

**RESOLUTION NO. 77218**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING A HOUSING IMPACT FEE**

**WHEREAS**, the City Council of the City of San José (“Council”) has a long established policy and practice of recognizing the need to facilitate the availability of housing products at different levels of affordability in order to address the housing needs of the entire community; and

**WHEREAS**, the Council desires to adopt a fee to help address the increased need for affordable housing connected with the development of new market rate residential rental units (“Housing Impact Fee”); and

**WHEREAS**, the Council has caused a study to be prepared that analyzes whether there is a reasonable relationship between the development of new market rate residential rental units and the need to increase the supply of new affordable housing; and

**WHEREAS**, that study, prepared by Keyser Marston and Associates, entitled “Residential Nexus Analysis” dated October 2014, (the “Nexus Study”), demonstrates that such a nexus exists, and that the use of a Housing Impact Fee for the purpose of increasing the supply of affordable housing in the City of San José (“City”), is justified; and

**WHEREAS**, the Council has determined that the Housing Impact Fee should be established consistent with the requirements applicable to fees for public facilities in California Government Code Section 66000 *et seq.*, commonly referred to as the “Mitigation Fee Act” without determining that it is required to do so; and

**WHEREAS**, the Council has, consistent with the Mitigation Fee Act, published twice in ten day period advance notice of the public hearing concerning the Housing Impact Fee and during that period made available for public review and comment data indicating the estimated cost required to provide the Housing Facilities described in this Resolution and the potential revenue sources; and

**WHEREAS**, the Council has determined that the Housing Impact Fee is consistent with and implements the goals and objectives of the City's General Plan entitled "Envision San José 2040"; and

**WHEREAS**, the Housing Impact Fee is intended to create a funding mechanism to increase the supply of affordable housing in San José without reference to a specific development or property, although exemplar affordable housing developments are described in the exhibits attached to this Resolution; and

**WHEREAS**, the City will not expend funds from the Housing Impact Fee on any specific development prior to the completion of environmental review for such specific development, thus the adoption of this Resolution is not a project under the California Environmental Quality Act guidelines found in Title 14 of the California Code of Regulations at Section 15378(b)(4); and

**WHEREAS**, the Housing Impact Fee is authorized pursuant to Section 200 of the City Charter and Section 7, Article XI of the California Constitution as a police powers measure to improve the public welfare of the City of San José; and

**WHEREAS**, consistent with the Mitigation Fee Act and the City Charter, the Housing Impact Fee may be established by resolution;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:**

**SECTION 1. FINDINGS AND DETERMINATIONS**

The City Council has found and determined, based on the evidence presented in the Nexus Study, the staff memorandum submitted for the November 18, 2014 meeting, and in other information and testimony presented at the public hearing that:

- A. The Housing Impact Fee is consistent with the adopted goals and polices contained in the City's General Plan, including the following policies and goals: H-1.2, H-1.6, H-1.9, H-2, H-2.1, H-2.8, H-2.11, H-3.3 and H-4.2.
- B. The Housing Impact Fee is also consistent with the proposed goals presented in the text amendments to the General Plan that the City Council will consider on December 9, 2014 including revised goals H-1.10 and H-2.8 and the revision to goal H-2 to read as follows "Preserve and improve San Jose's existing affordable housing stock and increase its supply such that 15% of all new housing stock developed is affordable to low-, very low-, and extremely low-income households."
- C. As specified in this proposed Goal H-2, it is in the interest of public welfare, health and safety that at least fifteen percent (15%) of new residential dwelling units be affordable units. As discussed in the Expenditure Plan attached as **Exhibit B**, the Housing Impact Fee, once it is fully operational, is intended to help fund up to 234 affordable units per year, which could be as much as 5-6% of the 3986 new units projected to be constructed each year by the City's regional housing needs assessment. This proposed General Plan goal that at least fifteen percent (15%) of new residential dwelling units be affordable units also establishes a reasonable relationship between the need for and use of a Housing Impact Fee to address the increased demand for new affordable housing and new market rate residential rental developments.
- D. The purpose of the Housing Impact Fee is to provide funding to the City to increase the supply of affordable housing units by acquiring Housing Facilities

- and financing development of affordable housing and acquiring affordability covenants in exchange for that financing.
- E. The Nexus Study and the Expenditure Plan attached as **Exhibit B** establish a reasonable relationship between the use of the Housing Impact Fee to create affordable housing to address the increased demand for new affordable housing and new market rate residential rental developments. There is a reasonable relationship because new market rate residential rental development leads to new residents and the spending by these new residents leads to an increase in jobs, and due to the increase in jobs, new housing will be needed, including new housing affordable to extremely low, very low, low, and moderate income households, which the Housing Impact Fee is intended to help provide by funding the construction of affordable housing and the acquisition of affordability covenants.
- F. The Nexus Study also establishes a reasonable relationship between the need for affordable housing units and new market rate rental residential development. This is so because new market rate residential rental development leads to a net increase in new residents, and the increase in goods and services required by these new residents leads to an increase in job creation in the City including jobs in the service and retail sectors (e.g., teachers, restaurant workers; pet care; maintenance workers, etc.) with wages that will not allow these workers to obtain market rate housing. This results in an increase in the need for new housing affordable to extremely low, very low, low, and moderate income households, which the Housing Impact Fee will be used to help provide.
- G. There is no excess surplus of affordable housing; according to the City's regional housing needs assessment there is a current shortage of adequate, affordable housing estimated at 16,315 units as of December 31, 2013.
- H. State housing policy, as expressed in California Government Code Section 65583(c), requires the City to assist in the development of adequate housing to meet the needs of low and moderate income households. The City's Housing



Element details a significant shortage of housing affordable to low and moderate income households, which will only increase as the finite number of residentially zoned lots within the City are purchased and developed for market rate residential developments. This loss of residential land available for affordable housing is another impact of market rate residential rental development and since the majority of market rate residential development in the City is rental development.

- I. The Housing Impact Fee will assist in reducing potential negative impacts on the environment because if the increased demand for affordable housing is not addressed within San José it will cause such housing to be built elsewhere, in areas with lower land values that are far from City employment centers and transit corridors, and the resulting commuting will cause increased traffic and transit demands and consequent noise and air pollution. Lack of affordable housing may also mean that businesses within the City will find it more difficult to attract and retain the variety of workers that they need.
- J. Adoption of the Housing Impact Fee may, at times, make market rate rental housing more expensive, but in weighing all of the factors, the Council has determined that the community's interests are best served by the adoption of this resolution.

## **SECTION 2. PURPOSE**

The Resolution is intended to:

- A. Implement the goals and objectives of the City's General Plan, including the City's Housing Element and the underlying State housing policies and mitigate the demand for affordable, safe housing units connected with the development of new market rate residential rental housing within the City.
- B. Facilitate the development and availability of housing affordable to a broad range of households with varying incomes within the City as mandated by California Government Code Section 65580 *et seq.*

- C. Facilitate compliance with the proposed General Plan goal to make at least 15% of new housing affordable.
- D. Facilitate compliance with the proposed General Plan goal to provide safe, affordable housing for workers in resident-serving industries.
- E. Address the demand for affordable housing generated by increased spending for goods and services associated with new market rate residential rental housing in the City and reduce the potential impacts on the environment by enabling the provision of such affordable housing in the City.

**SECTION 3. DEFINITIONS**

The definitions set forth in this Section shall govern the application and interpretation of this resolution:

- A. "Affordable Housing Development" shall mean a Rental Development where a 100% of the Rental Units are Affordable Rental Units.
- B. "Affordable Rent" means a monthly rent that does not exceed one-twelfth of 30% of 60% of the Area Median Income at a level appropriate for the Assumed Household Size.
- C. "Affordable Rental Unit" shall mean a dwelling unit restricted to Affordable Rent by a Recorded Covenant and shall be deemed to include any manager's unit for an Affordable Housing Development which is required by State law.
- D. "Applicant" or "Developer" means a person, persons, or entity that applies for a development permit for a Residential Development and also includes the owner or owners of the property if the Applicant does not own the property on which development is proposed.
- E. "Area Median Income" or "AMI" means the annual median income for Santa Clara County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of San José in the event that such median income figures are no longer published periodically in the California Code of Regulations.

- F. "Assumed Household Size" means, for any dwelling unit, the household size assumed for determining Affordable Rent based on a Recorded Covenant which shall be either (a) 1 person for each bedroom plus 1 person for the unit, or (b) 1.5 persons for each bedroom.
- G. "Building Permit" means a City issued building permit and includes full structural building permits as well as partial permits such as foundation-only permits.
- H. "City" means the City of San José.
- I. "Certificate of Occupancy" means the permit issued by the City Building Division authorizing the initial occupancy of one or more buildings with residential dwelling units and includes temporary certificates of occupancy permits.
- J. "Conditional Use Permit" shall have the meaning given in San José Municipal Code Chapter 20.100.
- K. "Development Permit" shall have the meaning given in Section 5.C.
- L. "Director" means the Director of Housing or such other director designated by the city manager to administer this resolution.
- M. "Dwelling Unit" means a building, or portion of a building, planned or designed for use as a residence for one family only, living independently of other families or persons, and having its own bathroom and housekeeping facilities included in said unit (e.g., each dwelling unit in a two-family dwelling, and each dwelling unit in a multiple dwelling).
- N. "Downtown High Rise" means a Residential Development located in the Downtown Core Area (as described in Resolution Number 73587 adopted January 9, 2007) where the highest occupied floor has a floor level elevation is at least 150 feet above street level.
- O. "Housing Facility" means (a) property acquired or proposed for acquisition by the City for affordable housing purposes and any improvements constructed thereon or (b) a recorded affordability restriction that is made for the benefit of and enforceable by the City.

- P. "Housing Impact Fee" means the fee established by the City pursuant to this resolution.
- Q. "Housing Impact Fee Fund" means the fund established in Section 9 below.
- R. "Inclusionary Housing Policy" means the policy originally adopted by the City Council on October 4, 1988, by Resolution No. 60918, as amended, implementing Section 33413 of the California Health and Safety Code's requirement that a certain percentage of dwelling units developed in redevelopment project areas be available at affordable housing costs to persons and families of low or moderate incomes.
- S. "Market Rate Rental Unit" means a Rental Unit that is not an Affordable Rental Unit or a Reconstructed Unit.
- T. "Nexus Study" means the Nexus Study entitled, Residential Nexus Analysis, and dated October 2014, that is maintained for public review in the Department of Housing or any subsequent nexus study approved by the City Council.
- U. "Pipeline Application" means a housing impact fee pipeline application for a residential development listing the qualifying City permit, the property description, address, and the number of all Market Rate Units in the residential development.
- V. "Planned Development Permit" shall have the meaning given in San José Municipal Code Chapter 20.100
- W. "Reconstructed Unit" means a dwelling unit that replaces a dwelling unit that was located on the same parcel and was occupied no more than five (5) years prior to the building permit application.
- X. "Recorded Covenant" means a recorded affordability restriction with a term of at least 55 years that limits the rental of the dwelling units to households with an income not exceeding 60% of the Area Median Income at Affordable Rent and is made for the benefit of and enforceable by the City, Santa Clara County or a State or Federal Agency.
- Y. "Rental Development" means a Residential Development that includes a multiple dwelling as defined in San Jose Municipal Code Section 20.200.340.

- Z. "Rental Unit" means a dwelling unit in a Rental Development.
- AA. "Residential" means any use of land specified as a residential use in Title 20 of this Code.
- BB. "Residential Development" means any development project, or portion thereof, that creates dwelling units.
- CC. "Schedule of Fees" means the schedule described in Section 4 below.
- DD. "Site Development Permit" shall have the meaning given in San José Municipal Code Chapter 20.100.
- EE. "Special Use Permit" shall have the meaning given in San José Municipal Code Chapter 20.100.

**SECTION 4. SCHEDULE OF FEES; INFLATION ADJUSTMENT**

- A. The Housing Impact Fee is hereby established and the amount of such fee shall be pursuant to the specific schedule of Housing Impact Fee rates consistent with the Nexus Study or subsequent nexus studies, is attached as **Exhibit A**, as may be amended from time to time (the "Schedule of Fees").
- B. To address inflation in the costs of developing affordable housing, the fee or fees listed in **Exhibit A** shall be increased annually by 2.4% each successive July 1.

**SECTION 5 APPLICATION; PAYMENT**

- A. The Housing Impact Fee shall apply to all Rental Developments. Nothing in this resolution shall restrict the ability of the City to require dedication of land, payment of fees, or construction of improvements for needs other than, or in addition to, those described in this resolution.
- B. The Housing Impact Fee shall be paid for each Market Rate Rental Unit, subject to the limitations set forth in this resolution.
- C. No application for a rezoning, tentative map, parcel map, conditional use permit, special use permit, building permit or other entitlement (each a "Development Permit"), shall be approved without compliance with this resolution. Compliance with this resolution shall be a condition of approval of all Rental Developments, whether or not the condition is expressly included in the Development Permit.

- D. Except as otherwise provided in this resolution or in the Schedule of Fees, no building permit for a Rental Development shall be issued unless and until the Housing Impact Fee has been paid or, alternatively, the Applicant has provided evidence of either compliance with or exemption from the provisions of this Resolution.
- E. Failure to pay the Housing Impact Fee within the time specified under this resolution shall result in the imposition of additional charges as set forth in the Schedule of Fees.

**SECTION 6. APPEAL OF IMPACT FEE PAYMENT TIMING**

- A. An Applicant may, prior to the issuance of the Applicant's building permit, seek to delay payment of the Housing Impact Fees until the earlier of issuance of the Certificate of Occupancy or date of the final inspection of the Applicant's Residential Development by filing a written appeal with the Director.
- B. The exclusive grounds for granting an Applicant's appeal to delay payment of Housing Impact Fees shall be as follows:
  - 1. The City has not established a Housing Impact Fee Fund or account, collected funds, authorized expenditure of Housing Impact Fee revenues on one or more specific Housing Facilities, and adopted a proposed construction plan or schedule for specific Housing Facilities.
  - 2. The housing impact fees are not intended to reimburse the City for expenditures that were previously made.
- C. Within ten (10) business days of receipt of the Applicant's request for delay of payment, the Director shall issue a written response to either uphold or deny the applicant's request for delayed payment of the Housing Impact Fees for the Applicant's Residential Development. The decision of the Director shall be final.
- D. An appeal of the timing of the Housing Impact Fees submitted after payment of the Housing Impact Fees shall be deemed untimely and shall not be considered.

**SECTION 7. AGREEMENT FOR DELAYED IMPACT FEE PAYMENT**

- A. In the event that the Director determines to uphold the Applicant's request for delay of payment, the Applicant shall enter into an agreement for the delayed payment of the Housing Impact Fees as a condition of issuance of the Applicant's building permit(s).
- B. The delayed payment agreement shall be recorded in the Office of the Santa Clara County Recorder and shall require the Applicant or the applicant's successor to pay the Housing Impact Fees for the Applicant's Residential Development, in full, no later than the date on which final inspection of the first dwelling unit within Applicant's Residential Development occurs. Failure to pay the Housing Impact Fee, when due, shall result in the imposition of additional charges as set forth in the Schedule of Fees.
- C. The delayed payment agreement shall have attached as an exhibit a legal description of the real property on which the Applicant's Residential Development is to be built. The Applicant shall be responsible for providing the legal description to the city at the Applicant's sole cost.

**SECTION 8. PIPELINE PROCESS**

The deadlines and requirements for the pipeline exemptions from the Housing Impact Fee (the "Pipeline Process") are set forth below.

- A. An Applicant's Rental Development will be eligible for the Pipeline Process (an "Eligible Pipeline Project") if: (1) the Applicant has obtained one or more of the following unexpired City permits: Planned Development Permit, Conditional Use Permit, Site Development Permit, or Special Use Permit no later than June 30, 2016 and (2) the Applicant fully completes a valid Pipeline Application to the satisfaction of the City and pays any established City administration, monitoring and processing fees for the Pipeline Process by June 30, 2016.
- B. Within 30 business days of receipt of a Pipeline Application City will provide notice by email of the completion of a Pipeline Application or a list of missing or

- incomplete items, however the failure of the Applicant to receive such notice shall not extend the June 30, 2016 deadline.
- C. An Applicant with an Eligible Pipeline Project who paid the housing impact fee at building permit issuance for all of its Market Rate Units will be entitled to a refund if the Applicant obtains a Certificate of Occupancy for the building(s) that include no less than 50% of the Market Rate Units by January 31, 2020.
  - D. If the Applicant with an Eligible Pipeline Project who entered into an agreement at building permit issuance to pay the housing impact fee at Certificate of Occupancy will be entitled to a waiver for all of its Market Rate Units if it obtains a Certificate of Occupancy for the building(s) that include no less than 50% of the Market Rate Units by January 31, 2020.
  - E. There will be no refunds or waivers for Eligible Pipeline Projects that fail to obtain a Certificate of Occupancy for the building(s) that include no less than 50% of the Market Rate Units by January 31, 2020.
  - F. The administration, monitoring and processing fees for the Pipeline Process shall be as provided in a future amendment to the resolution adopting the City's schedule of fees and charges. This fee shall include a base charge due upon the filing of the Pipeline Application that will cover the initial application review and the issuance of a letter stating that the application is complete, review of the application for Certificate of Occupancy and the issuance of a pipeline certificate described in this Section and an hourly charge that shall apply in the event that additional staff review, preparation of a letter listing missing items, or other communications are needed.

**SECTION 9. ACCOUNTING; USE**

- A. There is hereby established a Housing Impact Fee Fund. All Housing Impact Fees shall be deposited into the Housing Impact Fee Fund.
- B. Any repayments of loans made from Housing Impact Fees shall be deposited into the Housing Impact Fee Fund.



- C. The Housing Impact Fee Fund, including accrued interest, shall be subject to the all of the applicable provisions of the Mitigation Fee Act, including but not limited to the requirements for accounting, reporting and expenditure of the fund to increase the supply of affordable housing in San José.
- D. The Housing Impact Fee shall be used, consistent with the City's expenditure plan attached as **Exhibit B**, as amended from time to time, to increase the supply of affordable housing in the City, including acquisition, financing, construction, and development of Housing Facilities, and any necessary and reasonable costs for administering the Housing Impact Fee Fund.

**SECTION 10. EFFECTIVE DATE; INITIAL COLLECTION DATE FOR FEES**

- A. Consistent with California Government Code Section 66017, this resolution shall be effective sixty (60) days after adoption.
- B. Payment of the Housing Impact Fee shall be added as a condition of approval to Development Permits after the effective date.
- C. Notwithstanding Section 10.B, no Housing Impact Fee shall be due for any building that obtains its final Certificate of Occupancy on or prior to June 30, 2016.
- D. Notwithstanding Section 10.B, no Housing Impact Fee shall be due for any residential development with a development agreement approved consistent with San José Municipal Code Chapter 18.02 and recorded on or prior to June 30, 2016 that provides that the residential development is exempt from the Housing Impact Fee.

**SECTION 11. WAIVER**

- A. Notwithstanding any other provision in this resolution, the requirements to pay the Housing Impact Fee may be waived, adjusted or reduced if an Applicant shows based on substantial evidence, that there is no reasonable relationship between the impact of the proposed Rental Development and the requirement to pay the Housing Impact Fee, or that applying the requirements of this resolution

would take property in violation of the United States Constitution or California Constitution.

- B. Notwithstanding any other provision in this resolution, the requirement to pay the Housing Impact Fee shall be waived, adjusted or reduced to the extent an Applicant shows at, or prior to, the issuance of the Certificate of Occupancy for a Rental Development, the Applicant submits proof to the Director that either: (a) the Rental Development is located in a redevelopment project area and the requirements for For-Sale Units under the City's Inclusionary Housing Policy have been satisfied, or (b) the Rental Development is not located in a redevelopment project area and the Applicant has fulfilled all of requirements in state law and regulation to create a condominium, stock cooperative, or community apartment project and has conveyed at least one unit, or in the case of a stock cooperative, one share, to a bona fide purchaser for value in an arm's length transaction and evidence of the conveyance has been recorded.
- C. The Director shall review all submittals and requests under this Section. Within thirty (30) business days of receipt of the Applicant's submittals, the Director shall provide a written response regarding such request. The decision of the Director shall be final.

**SECTION 12**      **MISCELLANEOUS.**

- A. The recitals above and the attached exhibits are hereby made a part of this resolution.
- B. The findings and determinations made hereunder are based on the evidence in the record including the Nexus Study, the General Plan, this Resolution and the reports submitted by staff in connection with the approval of this Resolution.
- C. The Director may adopt such rules and regulations as are needed to implement the intent of this Resolution.
- D. If any section, subsection, sentence, clause, or phrase of any provision of this Resolution, including its attachments, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such

decision shall not affect the validity of the remaining portion of this resolution. Each and every section, subsection, sentence, clause or phrase of this resolution, including its attachments, is severable from all other sections, subsections, sentences, clauses or phrases.

ADOPTED this 18th day of November, 2014, by the following vote:

AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO, NGUYEN, ROCHA.

NOES: KHAMIS, OLIVERIO; REED.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

VACANT: NONE.



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CHUCK REED  
Mayor

ATTEST:



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TONI J. TABER, CMC  
City Clerk

**EXHIBIT A**

**SCHEDULE OF HOUSING IMPACT FEES**

**Section 1. Schedule of Fees.**

A. The housing impact fee(s) are listed in the table below by development type.

B. Fees shall be assessed for each Market Rate Rental Unit on the basis the square feet inside the dwelling unit. Fees will not be charged for areas outside of the dwelling units such as common areas or corridors.

<b>Development type</b>	<b>For each Market Rate Unit as of July 1, 2016</b>
1. Rental Development	<b>\$17.00</b> per square foot of floor area
2. Downtown High Rise Rental Development	<b>\$17.00</b> per square foot of floor area

No housing impact fee shall be collected for Downtown High Rise Rental Developments that obtain their final certificate(s) of occupancy on or prior to June 30, 2021. This exception is based on the findings in the staff report and elsewhere in the record.

C. Fees shall be increased for inflation as described in the Resolution.

D. Floor area shall be measured from the outside surface of the exterior stud walls and shall include all finished living space, but will not include unheated unenclosed spaces such as balconies, patios, unfinished garages or outside storage lockers. This will typically be the unit size an architect shows on building plans.

**Section 2. Late Fees; Untimely Payment.**

A late payment fee will be added to the housing impact fee when a housing impact fee is delinquent. This late payment fee shall be as provided in a future amendment to the resolution adopting the City's schedule of fees and charges. In addition, interest at the rate of one half of one percent (1-1/2%) per month, pro rata, on the total unpaid balance, including late payment fees, shall be assessed from the date the payment of the fees becomes delinquent until the date that all past due amounts are paid to the City.

**EXHIBIT B**  
**EXPENDITURE PLAN**  
**FOR HOUSING IMPACT FEE REVENUE**

**Background**

Revenue from the proposed Housing Impact Fee is intended to be used to increase the supply of affordable housing for extremely low-, very low-, low- and moderate-income households (Housing Impact Fee Program) including acquisition, financing, construction, and development of Housing Facilities and any necessary and reasonable costs for administering the Housing Impact Fee Fund to address demand from workers in jobs created by the increased demand for goods and services resulting from the increased City population occupying new market-rate rental housing developments. The purpose of this plan is to specify the proposed uses of the Housing Impact Fee and how such uses are intended to mitigate the increased demand for affordable housing related to the development of market rate residential development. The plan also provides the estimated cost required to provide the Housing Facilities to mitigate this demand and the revenue sources anticipated to be available to fund those Housing Facilities. Additionally, this plan identifies the type of affordable housing projects that may be the source of Housing Facilities and lists some exemplar projects.

**The Estimated Cost of the Housing Impact Fee Program**

*Projected Growth and Projected Demand for Affordable Housing*

According to the most recent Regional Housing Needs Allocation projections for the 8.8 year Projection Period from Jan 1, 2014-October 31, 2022 published by the California Department of Finance and the Bay Area Association of Governments ("ABAG"), between the City will grow by a (annualized) rate of 3,986 households per year, with 1,617 of these new households being above 120% AMI ("Market Rate Households"). According to City permit history, it is anticipated that 89% of these Market Rate Households, approximately 1,439 households, will seek housing in rental housing projects to be constructed in the City ("Market Rate Rental Households") each year.

*Schedule of Improvements to Meet Projected Growth and Estimated Cost*

The Nexus Analysis (dated October 2014, and prepared for the City by Keyser Marston Associates, Inc.) indicates that for every 16.3 units of housing affordable to moderate income and below are needed for every 100 new market rate apartment units ("16.3/100 relationship") and 14.5 units are needed for every 100 new high-rise market rate units ("14.5/100 relationship"). Using the 14.5/100 relationship, the 1,439 new Market Rate Rental Households will generate a demand for 209 affordable units.

As shown in the table below 23% of those 209 units (48) would be housing affordable to Extremely Low – Income households; 34% of those 209 units (71) would be housing affordable to Very Low – Income households, 28.7 % of those 209 units would be housing affordable to Low – Income households (60) and 14.3% would be housing affordable to moderate income households (30). The estimated subsidy amount for each type of unit is shown in the table below.

<b>Income Level</b>	<b>Max Area Median Income</b>	<b>Percentage of Demand</b>	<b>Subsidy Amount Per Unit</b>
Extremely Low-Income	30%	23.0%	\$256,000
Very Low-Income	50%	34.0%	\$186,000
Low-Income	80%	28.7%	\$151,000
Moderate-Income	120%	14.3%	\$121,000

The total estimated annual cost of **\$38,184,000** to fully meet this demand units is calculated based on the number of each type of unit and estimated subsidy amount for that type or  $(48 * \$256,000) + (71 * \$186,000) + (60 * \$151,000) + (30 * \$121,000)$ . If the Apartment Prototype (with a 16.3/100 relationship) is used for the estimates, the 1,439 new Market Rate Rental Households will generate a demand for 234 affordable units resulting in a total cost of \$42,628,000 which reflects this unit cost allocation  $(54 * \$256,000) + (79 * \$186,000) + (67 * \$151,000) + (33 * \$121,000)$ .

### **The Estimated Revenue of the Housing Impact Fee Program**

Using the assumed 1,439 New Market Rate Households, an assumed 900 square foot unit (the nexus analysis prototype for a high-rise unit is 900 square foot), and a \$17.00 per square foot rate once the Housing Impact Fee Program is fully applicable it could generate an annual revenue of \$22,016,700, approximately 58% of the amount that it would take to fully meet the identified demand.

Once the Housing Impact Fee Program is fully applicable, the projected Housing Impact Fee revenue would be \$24,218,370, if the revenue estimate is based on a 990 square foot unit used for the Apartment Prototype in the Nexus Analysis.

### **Other Revenues**

The City has other revenues that are currently used for the development of affordable housing. They include the HOME Investment Partnership fund; the Low- and Moderate-Income Housing Asset Fund; Inclusionary Housing In-Lieu Fees; and the

Housing Trust Fund. These funding sources are not available to fund the Housing Impact Fee Program because they are already in use to meet existing affordable housing related needs. The City's General Fund is already fully committed pursuant to the City adopted budget and is needed on an ongoing basis to fund activities that promote and protect public safety and provide other general municipal services and is not available to address the impacts of this future development.

### **Types of Projects to be Subsidized by the Housing Impact Fee Program**

The purpose of the Housing Impact Fee is to provide funding to the City to increase the supply of affordable housing units by financing development of affordable housing and acquiring affordability covenants in exchange for that financing. The Housing Facilities that will be acquired with this revenue from the impact fee include property acquired or proposed for acquisition by the City for affordable housing purposes and any improvements constructed thereon and recorded affordability restrictions that are made for the benefit of and enforceable by the City.

Consistent with the City's Housing Department policies, City subsidies for extremely low-, very low- and low-income housing are intended to be in the form of loans to developers of affordable rental housing developments that will be subject to City affordability restrictions or acquisition of sites for affordable rental housing developments. The subsidy amounts shown are above are based on the assumption that the projects to be subsidized will be are financed by tax-exempt bonds and 4% Low-Income Housing Tax Credits.

The following list of proposed affordable housing projects presents examples of the types of rental housing developments that could be funded with Housing Impact Fee revenues:

<b>Proposed Project</b>	<b>Developer</b>	<b>ELI</b>	<b>VLI</b>	<b>LI</b>	<b>Total</b>
2500 Senter Road	Charities	12	88		100
Sunol & W. San Carlos	CORE	34	34	36	104
Evans Lane (City-owned site)		138	138	139	415

Actual currently active projects are not listed at this time, but once the Fund is established, annual reports will be provided consistent with Mitigation Fee Act requirements. No Housing Impact Fee revenues will be expended on any project prior to environmental review. Additionally, since tax credit funding is awarded on a competitive basis, and assembly of project funding also requires commercial lender participation, the projection of any specific projects is subject to change. In the first few years of operation the fund, it is anticipated that the Fund may not have collected enough revenue to operate effectively as the sole City funding source for such projects

and if that is the case, it is anticipated that proceeds from the Fund may be used with other City funds.

The City's General Plan goal H-2.1 includes the provision of affordable moderate income housing and goal H-1.6 encourages purchase assistance programs for starter housing. The City's Housing Department has always funded moderate income affordable housing as ownership housing (typically through a first time homebuyer program) because market rate rental units have not typically required subsidy to be affordable to moderate- income households and the City has always encouraged home ownership. City subsidies for moderate-income housing likely will be in the form of down-payment assistance loans to first-time homebuyers for the purchase of existing single-family homes, townhouses, and condominiums in San Jose, although grants for low to moderate income self-sufficiency housing (e.g., Habitat for Humanity) programs may also be funded. Such loans and grants will require the beneficiary to record an affordability restriction for the benefit of and enforceable by the City.