$119,100 | \$124,600 | 5% |
| Dental Hygienists | \$95,000 | \$96,800 | 2% |
| Dental Assistants | \$37,600 | \$41,500 | 10% |
| Medical Assistants | \$37,900 | \$39,100 | 3% |
| <i>Restaurant and Food Service</i> | | | |
| Cooks, Restaurant | \$24,700 | \$25,900 | 5% |
| Food Preparation and Serving | \$22,200 | \$22,200 | 0% |
| Waiters and Waitresses | \$22,100 | \$23,000 | 4% |
| Dishwashers | \$20,800 | \$20,500 | -1% |
| <i>Building and Grounds</i> | | | |
| Janitors | \$28,000 | \$27,500 | -2% |
| Maids and Housekeeping Cleaners | \$24,500 | \$28,800 | 18% |
| Landscaping and Groundskeeping | \$31,600 | \$31,600 | 0% |
| <i>Retail and Sales</i> | | | |
| Cashiers | \$25,500 | \$25,800 | 1% |
| Retail Salespersons | \$25,700 | \$27,100 | 5% |
| <i>Office and Administrative Support Occupations</i> | | | |
| Bookkeeping and Accounting | \$46,600 | \$49,300 | 6% |
| Receptionists | \$33,600 | \$34,600 | 3% |

Source: California Employment Development Department (EDD) data on annual compensations applicable to Santa Clara County. The EDD data set assumes full time employment.

Table C. Comparison to Existing City of San Jose Relationship: Jobs to Housing

| Industry Sectors | Existing Jobs: City of San Jose | Jobs Per 100 Residential Units | | Nexus as Percent of San Jose Actual |
|---|---------------------------------------|-----------------------------------|-------------------|--|
| | | San Jose Actual | Nexus Analysis | |
| <u>Key Resident-Serving Sectors</u> | | | | |
| Health Care | 37,443 | 11.9 | 9.0 | 76% |
| Retail Trade | 37,267 | 11.9 | 7.7 | 65% |
| Food Service | 27,468 | 8.7 | 6.3 | 72% |
| Education | 29,675 | 9.4 | 1.8 | 19% |
| Other Services | 19,745 | 6.3 | 4.2 | 67% |
| Arts, Entertainment, and Recreation | <u>6,633</u> | <u>2.1</u> | <u>1.3</u> | <u>64%</u> |
| Subtotal Key Resident-Serving Sectors | 158,231 | 50.4 | 30.4 | 60% |
| All Other Sectors (includes sectors not focused on services to residents) | 206,541 | 65.8 | 9.8 | 15% |
| Total All Sectors | 364,772 | 116.2 | 40.2 | 35% |
| Residential Units in San Jose | 314,038 | | | |

Note: Jobs by industry sector from the Nexus Study are grouped by major NAICS industry category to allow "apples to apples" comparison to the actual existing jobs in the City of San Jose relative to the number of residential units. Differences from the figures presented on page 23 of the Nexus Study are due to aggregation of multiple industry categories.

Sources: U.S. Census Longitudinal Employer-Household Dynamics, 2011 data for City of San Jose (workplace geography); City of San Jose Draft Housing Element for 2014-2023; KMA June 2014 Draft of Nexus Report.

Attachment: KMA Nexus Study Questions/Requests for Additional Information:
June 2014 KMA Residential Nexus Study, City of San Jose

General

- G-1 • Are you aware of any published articles or studies in any academic or professional journals validating (or criticizing) use of the methodology employed in the Study purporting to establish a causal connection between new market-rate housing and affordable housing needs?
- G-2 • Has the methodology used in the Study been subject to an independent peer review process?
- G-3 • Has this specific methodology—purporting to show a relationship between building new market rate housing and a quantifiable need for affordable housing—been used in any context other than by a consulting firm hired by a city or county to justify a fee on new development?
- G-4 • Has your firm ever used the methodology employed in the Study to demonstrate the nexus between new residential development and any other type of impacts for purposes of the Mitigation Fee Act (e.g., traffic, infrastructure, municipal services, schools, etc.)? If so, please identify the studies (including the municipality or district and the impact[s]).
- G-5 • Are you aware of any other firms having used the methodology employed in the Study to demonstrate the nexus between new residential development and any other type of impacts under the Mitigation Fee Act? If so, please identify the firm[s] and the studies.
- G-6 • Have you reviewed studies by other consultants purporting to demonstrate a causal connection between new market-rate housing and affordable housing needs? If so, how, if at all, have such studies differed from the Study in the assumptions and methodology employed?
- G-7 • Did your firm prepare a nexus study using this methodology in the context of residential development prior to the *Patterson* and *Palmer* decisions?
- G-8 • Has your firm prepared nexus studies in connection with local consideration of an affordable housing fee on nonresidential development? If so, in what jurisdictions?
- G-9 • Have the major results that this methodology predicts in each major step of the chain-of-events (e.g., job creation in a specific location predicted by a given amount of market rate residential development in that jurisdiction) ever been empirically validated in a California city or county? In any city or county?
- G-10 • Is it your professional opinion that the Study establishes a causal relationship between building market rate housing and a quantifiable need for affordable housing or rather a correlative one? If the former, what is the statistical degree of confidence in a causal relationship?
- G-11 • What factors other than new market-rate housing create a need for affordable housing?
 - Do some or all of these factors also create a need for new market-rate housing?
 - How do you distinguish between these impacts in a way that allows you to conclude there is a causal rather than a correlative relationship between new market-rate housing and the need for affordable housing?
- G-12 • Has a sensitivity analysis¹ been prepared in connection with the assumptions and data points used in the methodology? If so, what independent variables have the largest impact on the final results? If not we request that a robust sensitivity analysis be performed.

¹ Sensitivity Analysis (SA) is defined as "a method to determine the robustness of an assessment by examining the extent to which results are affected by changes in methods, models, values of unmeasured variables, or assumptions" with the aim of identifying "results that are most dependent on questionable or unsupported assumptions" It has also been defined as "a series of analyses of a data set to assess whether altering any of the assumptions made leads to different final interpretations or conclusions."

- G-13 • How do you distinguish between the impact of other factors affecting demand for affordable housing and the impact of new market-rate housing? Of all the factors affecting the demand for affordable housing, how significant is new market-rate housing? How do you make this determination?
- G-14 • Were you instructed by the City to gather any empirical data or conduct any empirical analysis to determine what causal connection (if any) exists between new market-rate housing and the need for affordable housing?

Specific

- S-1 • Identify each specific data point/information input used in the methodology to arrive at the final results, including all the assumptions and inputs used in the IMPLAN model.
- S-2 • Identify the source of each data point/information input used in the methodology.
- S-3 • What is the margin of error for each data point/information input?
- S-4 • What is the cumulative margin of error for the final results considering each individual margin of error?
- S-5 • Identify all points in the methodological process where KMA makes an assumption relating to the use/amount/source of a data point/information input.
- S-6 • Identify all points in the methodological process where KMA exercised its subjective professional judgment.
- S-7 • What was the reason for job creation and fee increases of over 40% between 2013 & 2014 analysis?
- S-8 • What assumption changes occurred between preparation of the 2013 analysis and 2014 analysis? Are the new job creation calculations based simply on modeling changes or was there new research conducted in San Jose or empirical information?
- S-9 • What IMPLAN modeling option was chosen? (Labor Income Change, Household Income Change, Household Spending Pattern, other)
- S-10 • Are the jobs calculated inclusive of direct, indirect, and induced? If so, please indicate how many of each.
- S-11 • In certain circumstances, KMA chose not to rely on IMPLAN when calculating spending assumptions, which resulted in higher spending assumptions. The reasoning provided was that the IMPLAN model used statewide data which is not specific to City of San Jose. This selective departure from IMPLAN results in a higher job calculation and higher fee. What other IMPLAN model assumptions are based on statewide data?
- S-12 • The "Income available to spend" calculation is before deducting rent payments. What amount does the IMPLAN model assume is paid towards rent? Is it based on local rent rates or statewide rent rates?
- S-13 • Due to the fact that income available for rent is approximately 46% of "income available to spend", or 46% of the estimated jobs generated, why not adjust the IMPLAN model or make another selective departure from IMPLAN so that the jobs calculation better represents local realities? Does the jobs calculation assume that 18 jobs (.46*40) are related to income spent for rent?
- S-14 • Calculation of jobs includes part time. Is it the intent of the City to fund affordable housing for part time workers, including students working part time?
- S-15 • If new employees are created, what is the non-residential/employer share of housing costs?
- S-16 • How does the analysis account for duplication of estimated affordable housing need (residential and nonresidential) for a new employee/job?
- S-17 • What historical data or evidence from the San Jose market can be provided to support the following assumptions:
 - A. The Fee Analysis assumes that 100% of net new jobs will result in new households.

- B. The Fee Analysis assumes that approximately 85% of new worker households will comprise of low income households.
- C. Assumes that all workers within a multiple earner household earn a similar or equal wage.

S-18 • What is the percentage of jobs in San Jose held by people living outside of San Jose? What is the corresponding percentage for "lower-compensation" jobs? Would you expect the percentage of new jobs taken by people living outside of San Jose to differ significantly from the percentage of existing jobs held by people living outside of San Jose?

S-19 • What percentage of new lower-compensation jobs are taken by people who were previously unemployed or new to the labor market?

S-20 • What is the turnover rate for lower-compensation jobs? How does this affect creation of new households in San Jose?

**Housing Impact Fee Program Key Policy Considerations
Outreach Comments**

Housing and Community Development Commission Meeting: October 9 & September 11

Developer Meeting: October 14 & One-on-One meetings

Community Meetings: October 15, October 20

AMENDED – NOVEMBER 13, 2014

| Policy | Alternative Options |
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| <p>1. Fee Level \$28 per square-foot or \$28,000 per-unit.</p> | <p>Housing and Community Development Commission Meeting Public Comment</p> <p><u>September 11, 2014 Meeting</u></p> <ul style="list-style-type: none"> • Many of the 150 people in held up yellow signs that read "\$28" • 35 members of the audience attendance – representing themselves or organizations that work/advocate for affordable housing and ending homelessness – addressed the Commission in support of a housing impact fee, some stating their support for the maximum allowable fee at \$28. • Many of those in favor of a housing impact fee told their personal stories of the difficulties facing lower-income and homeless people affording housing. • A representative of the BIA expressed the organization’s concerns with a housing impact fee, making the following points: <ul style="list-style-type: none"> ○ The lack of affordable housing is a problem that all of society should be involved in finding a solution. ○ The housing impact fee being proposed would put the burden of solving the affordable housing problem on one industry (i.e., residential developers) and one industry cannot solve this problem. ○ The City Council should put [a solution to the affordable housing problem] on the ballot. • A second representative of the BIA: <ul style="list-style-type: none"> ○ Read into the record that organization’s August 20, 2014 letter to the Director of Housing that asked the City numerous questions in connection with the draft Nexus Analysis. ○ Stated that the City’s General Plan recognizes the lack of supply of affordable housing while at the same time emphasizing the priority of non-residential development. ○ In the face of this dichotomy, the BIA membership has no confidence that they have a future in San Jose. <p><u>October 9, 2014 Meeting</u></p> <ul style="list-style-type: none"> • Fee needs to be competitive to address the serious affordability issue. • The maximum fee should be higher then \$17. • Need a \$28 fee (7 people). • Going below \$28 makes affordable housing crisis even worse. (2) • Putting a fee on new projects is premature. • Support staff recommendations – impressed with concise, thoughtful and easy to read recommendations. <p>Developer Stakeholder Meeting and Individual Meetings</p> <ul style="list-style-type: none"> • There is no nexus. Recommends no fee. |

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| | <ul style="list-style-type: none"> • Economics in San Jose have changed – the assumptions in the study are no longer accurate. Statement that developers “never had a problem with \$17” is not applicable for today. Reaching too far and developers can not continue to endure. • Land prices will adjust. • Adjustments will be made at negotiating table – developers will offer less however adjustments will also be shared by the market. Fee creates higher costs. • To add a fee now impacts the underwriting of the project, the project would not go forward – it is a gamble. • Land sellers will not sell unless they can get their price – land market would shrink. We would lose construction, jobs, growth, etc. • As long as we are provided sufficient time, the market will adjust. • San Jose needs to reduce fees, remove barriers, and simplify the development process. This will solve the problem by creating more supply to meet the demand for housing. • Fee should be consistent with what is charged in surrounding communities. • \$10 is more tolerable. • Should include incentives for density as an offset to the fee. • Fee should be charged on habitable space only not the entire square footage of the unit. • BIA specific comments: <ol style="list-style-type: none"> 1. BIA submitted questions on August 20, 2014 and the City responded on October 6, 2014; 2. BIA deserves the right to continue to comment on the Nexus Study; 3. Housing hasn't provided any plan on how to address the existing need for affordable housing; and 4. No Capital Improvement Plan – would like to see how the funds will be spent. <p>Community Outreach Meetings</p> <ul style="list-style-type: none"> • \$17 is too low – needs to be at least \$19 or 20. • Want the maximum \$28 fee (4 people). • Upset that the recommendation from staff is \$17. The fee should be higher. What was behind the original \$17 recommendation? Quite fair that the building industry can bear the burden of a fee. We need to seek the highest return we can. • Son is moving out of area because rents are too high. A lot of gouging is going on. We need a \$28 fee. • A year ago, the Study showed 1.5% could absorb the fee. \$28 covers what the market has already done. Support the \$28 fee. • What discussions has staff had with the Attorney regarding the \$17 level of the fee? Are there any legal concerns? Why isn't staff recommending \$22? – This amount is still way under \$28. |
| <p>2. Applicability refers to the tenure and construction type that the fee applies to.</p> | <p>Housing and Community Development Commission Meeting Public Comment</p> <ul style="list-style-type: none"> • Need less exemptions and pipeline time. <p>Developer Stakeholder Meeting and One-on-One meetings</p> <ul style="list-style-type: none"> • Should consider a geographical component. We don't talk about downtown – the downtown stills needs help. • We need to talk about the entire city and need to put something forward that treats all development the same. |

| Policy | Alternative Options |
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| | <ul style="list-style-type: none"> • All developments should be treated the same regardless of their location. No special treatment for the downtown. • Keep a level playing field and do not incentive any type of development. • For mixed-use developments reduce the FAR to .25. • The City should consider a commercial impact fee. The overall fee could be reduced if it was spread across all building types. <p>Community Outreach Meetings</p> <ul style="list-style-type: none"> • Urban villages, high rises and mixed-use housing should be included. |
| <p>3. Fee Adjustment refers to how the fee will be adjusted annually to offset the effects of inflation. In no case can the fee exceed \$28/foot, the maximum fee allowed per the Nexus Study.</p> | <p>Housing and Community Development Commission Meeting Public Comment</p> <ul style="list-style-type: none"> • Annual COLA is a concern may increase the cost of housing. <p>Developer Stakeholder Meeting and One-on-One meetings</p> <ul style="list-style-type: none"> • Don't allow the fee to increase to quickly. <p>Community Outreach Meetings</p> <ul style="list-style-type: none"> • 2.4% makes sense; however, we should apply the 2.4% at the beginning of the Inclusionary Zoning date. If that were the case, the fee would be around \$21. (2) |
| <p>4. Operative Date and Grandfathering/ Exemptions are situations in which developments will not be required to comply with the ordinance.</p> | <p>Housing and Community Development Commission Meeting Public Comment</p> <ul style="list-style-type: none"> • Need to shorten the pipeline – need a shorter phase-in period. • Need less exemptions and pipeline time. • Grandfathering is the way to go to protect developer investment. • Staff listened to the outreach regarding the phase-in period, etc. <p>Developer Stakeholder Meeting Public Comment and One-on-One Meetings</p> <ul style="list-style-type: none"> • It takes longer than 18 months to complete a project. Need more time. • Currently have three podium projects – for one, start of construction to opening was 28 months. (2) • Phase-in approach is counter productive. Unlikely to have permits by July 1. Land was purchased with no fee in the calculation. • Hard to get projects done in 18 months. Recommendation to tie to building permits. • 18 months is way too short. • Concerned with July 1 date. Plan check comments can hold up timing. • Much too abrupt to rely on building permits by July 1, 2015. • Simplify this approach, eliminate tracking the building permit and just have a completion date. • The new grandfathering timeline works (4). <p>Community Outreach Meetings Public Meetings</p> <ul style="list-style-type: none"> • Should be a shorter phase-in period and fewer exemptions. • San Jose loses money by phase-ins. It takes a minimum of 2 ½ to 3 years to collect the funds with the July 1, 2016 date. • SHHAC Suggestion – Wants the fee to start in January 2015; this was the original date when outreach was started on the Housing Impact Fee. • Can a developer sell the land with the grandfathering? If so, the exception should only be granted if the original developer maintains site control. It should not be transferable. • During the presentation, it was mentioned that projects are “shovel ready” |

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| | <p>but they are years away from being built. How can they be "shovel ready" if they have five years to build? Grandfathering is too long.</p> <ul style="list-style-type: none"><li data-bbox="511 294 1469 388">• Three years versus 18 months to build - Why is there such a big gap in building time? Prices on rents will go up in those three years while the city waits for building completion. 18 month timeframe is too generous. |

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11/12/14

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Reference: Residential Nexus Analysis

Subject: Objections To Housing Impact Fee Program
The City Says its Ok To Flog The Landowners

Leslye,

At a number of meetings Housing represented that the impact fees really would not drive up the cost of housing because the developers would merely pay less for the land so the program doesn't really cost anyone anything.

Hold on, hold on, hold on, hold on, hold on, hold on!!! This is the old story of you can gore everyone else's ox, just don't gore mine. So in effect the housing department is admitting that they are taxing the land owner indirectly for selling their land.

However, as land is increasingly scarce landowners might be able to adjust land prices up to compensate for the higher fees. Assuming that happens and all costs get pushed onto the market rate units the Housing Department will be raising the cost of all housing City wide; thereby, making housing more unaffordable for all.

The high costs of inclusionary units are hidden from the public, at large, but are real costs for new homebuyers. It is estimated that inclusionary zoning causes the price of new homes in the median jurisdiction to increase by more than \$37,000 – a direct tax on market-rate homebuyers. If the City is successful in pushing through the inclusionary housing program they previously passed the cost would be even higher \$127,000.

In addition to increasing the price of new housing, inclusionary zoning profoundly decreases its supply, making the policy a potentially effective growth-control tool. By increasing housing costs through its price-control mandates, inclusionary zoning impacts land markets – creating disincentives for landowners to make their land available for residential use. In the 45 cities

where data is available, new housing production decreased dramatically the year after communities adopted inclusionary zoning. In the 35 communities with data for seven years prior and seven years following adoption of inclusionary zoning, 10,662 fewer homes were produced – despite rising demand – during the seven years after the adoption of inclusionary zoning.

Price controls on new development lowers assessed values and costs state and local government tax revenues each year. Because inclusionary zoning restricts resale values for a number of years, the loss in annual tax revenue can become substantial. The total present value of lost government revenue due to Bay Area inclusionary zoning ordinances is \$553 million – enough to build more than 40 elementary schools.

Further:

- 1) It's unfair to those not lucky enough to win the affordable housing lottery versus those that win the luck of the draw.
- 2) Its unfair to the family that has to settle for a lesser house because the house they want is not affordable to them because of the add-on costs of inclusionary/affordable housing that pushed up the price of the house they wanted beyond their means.
- 3) Its unfair to the purchasers of the market rate units because they have to pay extra on their home to make the inclusionary housing affordable.
- 4) Its unfair to all home buyers because every new development that bears the burden of inclusionary housing pushes up the cost of all housing, appraisals reflect higher selling prices and it makes all housing just that much more unaffordable.
- 5) Its unfair to the tax payers that have to pay for the costs of the administering housing authority.
- 6) Its unfair to the land seller that likely receives less for their land because the builders will have to beat them down on the sales price if they can.
- 7) If you want to make affordable housing fair levy a tax on all your citizens to pay for it and see how well that goes over. When they have to start paying for it out of their own pockets, their perspective will change quite rapidly.

It is an unwise program and should repealed in its entirety. Land owners do object to impact fees as well as inclusionary housing programs. Housing assistance should give a temporary helping hand, not a housing lottery winnings at the expense of others nor the right to permanent housing assistance.

Thank you for your consideration,

Myron Crawford



KEYSER MARSTON ASSOCIATES.
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
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JULIE L. ROMEY

SAN DIEGO
PAUL C. MARRA

To: Jacky Morales-Ferrand
City of San Jose

From: Keyser Marston Associates, Inc.

Date: November 14, 2014

Subject: Response to DFA Review of KMA Residential Nexus Analysis

Keyser Marston Associates, Inc. (KMA) prepared a Residential Nexus Analysis for the City of San Jose ("Nexus Study"). The Nexus Study documents the impact of new market-rate rental housing development in San Jose on services like retail, health care and education, quantifies the resulting affordable housing needs of workers in these services, and computes maximum Housing Impact Fees proportionate to the cost of mitigating the increased affordable housing needs.

The following memorandum was prepared to respond to comments and alternative conclusions about maximum supported fees prepared by Development & Financial Advisory (DFA) as summarized in their "Review of Residential Nexus Analysis (Draft) Dated October 2014 ("DFA Review"). DFA was retained by the Building Industry Association of the Bay Area (BIA) to review the Nexus Study.

A. Summary

KMA has responded to each of the major comments in the DFA Review and has found the comments to be generally without merit. None of the comments warrant an adjustment to the Nexus Study as prepared. None reveal any "fatal flaws." Much of the commentary is focused on falsely characterizing the analysis as based upon a lengthy list of "assumptions" which are actually drawn from hard data and are not "assumptions" at all. The alternative DFA maximum fee level conclusion of \$6.97 per square foot (rather than the \$28.28) is reached through a series of arbitrary adjustments to the Nexus Study unsupported by data. Adjustment factors DFA uses to arrive at the modified fee conclusion are seemingly chosen "out of the air."

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B. Response to DFA "Significant Concerns"

The following responds to each of the eight items DFA purports to be "significant concerns."

1. The analysis appropriately includes all the new jobs that result from new rental housing development and the demand for goods and services by residents of the new units. This includes jobs generated at establishments that serve new residents (i.e. supermarkets, banks or schools), jobs at firms that service or supply these establishments (wholesalers, janitorial contractors, accounting firms, or any jobs down the service/supply chain from direct jobs), and jobs generated from new employee spending. Jobs at establishments directly serving residents such as retail, restaurants, and health care represent 75% of the total; DFA suggests only these jobs be included.

As an illustration of what DFA is suggesting, dentist office employees would be counted but workers for the janitorial contractor who clean the floors at the end of the day would not count. The janitor is a necessary and essential employee. The term "indirect" applies by virtue of the contractual relationship. We disagree the janitor is "too remote." Contract janitorial staff, and all workers, should be counted.

We leave it to the attorneys to comment on the applicability of the purported "proximate cause" standard discussed at greater length in the Perkins Cole document.

2. The fee will be used to fund creation of affordable housing. The Nexus Study computes the cost of each affordable unit. Further information on proposed expenditure of impact fees is outlined in an Expenditure Plan that will be adopted separately from the Nexus Study.
3. The Nexus Study's analysis and findings are data driven, not speculative. Every calculation and every input are based upon the best and most current data available. Historic data included as Attachment F to the City Council staff report supports the employment estimates included in the Nexus Study and demonstrates the relationship between housing and service jobs over a historic period. Additional data on the actual relationships between housing and jobs was included as part of the October 6th response to the Building Industry Association's comments which provides added support for the employment estimates contained in the Nexus Study and represents a further indication that

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estimates are conservative. DFA fails to mention the data provided in the October 6th response.

4. There is no need to allocate a share of the impacts to other land uses because the Nexus Study only addresses impacts of new market rate residential. No assertion is made or implied that all sources of affordable housing need is included in the Nexus Study. A more in-depth discussion is included in Section D.1 of this response.
5. The Nexus Study accounts for other funding sources available to offset the cost of meeting affordable housing needs of new workers. Specifically, tax-exempt bonds combined with the 4% Low Income Housing Tax Credit financing are reflected. Other funding sources are not included because they are limited, competitive, and have been insufficient to satisfy existing affordable housing needs in the community let alone future increased needs caused by new development. Therefore, the Nexus Study does not assume additional funding sources will be available to meet incremental demands caused by new development.
6. Employment estimates included in the Nexus Study are based on the most appropriate utilization of the IMPLAN model. The alternative utilization of the IMPLAN model suggested by DFA was not selected because it produces understated results due to application of State-wide averages for household incomes that are not reflective of local conditions. A more in-depth discussion is included in Section D.4 of this response. Nexus Study employment estimates appear conservative relative to current and historic ratios between residential units and the service jobs that support residential such as retail, restaurant, education, and health care. The October 6th response to the BIA summarized U.S. Census data indicating that, for each 100 residential units, the City of San Jose currently has 53 service jobs in health care, retail, food service, education, and other sectors focused on serving residents. Nexus Study employment estimates appear conservative by comparison, reflecting only 30 service jobs for each 100 residential units in these same resident-focused categories and 40 total jobs when all categories are included.
7. The Nexus Study already includes a very conservative 20% adjustment to employment estimates to account for a share of jobs filled by existing residents. The suggestion that an additional adjustment be applied based on the notion of an available unemployed labor force that already has housing locally is not warranted. Temporary conditions such as periods of high unemployment do not warrant an adjustment in the analysis which is designed to mitigate the long-term

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impacts over the life of new apartment units, as further described in Section D.7 of this response.

8. The Nexus Study, due to the conservative assumptions incorporated, likely understates the actual impacts and maximum supported fee levels. As described in the Nexus Study, fees would be approximately double without these conservative assumptions. DFA claims that the findings are overstated; however, the additional reductions DFA proposes are without merit for reasons described in Section D, below.

C. Response to Comments on Methodology

The following responds to DFA comments in the section entitled "Fee Analysis Nexus Methodology" (DFA Review Section I. B. 1):

1. **Analysis and Findings are Data Driven** – The Nexus Study and its findings are driven by the data. Data sources include U.S. Census, the Bureau of Labor Statistics, the California Employment Development Department, and others. Every calculation and every input is based upon the best and most current data available. To the extent judgment is exercised, it is *In selection of the best data sources*. The DFA Review makes false and unsupported assertions that the analysis is based upon a series of arbitrary assumptions, discretionary choices, subjective judgment, and speculative assumptions. DFA misrepresents application of hard data obtained from published governmental sources as "assumptions" and misconstrues utilization of that hard data as "speculative" or "theoretical." In other places DFA misconstrues the findings of the analysis as having been "assumed." The "probability factors" which DFA implies are theoretical represent application of hard data from the U.S. Census to account for actual local household characteristics and variation in those characteristics by income. This approach takes advantage of the wealth of data from the Census to provide a refined analysis that accounts for actual household patterns locally, moving beyond simple averages. Throughout the conduct of the analysis, KMA has utilized the best data available and documented all sources.
2. **Number of Steps** – The Nexus Study quantifies the following four basic linkages between new market rate apartments, new affordable housing demand, and the cost of mitigating that demand:
 1. New market rate apartments mean net new residents and new demand for goods and services;

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2. New demand for goods and services means new service jobs, many of which are lower-paid;
3. New lower-paid service workers mean new affordable housing need;
4. The dollar cost to mitigate the new affordable housing need is then quantified.

DFA represents the analysis as a "13-step chain of events," by devising interim steps to inflate the total. The fact that the analysis is conducted on 100 market rate apartments is really the starting point of the analysis; however, for purposes of their alleged 13-step chain of events, DFA characterizes this as *two steps* by counting first construction and then occupancy of new apartments as separate links in the chain. If these are two links in the chain for the KMA Nexus Study, they are two links in the chain for every nexus study applicable to residential including parks, traffic, and schools. DFA further embellishes by characterizing the estimate of service jobs as two steps rather than one. DFA also identifies the estimate of affordable housing needs for new workers as several distinct "events" in the alleged 13-step chain by treating each calculation or data source application as a separate "event."

3. **Number of Assumptions** – The DFA Review characterizes the analysis as containing 60 underlying assumptions. The purported 60 assumptions are based on DFA repeatedly misconstruing the application of hard data as an "assumption." In other instances, DFA misrepresents analysis conclusions as an "assumption." While mischaracterizing the application of published data as "speculative," DFA never offers any specific criticism of any individual data source.
4. **Common Practice** – DFA characterizes the analysis as inconsistent with common practice. Of course an analysis prepared for an affordable housing impact fee will not use the same methodology as more common types of fees such as traffic or parks. The analysis is designed specifically to address affordable housing impacts which calls for a different approach than say, traffic. The Nexus Study is tailored to the task of affordable housing impacts and is consistent with common practice in that area.

D. Response to "Technical Evaluation of Economic Impacts"

The following responds to DFA comments in the section entitled "Technical Evaluation of Economic Impacts" (DFA Review Section I. B. 2):

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1. **Focus on Residential** – the impact of new market-rate housing is distinguished from other factors affecting demand for affordable housing in the Nexus Study by isolating only the incremental demand for goods and services from residents of new market rate apartments. The analysis then quantifies the resulting net new jobs in retail, restaurant and other sectors related to this incremental demand and quantifies the resulting affordable housing needs of the workers. This approach isolates the incremental affordable housing impacts attributable to new market rate apartment development and does not require an allocation to other land uses. No assertion is made or implied that all sources of affordable housing need is included in the Nexus Study.
2. **Leveraging of Other Funding Sources** – A most important source in recent years of funding for affordable housing development comes from the Federal government in the form of tax credits (which result in reduced income tax payment by tax credit investors in exchange for equity funding). For the purposes of calculating the affordability gap, the Nexus Study assumes that Extremely Low, Very Low, and Low-Income units will be financed with tax-exempt bonds combined with the 4% Low Income Housing Tax Credit, and thus local funds from fee revenues are indeed assumed to be leveraged. For the purposes of estimating the affordability gaps for Moderate-Income households, KMA does not assume additional sources of affordable housing financing. While affordable housing developments assisted by the City have typically utilized an array of funding sources, it is not assured that any of these sources will be available in the future. Accessing these sources also tends to be highly competitive due to the limited supply. For example, KMA did not assume affordable units could be financed with 9% Low Income Housing Tax Credits due to the highly competitive nature of this funding source and the very few units that San Jose gets to build every year with 9% tax credits. The dissolution of San Jose's redevelopment agency has eliminated what was for decades the major local funding source for affordable housing. In San Jose, additional funding sources are not available on an on-going basis to meet increased affordable housing needs from new development.
3. **Employment Estimate** – The employment estimate at 40.2 jobs per 100 residential units is based on the widely used and accepted IMPLAN model, the validity of which DFA does not dispute. The inputs to the IMPLAN model reflect the best available data. The resulting estimated number of jobs appears conservative relative to the actual number of jobs per 100 residential units in San Jose and Santa Clara County in retail, education, restaurants, and health care and other sectors focused on services to residents based upon data previously provided in response to BIA's questions and comments dated October 6th.

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Historic data supplied in Attachment F of the November 18th staff report also clearly indicates that the ratio of service jobs to residential units has been consistent over time and also suggests that the nexus estimates are conservative. The employment estimate is not speculative or volatile as DFA claims, it is data driven, is supported by the actual relationship today and historically, and is conservative.

4. **Technical Approach to Application of IMPLAN Model** – KMA has selected the most appropriate IMPLAN modeling option for the Nexus Study. The option DFA suggests would be more appropriate was, in fact, the option KMA *did* use in the original October 2013 draft of the Nexus Study. The analysis was subsequently modified to the current approach to address a recent change to the IMPLAN model whereby State-wide averages were substituted in place of local data on household incomes. The use of State averages was shown to produce significantly understated results. This was previously explained as part of the October 6th 2014 response to BIA questions and comments (Response S-7).
5. **Other Factually Incorrect Assertions Regarding Technical Application of IMPLAN** - DFA makes several additional factually incorrect assertions regarding the IMPLAN model and its application to the Nexus Study we would like to correct for the record:
 - a. DFA incorrectly asserts that the input to the IMPLAN model should reflect income available following a deduction for rent payments. As explained in the October 6th response, the appropriate input is prior to a deduction for rent payments. The approach used is consistent with the advice of the creators of the IMPLAN model. IMPLAN always allocates a proportionate share of expenditures to rent. The resulting employment estimates reflect the fact that expenditures on rent do not generate the same number of jobs as other types of expenditures such as retail and restaurants but do generate some types of employment such as property management and maintenance. DFA's suggestion that expenditures be reduced to remove an amount corresponding to rent would be inconsistent with the appropriate use and application of the model and cause results to be understated. DFA, for purposes of the alternative conclusions they present, has likewise not made a deduction for rent.
 - b. DFA is mistaken in their assertion that the approach employed in the Nexus Study "doesn't delineate between uses of spending." In fact, expenditures are based on patterns derived from the Bureau of Labor

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Statistics Consumer Expenditure Survey and reflect numerous expenditure categories.

- c. DFA is mistaken in their assertion that the modeling option employed in the Nexus Study does not adjust for the local share of expenditures and they are mistaken that it is primarily for analyses of tourism expenditures. Expenditures are, in fact, reduced to a local share. The reduction to a local share occurs in an equivalent fashion to that in the DFA recommended modeling option. In addition, the full array of every-day household expenditures are reflected based on Consumer Expenditure Survey data, and are not based upon a visitor or tourist expenditure pattern.
6. **Employment in City of San Jose** – We concur with the finding that inclusion of only jobs within the City would reduce the findings by 7%; this figure is straight from the Nexus Study. We do not concur with the notion that the 7% reduction is mandatory because the Nexus Study appropriately includes impacts in a broader area, the County. San Jose is the only jurisdiction in a position to mitigate impacts caused by new residential development within its boundaries.
7. **Net New Adjustment** – The Nexus Study includes a very conservative 20% discount factor which adjusts the 40.2 total jobs down to 32.1 “net new” jobs. The adjustment accounts for the portion of jobs potentially filled by existing residents such as those downsized from a declining industry sector (manufacturing being a historic example). Despite the likelihood many “down-sized” workers would simply retire rather than seek a new job in a sector like retail, every “down-sized” worker is assumed to be available to take a new job and offset the need for new housing. DFA fails to acknowledge the existence of this very conservative adjustment already built into the analysis and suggests further reductions are needed. For the reasons described below, the factors DFA mentions do not warrant further adjustment in the analysis:
- a. **Short term economic cycles and unemployed workers** – The Nexus Study is intended to support a one-time requirement to address impacts generated over the life of a new market rate rental project. Recessionary conditions or a vigorous boom period, are not an appropriate basis for estimating impacts over the life of the new rental units. During a recession, there may be an existing unemployed labor force available to fill jobs in sectors serving new residents. New rental construction is likely to be reduced or even halted entirely during a recession; however, to the extent new rental units are delivered during a declining or recessionary

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economy, net new employment may not be immediately experienced. However, over the long term, as the economy improves, added demand for goods services from new residents does result in increased employment. Although impacts may not be immediately experienced, they are experienced at some point. As such, short term or temporary conditions do not warrant an adjustment in the analysis.

- b. **Part-Time Workers** – The Nexus Study includes part-time employment as explicitly noted in the analysis text. This is consistent with all California Employment Development Department (EDD) data and U.S. Bureau of Labor Statistics (BLS) data which include part-time jobs in all summaries of employment by occupation and by industry. Individual workers holding more than one job are not recognized explicitly in the analysis because no good data set prepared by the State or Federal government exists. However, annual compensation data from EDD used in the analysis assumes that all workers are able to achieve full-time employment, either with one job or by combining multiple jobs. This assumption likely overstates the income of many workers since not all part-time workers have multiple jobs, making the Nexus Study conclusions conservative. For multiple worker households, all workers are counted as contributing to household income regardless of whether a worker is full-time or part-time. Compensation of part-time workers in multiple earner households is estimated as if that worker had full-time employment. Again, this approach likely overstates household income, understating the need for affordable housing, and making the nexus analysis and conclusions conservative.
8. **Finding that 85% of Households will be Below 120% of Median** – The finding that 85% of households will earn less than 120% of median (\$126,600 for a family of four) is a conclusion of the analysis, rather than an assumption, which is based on local compensation levels from the California Employment Development Department for retail, food service, and other jobs linked to demand for goods and services by new residents. The conclusion that many worker households are below 120% of median comes as no surprise given the low compensation levels of many jobs in these sectors.
9. **CATO Institute Data on Minimum Wage Workers** – DFA cites a report from the CATO institute regarding the percent of workers earning the Federal Minimum Wage who are under the age of 24. Based upon the source data used by the CATO institute, this national statistic applies to a small component of the workforce in California (one percent) who are at the

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Subject: Response to DFA Review of KMA Residential Nexus Analysis Page 10

Federal Minimum Wage. San Jose also has its own minimum wage which exceeds the Federal minimum. Even with the higher minimum wage in San Jose and compensation levels for most workers that exceed this minimum, workers still face affordable housing challenges. Furthermore, the demographic data used in the Nexus Study (as described on pages 29 and 30) accounts for local household characteristics including the phenomenon of young workers continuing to live with their parents into early adulthood, whether by choice or necessity.

10. Assumption that Households are Comprised of Similar Income Workers

– Due to a lack of published data regarding relative incomes of workers within multiple earner households, an assumption was required. The assumption that was made is not that all households have earners of equal income, but instead that, on average, households have earners of similar income.

E. Response to DFA Findings and Recommendations

DFA provides an alternative nexus conclusion that a maximum fee of \$6.97 is supportable. DFA reaches this conclusion by starting with the Nexus Study finding of \$28.28 per square foot and proceeding to apply a series of six adjustment factors, each of which, for reasons described above, are not warranted. Adjustments are presented in terse fashion as a series of percentages with no supporting information. In applying this string of unwarranted adjustments, DFA seemingly picks figures “out of the air” with four of six adjustments representing arbitrary factors with no supporting data attached.

**Testimony Received by the
Housing and Community Development Commission on November 13, 2014
On the Proposed Housing Impact Fee**

A representative of the Building Industry Association (BIA) expressed that organization's opposition to the establishment of a Housing Impact Fee. Development and Financial Advisory (DFA), the BIA's consulting firm which had prepared a peer review of the Residential Nexus Analysis prepared by Keyser Marston Associates (KMA), presented their criticisms of KMA's nexus study, as follows:

- o The Nexus Analysis substantially overstates impacts of household spending on new job creation in the City of San Jose.
- o The Nexus Analysis provides no historical evidence or data to support assumptions of household formations and overstates the number of new low income household formations.
- o The Nexus Analysis does not provide a comprehensive study inclusive of all land uses, which evaluates residential and non-residential nexus methodologies jointly so that proportionality issues can be more clearly observed; and the relationship between spending and impacts on affordable housing has not been properly evaluated.

DFA recommends:

- o Revise Nexus Analysis model to properly quantify job creation.
- o Clarify definition of "job" for purposes of mitigating low wage employee housing needs (new or existing jobs; full, part time or seasonal jobs).
- o Limit number of jobs to "new" jobs created within City boundaries
- o Evaluate the relationship between unemployment, new job creation and affordable housing needs.
- o Provide historical evidence to support household formation assumptions.
- o Conduct a comprehensive study to determine proportionality among land uses (residential and non-residential).

The BIA representative concluded by stating that the lack of affordable housing in San Jose is a community-wide problem that should be solved on a community-wide basis by a property/parcel tax, and that that a tax should go before the voters.

A representative of the Housing Trust of Silicon Valley made a presentation in support of the Housing Impact Fee, stating that a Housing Impact Fee is good policy because:

- o Well-crafted Housing Impact Fee policies create affordable housing while not restricting new market rate housing.
- o New development brings in new middle-class households, they create a need for new services, and those jobs don't pay enough to afford housing.

- The market, on its own, will never produce housing at rents affordable to most workers.
- Legally sound.

The Housing Trust representative also rebutted several “myths” about a Housing Impact Fee:

- MYTH: This unfairly puts all the burden of affordable on one small segment. FACTS: The Impact Fee only addresses the new affordable housing need cause by new market rate rental residents; it doesn’t even pay for all the cost associated with the increase in affordable housing need these developments create; and we are finding other sources too.
- MYTH: The Impact Fee will just get passed on the renters and make renting more expensive. FACT: Rents are not based on “developer’s cost to build + fees + profit;” rents are based on market conditions.
- MYTH: There is no link between new rental development and increased jobs and need for affordable housing. FACT: There is a strong connection between the two; the National Association of Home Builders’ 2009 economic study touts the local economic impacts of new rental home building on the local economy and the short term and long term jobs created (nationally, 100 units of new housing = 32 long term jobs).
- MYTH: The process is rushed and everyone has not had a chance to weigh in. FACTS: This process started over two years ago by Council; first draft nexus study was released more than a year ago; second draft was released in July 2014; there have been dozens of community and developer specific meetings over this period.
- MYTH: We don’t know if this will even create any affordable housing. FACTS: There are thousands of affordable rental homes in San Jose in the pipeline ready to be building but only need local money; the conservative estimate \$22 million will all be spent only on affordable housing per the “Draft Expenditure Plan.”

The Housing Trust representative concluded by supporting the [Housing Department] staff recommendation, specifically:

- Fee amount – highest possible fee that is economically sensitive.
- 50% fee for downtown high-rise – Support.
- Future adjustments at 2.4% annually – Support.
- Pipeline exclusion to July 1, 2016 – Support.

A representative of the Law Foundation of Silicon Valley also spoke in favor of the Housing Impact Fee on behalf of its lower-income clientele, and orally presented a legal analysis that supported the Nexus Analysis prepared by KMA.

During the opportunity for public comment, one speaker from the audience spoke in favor of the Housing Impact Fee and one spoke in opposition.