CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: October 23, 2019

Approved D. DSyl Date 10/25/19

SUBJECT: INCLUSIONARY HOUSING ORDINANCE PROPOSED REVISIONS

RECOMMENDATION

(a) Accept the staff report and direct the City Attorney to return with an ordinance amending the Chapter 5.08 of the Municipal Code, including the following changes as described in this staff memorandum:
1. Apply the Inclusionary Housing Ordinance on developments with five units or more;
2. Serve a wider range of incomes for rental housing to 5% at 100% of the Area Median Income (AMI), 5% at 60% of the AMI, and 5% at the 50% of the AMI;
3. Restructure the in-lieu fee option to apply the fee on a square foot basis and change the amount to $43 per square foot for rental development and $25 per square foot for for-sale development;
4. Encourage rental developments to choose on-site compliance option by setting the in-lieu fee to $18.26 per square foot where at least 5% of the units are provided on-site and allowing affordable units to be located in a separate building on-site;
5. Update the requirement to locate offsite units within the same redevelopment area to areas of opportunity;
6. Ensure units remain affordable as long as practical by extending the period of affordability to 99 years;
7. Adjust affordability requirements for co-living units to 90% of studio rents; and
8. Update program administration to allow recertification every two years.

(b) Direct the Director of Parks, Recreation and Neighborhood Services to explore an amendment to the Park Impact Ordinance (SJMC 14.25) to clarify that on site deed restricted 100% AMI rental units qualify for a 50% per unit credit towards the payment of park impact in-lieu fees.

(c) Direct staff to develop geographic market areas to phase in the in-lieu fee adjustments over time.

OUTCOME

Approval of the recommended actions will provide staff direction to update the Inclusionary Housing Ordinance and will help facilitate the development of both market rate and below market rate affordable housing.

EXECUTIVE SUMMARY

The City has set a goal of producing 10,000 affordable units by 2022 but current resources are not sufficient to achieve that goal. The Inclusionary Housing Ordinance (IHO) plays a role in contributing to this goal, but policymakers would like to ensure that the Ordinance's requirements are appropriate given the feasibility challenges currently facing the local housing market.

The Keyser Marston Associates, Inc. (KMA) Cost of Development study found that high density apartments and condominium projects are estimated to not meet the minimum threshold on returns necessary for developers and investors to move forward, except in the most favorable locations. Development costs have been rising over the past several years at approximately twice the historical rate of increase. While rents and sales prices have also risen, the pace of cost escalation is out pacing rent growth, creating more challenging conditions for projects to move forward. The IHO represents an estimated 4% to 5% of total development costs for new high-density condominiums and apartments and so it is not the primary driver of costs. However, the current challenging cost environment is an important consideration for updating IHO requirements in a manner that helps to facilitate development of needed market rate and affordable housing.

A majority of projects currently underway have selected the in-lieu fee compliance option rather than building units on-site. Policymakers have indicated a general preference for the program to produce on-site units in the neighborhoods where new market rate housing is being built. One solution would be to raise the in-lieu fee which would make on-site units a relatively more attractive option for projects. However, the KMA Cost of Development study does not indicate an ability for projects to produce the units on site. So, the challenge is to find ways to increase the share of projects choosing to provide some portion of the affordable units on-site without increasing the net cost to developers of complying with the IHO.

Priorities for IHO Update

There are two main short-term priorities for this Ordinance update:

1. Respond to changes in market dynamics by adding more flexibility to the compliance options for on-site performance.
2. Offer a wider range of income targeting options but allow the provision of family-sized housing units that are affordable for the lowest income populations.

Summary of Proposed Changes

A. Apply IHO Requirements to Small Projects
- A.1 Reduce minimum project size subject to IHO to five units
- A.2. Phase in the in-lieu fee for small projects

B. Serve a Wider Range of Incomes
- B.1 Expand Income Tiers for Rental On-site and Off-site Projects
- B.2 Facilitate the Development of Extremely Low-Income Units
- B.3 Explore extending the Park Fee Discount to 100% of AMI Rental Units

C. Restructure the in-lieu fee option
- C.1 Apply the In-Lieu Fee on a Per Square Foot Basis
- C.2 Tie the In-Lieu Fee Calculation to the Per Unit Affordability Gap
- C.3 Set a Lower Fee Outside of Strong Market Areas
- C.4 Cap the Annual Fee Adjustment
- C.5 Provide Advance Notice of Fee Increases

D. Encourage Projects to Choose On-site Compliance
- D.1 Offer an Adjusted Schedule of In-Lieu Fees for Mixed Compliance Projects
- D.2 Adjust the Mixed Compliance Fees as the Market Changes
- D.3 Allow Affordable Project Immediately Adjacent to the Market Rate Project

E. Clarify Requirements for Off-Site Projects
- E.1 Limit Off-Site Project Locations
- E.2 Allow Flexibility for Construction of Off-site Affordable Developments
- E.3 Define a Minimum Standard for Contributions to Off-site Affordable Projects

F. Ensure that Units Remain Affordable for as Long as Practical
- F.1 Extend the Period of Affordability to 99 years
- F.2 Allow Flexibility for 100% Affordable Housing Projects When Necessary
- F.3. Explore Creating a Resale Restriction Program for Homeownership.

G. Facilitate Development of Specific Project Types
- G.1 Temporarily Set an Adjusted In-Lieu Fee for Downtown High Rise Projects
- G.2 Incorporate Co-Living Building Type

H. Update Program Administration and Monitoring
- H.1 Allow Recertification of Tenant Income Every Two Years
- H.2 Allow for Projects that Change Tenure and Add Monitoring Process

BACKGROUND

Over the past 30 years, San José has used a range of tools to respond to the need for affordable housing in our community. These tools include using tax increment financing, inclusionary housing policies, and, most recently, an impact fee. Inclusionary housing (also referred to as inclusionary zoning) is, as described by the California Supreme Court, a land use restriction limiting the way the developer may use its property by limiting the price for which the developer may offer some of its units for sale. It relies on the production of market-rate housing to produce the affordable units with no subsidy from the City and it furthers broader public goals including to assure that new affordable housing is distributed throughout the city in economically diverse developments. According to the Lincoln Land Institute, over 800 jurisdictions in the United States currently have inclusionary housing programs. Because the City does not offer subsidies and provides limited off-sets; the policy makers must evaluate how to balance the affordability requirements without impacting the production of market-rate housing.

Inclusionary Policy (Redevelopment Areas only) 1988 – June 2016

Since 1988, the City administered the Inclusionary Housing Policy (Policy) which required that twenty percent (20%) of all for-sale developments of 10 or more units located in Redevelopment Project Areas be price-restricted and sold to moderate-income purchasers (12% of the Area Median Income – AMI) and twenty percent (20%) of all rental developments of 10 or more units be restricted to very low income (50% AMI) and low (60% AMI) or moderate (120% AMI) income households. Per the Policy, a developer provided the income restricted inclusionary housing units required by the Policy without the use of Housing Department funds. The Policy, as last amended in 2007, included alternative compliance options including payment of an in-lieu fee (at $17 per square foot), dedication of land, developing a stand-alone affordable project off-site, and a combination of these methods. The Policy was replaced when the Inclusionary Housing Ordinance (Ordinance) became operative.

Inclusionary Housing Ordinance (IHO)

On January 12, 2010, the San José City Council adopted the Inclusionary Housing Ordinance, Chapter 5.08 of the San José Municipal Code. The Ordinance applies to for-sale and rental market rate developments of 20 or more units. Although the Ordinance was operative on January 1, 2013, its implementation of for-sale provisions was initially prevented by a stay imposed by the Santa Clara County Superior Court, resulting from a challenge submitted by the California Building Industry Association (CBIA) in *California Building Industry Association v. City of San José*. The Superior Court's decision was overturned by the 6th District Court of Appeal. The stay was terminated in 2015 after the California Supreme Court affirmed the Sixth District ruling upholding the Ordinance and remanding the case to the Superior Court. The CBIA filed a petition for a writ of certiorari with the U.S. Supreme Court seeking review, but the U.S. Supreme Court denied CBIA's petition for certiorari on February 29, 2016. The complete history of the Inclusionary Housing program the Inclusionary Policy including the amount of units produced under the program and the fees collected is detailed in **Attachment A**.

Compliance Options – The Ordinance provides several ways that a developer may meet the affordable unit requirement. This includes the preferred method of providing 15% of units on-site. Developers may choose an alternative option to satisfy their affordable housing requirement. When a developer elects an alternative option, such as building the units off-site or paying an in-lieu fee, the inclusionary requirement is based on 20% of the total units in the project. The developer may propose an alternative compliance option or combination of methods for City consideration and approval as long as the proposed alternative provides substantially the same or greater level of affordability and the amount of affordable housing is as otherwise required. See the Inclusionary Housing Website for more details on each compliance option: www.sjhousing.org/IHO.

Inclusionary Grace Period – On March 29, 2016, City Council adopted a resolution providing a grace period suspending the Ordinance requirements for projects that had acquired all their Planning Permits on or before June 30, 2016.

Rental Affordable Housing Impact Fee (AHIF)

The rental provisions of the Ordinance were suspended until January 1, 2018 due to the *Palmer* case. Due to this suspension, the Housing Department had a Residential Nexus Analysis prepared by KMA to support the creation of a rental Affordable Housing Impact Fee (AHIF). The Nexus Study established a reasonable relationship between the development of market-rate rental housing and the increased need for affordable housing. On November 18, 2014, the City Council adopted the AHIF Resolution, establishing the AHIF Program which required rental developments with three (3) or more units to pay an AHIF based on a $17 per square foot fee and included a 2.4% escalator (increasing the fee by 2.4% at the start of each fiscal year). Under the AHIF, the only compliance option is the impact fee. The current AHIF is $18.26. See the AHIF Website for more details and the full rate schedule: www.sjhousing.org/AHIF. On December 18, 2018, Housing Staff presented the first AHIF Annual Report to City Council. Since the end of Fiscal Year 2017-2018, June 30, 2018, approximately $1.6 million has been collected in AHIF fees. Staff estimates an additional $30 million will be collected by 2020. The next AHIF Annual Report (FY 2018-2019) will be considered by the City Council on October 29, 2019.

Transition Between the AHIF and the Ordinance

On September 29, 2017, the Governor signed Assembly Bill (AB) 1505, clarifying the State Legislature's intent to supersede the court decision in Palmer v. City of Los Angeles, thus ending the suspension and allowing the Ordinance requirements to apply to rental residential developments effective January 1, 2018.

On December 19, 2017 the City Council adopted resolution 78473 amending the Housing Impact Fee Resolution to provide a framework for a transition process between the existing AHIF and the Large Project IHO between January 1, 2018 and June 30, 2018 for projects with 20 or more rental units. Staff also clarified that rental developments with three (3) to nineteen (19) units are still subject to the AHIF and that for-sale projects with nineteen (19) or fewer units are exempt from both the Large Project IHO and AHIF.

As a result, the City of San José currently implements two affordable housing programs that are dependent on the development of market-rate housing: An Inclusionary Housing Ordinance program that applies to rental and for-sale residential developments of twenty (20) units or more and an Affordable Housing Impact Fee program that applies only to rental residential developments of three (3) to nineteen (19) units ("small" rental projects). For-sale residential projects of nineteen (19) units or less ("small" for-sale projects) are not covered under either program. Table A summarizes the current Affordable Housing Programs.

Table 1: Current Affordable Housing Programs

Project Size	For-Sale	Rental
20 units or more	Inclusionary Housing Ordinance: Multiple compliance options	Inclusionary Housing Ordinance based on number units: Multiple compliance options
3 to 19 units	N/A	Affordable Housing Impact Fee: The impact fee is the only compliance option and applies on a per square foot basis.

Small Project Inclusionary Housing Ordinance

On October 24, 2017 Council directed the City Attorney and Housing Department to return with a new ordinance that imposes an inclusionary housing obligation on for-sale and rental projects with three (3) to nineteen (19) homes.

This proposed action was discussed by the Community and Economic Development (CED) Committee on March 26, 2018 and staff was directed to return to the committee after completion of a Cost of Development Study. On September, 29, 2018, the CED Committee received a staff report on the Small Project Inclusionary Housing Ordinance and voted to forward to the full City Council for approval with the following recommendations on the design of the structure of a Small Project Inclusionary Housing Ordinance imposed on new developments:

a) Build on-site as the preferred compliance option
b) Provide an in-lieu fee, based on a per square foot basis, as an alternative compliance option
c) Apply the requirement to projects with a unit size between three (3) to nineteen (19) units

As directed by the Rules Committee on November 14, 2018, the development of a separate "Small Project Inclusionary Housing Ordinance" was deferred from the November 27, 2018 City Council meeting agenda to allow staff to incorporate the proposed changes into the revisions of the existing IHO.

Staff is recommending these proposed revisions to the IHO as identified by staff and in prior Council direction.

ANALYSIS

San José developed the existing IHO based on four key goals:

- Simplicity: The Ordinance should be easy for developers to understand and the City to administer
- Flexibility: The Ordinance should give developers as many alternatives as possible for compliance
- Consistency and Fairness: All developers should be treated equally, particularly with respect to projects in the pipeline.
- Certainty: Developers, affordable housing advocates, and the City should have advanced knowledge of what the impacts and outcomes will be with an inclusionary housing policy. The rules and process of the Ordinance should be clearly defined.

There are two main short-term priorities for this Ordinance update:

1. Respond to changes in market dynamics by adding more flexibility to the compliance options for on-site performance without increasing the typical cost of compliance.
2. Offer a wider range of income targeting options but allow the provision of housing units that are affordable for the lowest income populations.

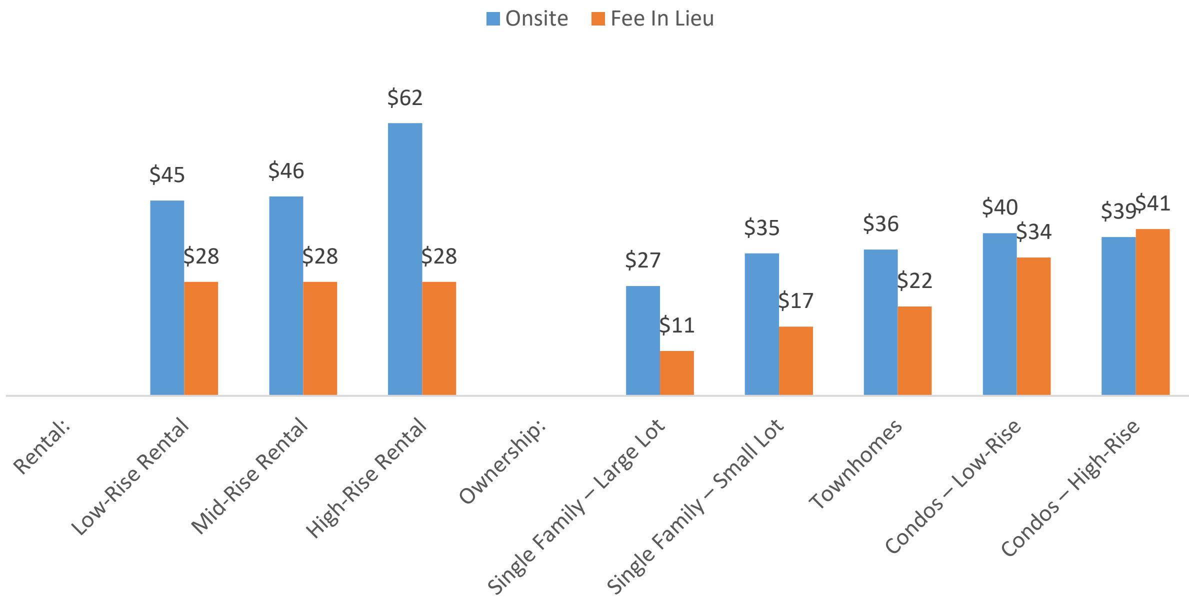
Current Implementation Challenges:

Based on recent experience managing the program as well as feedback from housing advocates, developers, and stakeholders, staff has identified the following key challenges with the current ordinance which the proposed changes are intended to address:

1. Lack of Incentives for On-site Performance

   Currently the IHO in-lieu fee is less costly than on-site performance. KMA estimates that for nearly all common development prototypes, the cost of providing the required units on-site is higher than the cost of paying San José’s current in-lieu fee.

Chart 1: Estimated Cost of Compliance Options (Per Net Square Foot)



Source: Keyser Marston Associates, Analysis and Context Materials in Support of Updates to the City's Inclusionary Housing Ordinance, October 2019.

As a result, all but one recent project has selected the in-lieu fee option and this is likely to be the case for nearly all upcoming projects as well. While the City is able to reinvest in-lieu fee revenue to produce needed affordable housing serving a lower target income, a goal of the IHO has been to produce affordable housing on-site to create a mixed-income development. Compliance exclusively through in-lieu fee payment is not well aligned with the IHO goal of producing affordable units in the same locations as market rate units. Creating a program that encourages on-site development ensures that the new development will also serve a greater income range of households.

Most inclusionary housing programs rely on density bonuses and other planning incentives to improve the feasibility of on-site development of affordable units. Because only projects with on-site units benefit, density bonuses can make on-site more attractive to developers. Adopted in May 2018, San José's Density Bonus Ordinance offers projects that include affordable units on-site a density bonus of up to 35% as well as reductions in required parking and the opportunity to waive other development standards, if necessary, to achieve the increased density. However, very few projects have taken advantage of the density bonus option and of those projects, all are 100% affordable developments. Developers report that the demand for additional density is not great enough and community opposition to increased density results in many projects building less than the maximum density currently available. While this dynamic could change, under current conditions, the density bonus is not likely to provide a significant incentive to build on-site.

Another common incentive for on-site performance is expedited permitting. Many cities commit to processing land use applications more rapidly for projects that include on-site affordable units. When approvals are streamlined and there is an easier permitting path, it can make a significant difference both to the total cost of development and the associated risks. In our feedback sessions however, some developers expressed skepticism that a streamlined process was possible in San José or that it would make a significant difference. There was agreement that, if it was possible to further streamline the process, that would encourage developers to choose the on-site option.

2. Challenging Project Economics

A "Cost of Development Study" ("COD Study") was prepared by Keyser Marston Associates examining the economics of rental and for-sale residential development in San José, updating and expanding a prior version of the study prepared in 2018. Findings of the COD Study have informed proposed updates to the IHO.

In general, KMA found that construction costs have been rising more rapidly than rents or sales prices in recent years. This has resulted in returns on new development falling below the required levels for high density rental and for-sale projects in most parts of San José while lower density single family and townhome projects were found to achieve target return levels. KMA found that projected returns for rental prototypes outside of West San José fall below the level that developers require whether projects choose the on-site option or the in-lieu fee. However, the fee option is significantly less costly and in many parts of the city the returns with the fee option are close enough to the necessary level that small adjustments in rents or land prices would be sufficient for projects to move forward.

Table 2: Estimated Developer Return for Rental Projects

		Existing IHO
Prototype	Location	w/ In-Lieu Fee of $125,000 per required affordable unit (~$28/SF)
Low-Rise	South and East	0%
Low-Rise	Central	7%
Mid-Rise	Central	6%
Mid-Rise	West	17%
Mid-Rise	North	5%
High-Rise	Downtown	0%

Key

Achieve or Exceed Target 10%-15% Develop Return
Substandard Developer Return: 5% - 9%
Low or No Developer Return

For ownership projects, townhomes have the strongest feasibility among for-sale project types and single-family projects are also feasible. Both of these lower rise types generate sufficient profits to support the current IHO requirements. Low-rise stacked condos have not been an active development type in San José in recent years; however, these projects are approaching feasibility in stronger locations.

Table 3: Estimated Developer Return for Condo Ownership Projects

	Existing IHO
	w/ In-Lieu Fee of $192,946 per required affordable unit
Low-Rise Condo: South and East	0%
Low-Rise Condo: Central, West, North	8%
High-Rise Condo: Downtown	0%

Key

Achieve or Exceed Target 10%-15% Return
Substandard Return: 5% - 9%
Low or No Developer Return

KMA also found that development costs for high-rise residential are generally not supported by current sales prices and rent levels in the Downtown. However, interest in high-rises has grown as plans for new large office developments have taken shape. Co-living projects promise to perform better financially but remain an unproven project type.

3. Narrow Income Targets

Currently the IHO program primarily serves households earning less than 50% or 80% of Area Median Income (AMI) in rental properties and 120% of AMI in ownership projects.

Table 4: San José On-Site Requirements (Current)

Rental	% Required
Rents at 80% AMI Rents	9%
at 50% AMI	6%

Ownership	% Required
Priced at 110% AMI (eligibility up to 120%)	15%

While any household earning less than these upper limits might be eligible, in practice applicants must earn something close to the income cap to qualify and afford the monthly costs. As a result, the program provides housing opportunities for a fairly small band of incomes. A much wider range of San José residents are experiencing housing affordability challenges. These households typically do not qualify for subsidized affordable housing programs and cannot afford new market-rate housing.

Many inclusionary housing programs serve a wider range of incomes by offering the developer to build, 1) some units at each income level; 2) fewer units at lower income levels; or 3) more units at higher income levels. For example, San Francisco serves a wider range of incomes by requiring multiple income tiers in each on-site project. Their requirements reach both lower and higher income groups than San José's current IHO.

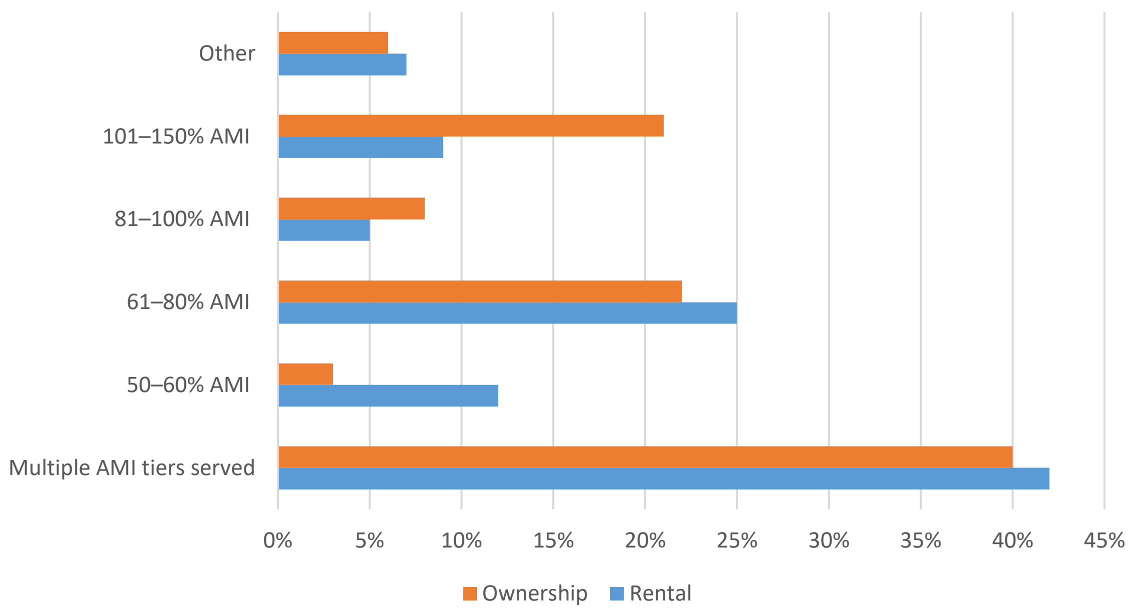
Table 5: San Francisco On-site Requirements

Rental	% Required
Rents at 55% AMI	10%
Rents at 80% AMI	4%
Rents at 110% AMI	4%
Total	18%

Ownership	% Required
Priced at 80% AMI	10%
Priced at 105% of AMI	5%
Priced at 130% of AMI	5%
Total	20%

Researchers at the Lincoln Institute of Land Policy and Grounded Solutions Network surveyed 800 jurisdictions with Inclusionary Housing programs and found that those programs served a range of incomes from 50% of AMI to 150%. Forty percent of programs split required units between more than one income tier.

Chart 2: Income Targets in Inclusionary Housing Programs Nationally



Source: Grounded Solutions Network

The June 2018 amendments to San José's Housing Crisis Workplan included a recommendation that the IHO be amended to allow developers the option to provide only low or moderate income units as long as a higher number of units were provided and the city established a citywide cap on the number of moderate income units "to ensure we do not dilute funding needed for ELI, VLI and LI housing."

4. Inconsistency with AHIF

   The City created the AHIF because the Palmer Decision was preventing the City from imposing on-site inclusionary housing requirements on rental projects. The City now maintains two separate programs. The IHO applies to rental and ownership projects with 20 or more units while the Affordable Housing Impact Fee (AHIF) applies to rental projects with 3-19 units. However, there is no advantage to applying a separate set of AHIF requirements to some projects and not others. Going forward, having all projects comply with the IHO instead of the AHIF would simplify program administration and understanding of requirements.

5. Uncertainty About Future In-Lieu Fee Levels

   Under the current program, the city updates the IHO in-lieu fees each July as part of the City's Schedule of Fees and Charges update. Rental fees are updated based on the historical level of subsidy provided to affordable housing projects funded by the City. This number can change significantly from year to year based on the specific characteristics of recently funded projects. Changes to the Low-Income Tax Credit Rules together with new State funding sources will likely lead to more variability in the level of subsidy per City funded affordable units over the next few years.

   In 2019, staff calculated that the rental in-lieu fee would be $180,511, a significant increase over the $125,000 fee for the prior year. Because the annual change may have negatively impacted projects already in the pipeline, staff recommended continuing the $125,000 fee for another year. Because the new fees are effective immediately after they are published and based on information that is not readily available to private developers, it is difficult for projects to accurately predict the level of in-lieu fee that they will be required to pay.

   Instead of setting the in-lieu fee based on the subsidy needed for off-site projects, many cities set it based on the affordability gap for on-site affordable units (the difference between the value of a market rate unit and an income restricted affordable unit). This calculation is generally more stable over time and projecting it into the future only requires estimating future rents and incomes – factors which private developers are already tracking closely. In addition, some cities provide advance notice of fee changes so that developers have more time to prepare for increases.

6. Downtown High-Rise Exemption Expiring

   On November 18, 2014, the City Council adopted the Affordable Housing Impact Fee Resolution establishing the AHIF program. The resolution included a time-limited exemption for Downtown High-Rise rental projects. The Downtown High-Rise Exemption allows a development to be exempted from paying the Fee, if they met several criteria including that they receive a Certificate of Occupancy prior to June 30, 2021. Currently nine projects are considered eligible. On September 24, 2019, Council directed staff to extend the June 2021

Certificate of Occupancy deadline to December 31, 2023 in order to ensure these projects can meet the required milestones for exemption from the AHIF.

In order to transition rental downtown high-rise developments between the AHIF and IHO, City Council adopted a resolution on June 26, 2018 authorizing a reduction in the Inclusionary in-lieu fee to $0 (per in-lieu unit) for High-Rise rental developments if they obtain issuance of all Certificates of Occupancy on or prior to June 30, 2021. These downtown high-rise rental projects may elect to build affordable units on-site or they may elect to qualify for this reduction in the Inclusionary in-lieu fee to satisfy the project's Inclusionary obligation. Currently, any new projects, whether rental or for-sale, being proposed in the Downtown are subject to the IHO.

The city commissioned Strategic Economics to study the feasibility of downtown high-rise projects. Their report dated September 12, 2019 concludes that

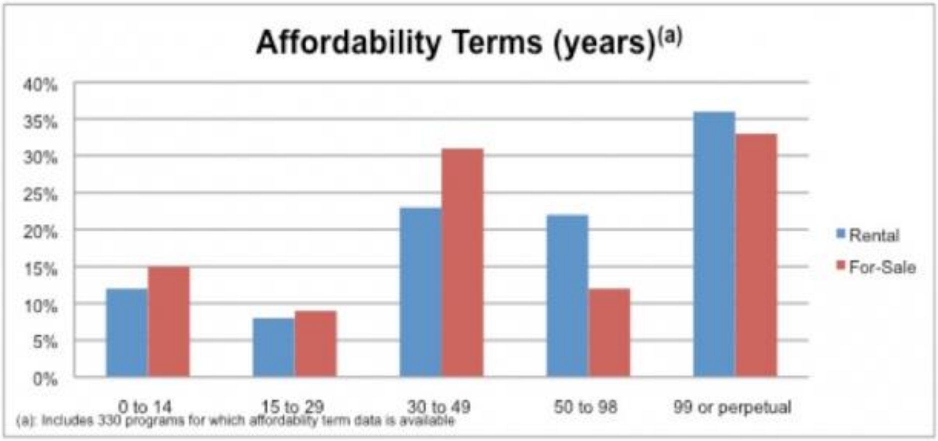
> "Given currently high construction costs, a typical high-rise development in downtown San José is not financially feasible… With the current high level of development costs, average rents would need to increase by 20 percent (to $4.80 per net square foot or $3,840 per unit monthly) for the development to be feasible given current costs… It may require a few years of favorable trends (e.g., a continued strong rental market combined with flat development costs) to reach the market conditions needed for feasibility."

These conclusions are generally consistent with the findings from KMA's Cost of Development study. As a result, the Administration is recommending as a part of this update to the IHO, that the downtown high-rise development in-lieu fee exemption should be extended on November 5th. This action will be discussed in a separate memorandum.

7. Period of Affordability

Currently the IHO program requires 55-year affordability restrictions for rental projects and 45 years for homeownership units. These terms were specified as the minimum periods of affordability under California Redevelopment Law. However, redevelopment law does not govern San José's Ordinance. Most cities have imposed longer periods of affordability to maximize the public benefit of inclusionary housing requirements. Rental developments constructed under San José's Inclusionary Housing Policy are now nearly half-way through their affordability period. Upon the expiration of the affordability restriction, the units will convert to market-rate housing and will no longer be affordable to moderate and low-income tenants. Grounded Solutions Network, a national nonprofit supporting affordable housing programs, surveyed 330 inclusionary housing programs nationwide and found that more than one third used affordability restrictions lasting 99 years or longer. There is a clear trend of cities moving from shorter affordability periods to longer, as policymakers across the country have recognized the value of preserving these units over the long-term.

Chart 3: Affordability Terms



Source: Grounded Solutions Network

8. On-Site (Adjacent) 100% Affordable Projects are Prohibited

   Under the current rules, on-site affordable units must be distributed evenly throughout any project. While this requirement helps avoid situations where the affordable units are clustered in the least desirable portion of a project (ie. the back or lower floors, etc.), it also prevents developers from accessing federal housing resources like the Low-Income Housing Tax Credit (LIHTC) which could help make on-site units more feasible. Some cities facilitate leveraging LIHTC by allowing developers to provide affordable units in a 100% affordable housing building located on a portion of the site or immediately adjacent to a market-rate project. While this strategy only makes financial sense for larger projects, it can provide an effective way to produce more affordable units in the neighborhoods where new projects are being built.

9. Off-site Location Limits No Longer Appropriate

   The IHO allows developers the option to provide 20% of units in an off-site location instead of 15% on-site dispersed in the market-rate project. This kind of off-site option is common. Many cities provide some limits on the location of off-site projects to ensure economic integration and avoid locating affordable units on the other side of town, far from the principal market rate development. Currently only projects located in a Redevelopment Area have limitations to where the off-site project can be located; the off-site projects must be located in the same redevelopment area. With the elimination of Redevelopment, it makes sense to adopt new language to ensure that off-site locations are tied to current programs while meeting the original intent of locating affordable units near the primary market rate development.

10. Off-Site Partnerships are Challenging

    San José's IHO allows developers to provide affordable units off-site and this may be accomplished through partnerships with local nonprofit affordable housing developers. These partnerships have a number of benefits compared with either on-site compliance or payment of the in-lieu fee. Off-site projects must provide 20% affordable units instead of the 15% required on-site and they serve significantly lower income groups than would be required on-site due to the requirements of other funding sources. Often the off-site partnerships represent the same kinds of projects that would receive investment of in-lieu fee funds through the City. However, when a market-rate developer partners directly with an affordable developer, the project may happen much sooner than if the City collects funds and then awards them to projects in a future NOFA. In addition, in many cases these partnerships have provided access to scarce land which the nonprofit partners would not have been likely to obtain on their own.

    While this has been a successful approach, affordable housing developers commented that the IHO could be designed to make these projects more likely.

11. Co-living Projects Require New Rules

    Recently several developers have begun pursuing 'co-living' projects in which they rent individual bedrooms in multi-room suites that include shared kitchens, bathrooms and social spaces. Under the current IHO, in-lieu fees are charged on a per unit basis. Each of the individually rented bedrooms in a co-living project are considered a separate unit. This translates into a higher in-lieu fee requirement for co-living projects than standard market rate apartments if fees are considered either on a per square foot or per bedroom basis.

    Calculating the fee per net square foot instead of per unit provides a fair system for scaling the contribution to affordable housing. While co-living units may not appeal to everyone, there is no compelling reason for the City to deter developers from building projects that there is a market demand. These projects could represent some of the only newly built options that rent at levels within reach of moderate-income tenants.

<u>Proposed Changes</u>

In response to the challenges outlined above, the following changes are proposed. Several of the proposed changes address more than one of the challenges above. KMA prepared a study titled "Analysis and Context Materials in Support of Updates to the City's Inclusionary Housing Ordinance" providing background and analysis to support staff recommendations (**Attachment B**).

A. Apply IHO Requirements to Small Projects

A.1 Reduce the Threshold to Five Units.

Current Status: The IHO applies to projects with 20 or more units and the AHIF applies to rental developments with 3-19 units.

Proposed Change: Apply the IHO to all projects (rental and ownership) with five or more residential units.

Impact: While the Council (10/24/17) directed staff to extend the IHO to projects of three or more units (consistent with the current AHIF), the proposal calls for a minimum threshold of five units in order to support the proposed "Opportunity Housing" initiative. The Opportunity Housing Initiative being considered would enable development of projects with 2-4 units in certain carefully defined neighborhoods proximate to transit oriented Urban Villages or other medium density housing. Setting the minimum IHO threshold at 5 units ensures that the IHO requirements do not impact the likelihood of Opportunity Housing projects moving forward.

KMA reviewed City data on permitting activity from July 1, 2010 through June 30, 2018 for projects that are smaller than 20 units. They found that an average of 77 units per year were permitted within projects under 20 units in size. Of these, approximately 24 units were in projects with one to four units; and nearly all (93%) were for-sale units. Extending the IHO to projects with 5-20 units (as proposed) would impact approximately 53 units per year.

A.2 Phase in the Five Unit Threshold

Current Status: The IHO applies only to projects with 20 or more units and the AHIF applies to rental developments with 3-19 units.

Proposed Change: Phase in the in-lieu fee for projects between 5 and 20 units. Five-unit projects would pay 25% of the standard fee with the percentage increasing with each additional unit in a project up to 20. 20+ unit projects are subject to all the provisions of the Ordinance.

Table 6: Small Project Phase In Schedule (Fees Charged on a Square Foot Basis)

Units	Rental (Strong)	Rental (Moderate)	For-Sale (Strong)	For-Sale (Moderate)	% of Fee
5	$10.75	$4.57	$6.25	$4.57	25%
6	$12.90	$5.48	$7.50	$5.48	30%
7	$15.05	$6.39	$8.75	$6.39	35%
8	$17.20	$7.30	$10.00	$7.30	40%

9	$19.35	$8.22	$11.25	$8.22	45%
10	$21.50	$9.13	$12.50	$9.13	50%
11	$23.65	$10.04	$13.75	$10.04	55%
12	$25.80	$10.96	$15.00	$10.96	60%
13	$27.95	$11.87	$16.25	$11.87	65%
14	$30.10	$12.78	$17.50	$12.78	70%
15	$32.25	$13.70	$18.75	$13.70	75%
16	$34.40	$14.61	$20.00	$14.61	80%
17	$36.55	$15.52	$21.25	$15.52	85%
18	$38.70	$16.43	$22.50	$16.43	90%
19	$40.85	$17.35	$23.75	$17.35	95%
20	$43.00	$18.26	$25.00	$18.26	100%

Impact: Increasing the fee gradually for 5-20 unit projects avoids creating large steps in the in lieu fee which might incentivize developers to propose one fewer units in order to avoid paying a higher in lieu fee.

B. Serve a Wider Range of Incomes

B.1 Expand Income Tiers for Rental On-site and Off-site projects

Rental
Current Status: The current requirement is 15% of units must be affordable on-site and 20% required for off-site, with rents set at:

On-site	Off-site
9% at 80% of the AMI	12% at 60% of the AMI
6% at 50% of the AMI	8% at 50% of the AMI

Proposed Change:
Expand the income tier to three AMI levels and add income targets at 100% and 60% of the AMI. Continue to allow developers to propose deeper affordability or more units subject to the approval by the City Manager. Effective July 1, 2020, 15% of units must be affordable on-site and 20% off-site, with *rents set at*:

On-site	Off-site
5% at 100% of AMI	5% at 80% of AMI
5% at 60% of AMI	5% at 60% of AMI
5% at 50% of AMI	10% at 50% of AMI

Ownership

Current Status: 15% of units must be affordable with units priced at 110% of AMI on-site with 20% required for off-site projects. The Ordinance limits occupancy of these units to households earning 120% of AMI but requires that prices be affordable to 110% of AMI to ensure a wider range of potential buyers are able to qualify.

Proposed Change:
Maintain the same on-site requirement but allow homeownership project sponsors to propose any financially equivalent mix of incomes subject to approval by City Manager.

Rental

Impact: These changes expand the range of incomes served with very little impact on the cost of compliance. The result is that the majority of units would now be below 60% of AMI instead of 80% but some units would be targeting 100% of AMI. KMA estimates that this change reduces the typical cost of on-site compliance by about $3 per square foot. The City Council has asked staff to consider a strategy to provide housing for moderate-income households. This change will create an opportunity for market-rate developers to provide housing at 100% of the AMI with no subsidy from the City. Many of the City's funding sources for affordable housing are limited to 60% AMI housing units and below. A recent change to the Tax Credit program now allows units up to 80% of the AMI to be funded with tax credits. The City has seen affordable housing developers propose developments with a range of incomes reaching 80% of the AMI. Adding 100% AMI units to the options under the IHO will allow the City to meet the needs of a broader range of income levels.

Table 7: Estimated Cost of Compliance

		Low-Rise Rental	Mid-Rise Rental	High-Rise Rental (2)
Existing IHO Alternatives				
In-Lieu Fee	Fee of $125,000 per inclusionary unit owed	$28 /SF	$28 /SF	$28 /SF
On-site	9% at Mod (80% AMI) and 6% at VLI (50% AMI)	$45 /SF	$46 /SF	$62 /SF
Proposed IHO Updates – Selected Alternatives				
All On-site	5% Mod (100% AMI), 5% Low (60% AMI), 5% VL (50% AMI)	$42 /SF	$43 /SF	$59 /SF
ELI Units (1)	10% ELI (30% AMI) Units	$37 /SF	$36 /SF	$43 /SF

In addition, the proposal would allow a developer of a rental or for sale project to propose any alternative income mix that was ‘financially equivalent’ to the required on-site mix – subject to city approval. This would enable projects to provide fewer units by serving lower income residents or more units targeting higher income households. KMA calculated several examples of rental alternatives which would be financially equivalent to providing the proposed mix of incomes under current market conditions.

Table 8: Alternative Income Tiers with Equivalent Cost

Income Category	Equivalent %
100% of AMI	28%
80% of AMI	17%
60% of AMI	14%
50% of AMI	12%
30% of AMI	10%

For more examples see Table 3-5 of the KMA Report.

<u>B.2 Facilitate the Development of Extremely Low-Income Units</u>

Current Status: No provision for Extremely Low Income (ELI) units on-site.

Proposed Change: In-lieu of providing on-site rental units in the three specified income tiers a project can provide 10% of units affordable at 30% of the AMI.

Impact: This change makes it easier for projects to choose to serve San José households with the most acute housing needs. These ELI units have much lower rents – sometimes below a building’s annual operating income.

KMA estimates that an 80% AMI unit reduces the value of a typical midrise rental building by $230,100 while a 30% AMI unit reduces value by $433,700 because the rents are so much lower. For rental projects that are able to take advantage of LIHTC funding, providing 10% of units at a rent affordable to 30% AMI residents would be less costly than providing 15% at the units at the mix of incomes (50-100%) proposed above without use of LIHTC financing. Projects choosing this option would likely be able to access additional outside affordable housing subsidies to bring the cost down further.

While inclusionary housing programs typically serve households earning 50% of AMI or more, a new program in Los Angeles, the Transit Oriented Communities (TOC) program, has been successful in producing inclusionary units targeting ELI units. The TOC program offers density bonuses of up to 80% to projects that include on-site affordable units. The share of affordable units required is dependent on the income level targeted. Developers in locations with the greatest transit access, for example, have the choice of providing 25% of units at rents affordable to 80% of AMI tenants or only 11% affordable to 30% AMI households. The ELI option has proven quite popular with developers in LA. In the first year of the program developers proposed projects with more than 10,000 total units and 2,000 affordable units[1]. More than half of the projects have chosen the ELI option, because it is less expensive to provide fewer units even if the revenue generated is less. The project economics in San José are quite different from Los Angeles and it is likely that developers would be more reluctant to include ELI units at this point in San José. By allowing this option, it is possible for developers who are willing to help meet this need to build housing for ELI households.

B.3 Consider Extending Park Impact In-Lieu Fee Credit to 100% of AMI Rental Units

Current Status: Currently the City offers a 50% credit toward park impact in-lieu fees for projects that include onsite deed restricted low income affordable housing units targeted to households earning 80% of AMI or less. The deed restrictions must last a minimum of 30 years.

Proposed Change: Expand eligibility for the park impact in-lieu fee 50% credit for rental projects with on-site deed restricted units serving up to 100% of AMI. Require restrictions that last at least 55 years. The Parks, Recreation and Neighborhood Services Department would return to City Council with ordinance amendments to adopt these changes.

Impact: This change improves the likelihood that projects will select the mixed compliance option (below) and provide at least some units onsite. It would result in 50% - 75% reductions in the level of park fees collected for these deed restricted units.

C. Restructure the In-Lieu Fee Option

C.1 Apply the In-Lieu Fee on a Per Square Foot Basis

Current Status: The in-lieu fee is calculated per affordable unit owed based on a 20% off-site percentage. Based on typical square footage for prototype projects, KMA estimated that the current rental in-lieu fee costs roughly $28 per net square foot.

	Current Fee	*Typical Size*	*Approximate Cost Per Foot*
Rental	$125,000 per unit	900	$28
Homeownership	$192,946 per unit	950 - 3,400	$11 to $41

[1] https://www.latimes.com/business/la-fi-affordable-housing-transit-zoning-20190526-story.html

Source: Keyser Marston Associates, Analysis and Context Materials in Support of Updates to the City's Inclusionary Housing Ordinance, October 2019.

Proposed Change: Apply the in-lieu fee on a per square foot basis. Housing staff will coordinate with the other departments to establish how the fee will be applied. The methodology will be used across the development fee framework to ensure consistency between City programs.

Impact: Both the current and proposed approaches attempt to ensure that projects that opt not to provide onsite units contribute the funding necessary to replace the inclusionary affordable units elsewhere. However, because the current approach imposes the same per unit fee on projects with large units and projects with small units, the result is a much higher cost for projects with small units. By setting one fee level regardless of the size of units in a project, the fee is more costly for small unit projects and far less costly for large unit projects. Calculating the fee on a per square foot basis eliminates this bias and results in economics that impose a similar fee level on all projects regardless of unit size.

This change will result in lower fees for projects with smaller units and higher fees for projects with larger units. This change will help to incentivize higher density rental and condominium projects as well as co-living projects, based on their smaller unit sizes.

In-lieu fees for townhomes and single family projects are estimated to increase with the change to a per square foot fee due to larger average unit sizes. The KMA analysis indicates these projects are still estimated to achieve minimum profit levels required by developers and investors with this change.

Finally, by changing the in-lieu fee to a square footage calculation, the Housing Department will move toward aligning with the universal fee framework. Staff from the Community and Economic Development City Service Area will coordinate to identify all of the steps necessary to shape critical fees into a uniform structure.

Table 9: Existing and Proposed In-Lieu Fees: For Sale

		Existing Fee		Proposed Fee		Net Change	
Project Type	Representative Unit Size (Sq. Ft.)	Per Market Rate Unit (1)	Per Square Foot	Per Market Rate Unit	Per Square Foot	Per Market Rate Unit	Per Square Foot
Single Family - large lot	3,400	$38,589	$11.35	$85,000	$25	$46,411	$13.65
Single Family - small lot	2,300	$38,589	$16.78	$57,500	$25	$18,911	$8.22
Townhome	1,750	$38,589	$22.05	$43,750	$25	$5,161	$2.95
Condo: low-rise	1,150	$38,589	$33.56	$28,750	$25	($9,839)	($8.56)
Condo: high-rise (2)	950	$38,589	$40.62	$0	$0	($38,589)	($40.62)

(1) $192,946 in-lieu fee per affordable unit X 20% off-site requirement.
(2) Downtown high-rises are proposed to have an initial in-lieu fee of zero ($0).
Source: Keyser Marston Associates, Analysis and Context Materials in Support of Updates to the City's Inclusionary Housing Ordinance, October 2019.

C.2 Tie the In-Lieu Fee Calculation to the Per Unit Affordability Gap

Current Status:

Rental
The Ordinance sets the rental in-lieu fee based on the average per unit City subsidy for rental affordable projects in the prior year. In practice the fee has been set lower than the formula allows. Currently the fee for rental projects is $125,000 per unit for the equivalent of 20% of the units in the principal project.

Homeownership
The ownership in-lieu fee calculation is based on the difference between the median sales price of all attached ownership units citywide in the prior thirty-six-month reporting period and the Affordable Housing Cost for a moderate-income household. Currently, the ownership in-lieu fee is $192,946 per ownership unit for the equivalent of 20% of units. This would provide the down payment needed for a moderate-income homebuyer to purchase a condominium in San José and to replace the unit not produced on-site.

Proposed Change:

Rental
Annually adjust the in-lieu fee for rental projects based on the affordability gap (the difference between market rate and affordable rents for each applicable income category), subject to a cap. The affordability gap is proposed to be determined formulaically using the following approach.

a. Effective market rate rents would be obtained from market data provider CoStar for projects representing the most recently built 3,000 market rate apartment units, excluding affordable units and projects for special populations such as seniors.

b. Affordable rents are determined for each income category applicable to the on-site inclusionary requirement, weighted according to the average bedroom size reflected in the data for the market rate units.
c. The affordability gap is determined based on the difference between market rate and affordable rents for each income category divided by a published capitalization rate (Integra Realty Resources Going-in Cap Rate for Class A urban multifamily in San José).
d. The in-lieu fee is then calculated by multiplying the affordability gap for each income category by the on-site affordable unit requirement and dividing by the average unit size. The calculation results in a total in-lieu fee of $43 / SF.

Table 10: Rental In-Lieu Fee Calculation

	100% AMI	**60% AMI**	**50% AMI**	**Total**
A. Rent Gap				
Market Rate Rents Per Month	$2,954	$2,954	$2,954	
Affordable Rents Per Month	$2,670	$1,751	$1,442	
Rent Difference Per Month	$284	$1,203	$1,513	
Rent Difference Per Year	**$3,409**	**$14,440**	**$18,152**	
B. Affordability Gap				
Capitalization Rate (1)	4.50%	4.50%	4.50%	
Capitalized Value of Rent Difference	**$76,000**	**$321,000**	**$403,000**	
C. Calculated In-Lieu Fee Per Net SF				
Affordable Unit Percentage	5%	5%	5%	15%
Average Net Unit Size	918 sq ft	918 sq ft	918 sq ft	
D. Full In-Lieu Fee Per Net SF [= gap X affordable unit % / unit SF]	**$4 /SF**	**$17 /SF**	**$22 /SF**	**$43 /SF**

(1) Integra Realty Resources cap rate for Class A urban multifamily in San José published April 2019.

Ownership

Consistent with the methodology for ownership projects under the current ordinance, the for-sale in-lieu fees are based on the affordability gap associated with providing attached for-sale affordable units on-site. The affordability gap is proposed to be determined based on the difference between the average market rate sales price for attached units built in the prior five years and sold within the prior two years and affordable sales prices for the average-sized unit. The affordability gap is then multiplied by the 15% affordable unit requirement and divided by the average square footage size of the units reflected in the sales data to determine the fee per net square foot. Applying this approach yields an in-lieu fee of $25 per square foot as shown in Table 4-6.

Table 11: For-Sale In Lieu Fee Calculation

A. Newer Attached Units Built Within Previous Five Years and Sold within Previous Two Years			
Source: CoreLogic.			
Average Sales Price			$872,000
Average no. of Bedrooms			2.93
Average net square footage			1,730 sq ft
B. Affordable Sales Price	2 BR	3 BR	Weighted Average for 2.93 Bedrooms
at 110% AMI (Table 3-10)	$532,300	$593,200	$589,000
C. Affordability Gap Per Unit		[= A - B]	**$283,000**
Average SF of units from sales data			1,730 sq. ft.
Affordable Unit Percentage			15%
D. Fee Per Net SF [gap X affordable unit % / unit SF]			**$25 /SF**

Proposed in-lieu fee amounts would be incorporated as updates to the schedule of fees and charges while the method for determining and updating fees would be reflected as part of updates to the IHO.

Impact: Under the current methodology the level of the in-lieu fee varies depending on the success of the City and its affordable housing development partners in accessing outside subsidy for 100% affordable units. As the state and county invest more resources for affordable housing, it is likely that the level of local subsidy needed per new unit may fall, even as the amount of total subsidy needed increases. Instead of basing the in-lieu fee on the unpredictable flow of the City affordable housing subsidy, the proposed change ties the fee to the projected cost to a developer of providing affordable units on-site. This 'affordability gap' is easier for both developers and the City to project. It changes when the cost of on-site production changes therefore the cost of the fee will stay in better alignment with the cost of on-site compliance. This reduces the risk that the fee will suddenly become much less expensive or much more expensive than on-site production in the future.

For ownership projects, the proposed methodology is similar to the current ordinance but instead of basing the fee on the median price of all attached units sold in the past 3 years, the proposed approach looks only at sales in buildings built within the past 5 years which should more closely reflect sales prices of units in newly developed projects.

C.3 Set a Lower Fee Outside of Strong Market Areas

Current Status: In-lieu fees are the same for projects in all parts of the City.

Proposed Change: Identify higher and lower cost sub-market areas within the city and offer a reduced in-lieu fee in the lower cost areas. KMA's Cost of Development Study found that only projects in West San José currently have rents high enough to support current development costs and generate profit levels consistent with the expectations of developers and investors. Therefore, the proposal is to initially identify West Valley, Willow Glen and Cambrian/Pioneer Planning Areas as "strong market areas" and all other areas as "moderate market areas." Initially set the in-lieu Fee at $18.26 in the moderate market areas (ie. outside of West San José). As market conditions change, the City would include additional sub-areas within the strong market areas subject to the full in-lieu Fee.

Impact: KMA found that development economics were challenging for many typical project types in most parts of the city. Projects outside of West San José are not estimated to generate returns sufficient for developers and investors to move forward. This suggests a reduction in the in-lieu fee may be appropriate to ensure projects can move forward.

The proposed approach initially sets the in-lieu fee to match the City's current Affordable Housing Impact Fee (AHIF) of $18.26. There are currently a significant number of projects moving forward planning to pay this fee. The fact that projects have indicated an intent to move forward at this fee level provides evidence the $18.26 fee level is sustainable. However, because projects have not yet broken ground, it will be important for staff to monitor progress and potentially recommend further changes to in-lieu fees for the moderate market area if many of these projects do not commence construction in the near future. Note that for projects in the strong market areas (currently West San José) the proposed Mixed Compliance option (See D.1 below) would also result in a reduced compliance cost which would improve the likelihood that projects could attain the minimum profitability levels.

Housing staff will coordinate with departments to create market areas that will be used for this Ordinance and potentially for used for the universal fee framework. These market areas will be defined when staff returns with the actual changes to the Ordinance.

C. 4 Cap the Annual Fee Adjustment

Current Status: Fee is adjusted annually with no cap on the annual change.

Proposed Change Re-calculate rental and ownership in-lieu fees annually. Limit the increase in any single year capped using an index.

Impact: By updating the fee annually and limiting the rate of increase in any one year, the program can provide predictability to developers and avoid sudden jumps in the cost of IHO compliance which could impact projects that are under development. Housing staff will coordinate with departments to identify the most appropriate index and could potentially be used for the universal fee framework. The index will be identified when the staff returns with the actual changes to the Ordinance.

C.5 Provide Advance Notice of Fee Increases

Current Status: Each year the new in-lieu fee is included in the city's Schedule of Fees and Charges. The new fee is effective July 1 of each year.

Proposed Change Publish adjusted in-lieu fees 12 months prior to their effective date. Each year the city's Schedule of Fees and Charges will include fees for the next 12 months and the fees that will be applicable for the 12 months following that.

Impact: Publishing fee increases 12 months in advance will slow the rate of fee increases when the market is up, resulting in slightly lower fees over time. By providing certainty far in advance, the change reduces the uncertainty that projects may face and could help more projects move forward to construction.

D. Encourage projects to choose on-site compliance

D.1 Offer an Adjusted Schedule of In-Lieu Fees for Mixed Compliance Projects

Current Status: Developers may provide some units on-site and pay a fee for remainder but there is no financial reason to choose this option.

Proposed Change Offer reduced fees to developers who provide some units on-site. Reduce the remaining fee for rental projects that provide at least 5% of units on-site.

Table 12: Rental In Lieu Fee Calculation

	100% AMI	60% AMI	50% AMI	Total
D. Full In-Lieu Fee Per Net SF [= gap X affordable unit % / unit SF]	**$4 /SF**	**$17 /SF**	**$22 /SF**	**$43 /SF**
Fee Adjustment Factor for Mixed Compliance	**55%**	**55%**	**55%**	
E. Mixed Compliance Fees [=calculated fee * (1- adjustment factor)]	**$1.80 /SF**	**$7.70 /SF**	**$9.90 /SF**	

Projects pay only for income tiers not provided on-site i.e. if 5% at Moderate provided on-site, in-lieu fee of $7.70 + $9.90 = $17.60/SF is due.

Impact: This is the most significant proposed change in terms of potential project economics. These 'mixed compliance fees' are roughly 55% lower than the fees which would be due if no units were provided on-site. At this level, the combined cost of compliance for projects building 5% on-site would be slightly less than the cost of the current IHO in-lieu fee but produces some units on-site for each project. This mixed compliance option would be significantly less costly than either the proposed on-site production option or the proposed fee in-lieu for projects that include no units on-site. Because this proposed option is so much less costly than the other proposed options, it is likely that a large share of future rental projects within strong market areas subject the full in-lieu fee rate would select this mixed compliance alternative. Finally, it provides funding for the affordable housing program that will result in the production of more deeply affordable units than the inclusionary housing program target levels.

Table 13: Comparison of Rental Compliance Costs (Per net square foot)

	Low Rise	Mid Rise	High Rise
Existing IHO			
In-lieu Fee	$28	$28	$28
On-site	$45	$46	$62
Proposed			
On Site	$42	$43	$59
In Lieu Fee – Higher	$43	$43	$0
In Lieu Fee - Lower	$18.26	$18.26	$0
Mixed (5% on-site + Fee)	$25	$25	$30

Note that while providing 5% of units in the 100% of AMI tier is estimated to be the most cost effective mixed compliance option, the proposed policy would allow developers to provide 5% of units in either of the other tiers and still receive a discounted in-lieu fee. Projects electing to provide 5% of units at the 50% AMI are likely to be eligible for incentives under the city's existing Density Bonus Ordinance.

Table 14: Mixed Compliance Fee Alternatives

	A. **5% On-Site at 100% AMI**		*B.* **5% On-Site at 50% AMI**		*C.* **5% On-Site at 60% AMI**	
100% Tier	N/A	all on-site	$1.80 /SF	all in-lieu fee	$1.80 /SF	all in-lieu fee
60% Tier	$7.70 /SF	all in-lieu fee	$7.70 /SF	all in-lieu fee	N/A	all on-site
50% Tier	$9.90 /SF	all in-lieu fee	N/A	all on-site	$9.90 /SF	all in-lieu fee
Total	**$17.60 /SF**		**$9.50 /SF**		**$11.70 /SF**	

D.2 Adjust the Mixed Compliance Fees as the Market Changes

Current Status: In-lieu Fees are adjusted annually as part of the annual fee schedule update.

Proposed Change: Adjust the Mixed Compliance fee schedule based on changing market conditions as documented by market analysis produced by staff or consultants. In the absence of any analysis of changing development conditions, the Mixed Compliance Fees would be adjusted annually based on the construction cost index in the same way as other rental in lieu fee amounts. Provide twelve-months' notice prior to any changes.

Impact: The proposed schedule of in-lieu fees for Mixed Compliance projects represents a 55% discount relative to the fees proposed for projects that provide no units on-site. This discount is intended to reduce the total cost of compliance in recognition of the current market challenges documented by KMA's Cost of Development study. Over time, as market conditions improve, the Mixed Compliance fees could be increased. Adjustments to the mixed compliance in-lieu fees also enable adjustments to the incentive for provision off affordable units on-site. For example, as proposed, there is an incentive to include 5% of units on-site; to the extent conditions warrant in the future, mixed compliance fees could be adjusted to incentivize 10% affordable units to be provided on-site. An updated analysis could be conducted in the future to support potential future adjustments to the mixed compliance in-lieu fee discount.

D.3 Allow Affordable Project Immediately Adjacent to Market-Rate Project

Current Status: Projects must provide 15% affordable units on-site or 20% off-site. On-site units must be integrated throughout the project. The Ordinance prohibits 'geographic concentration' of affordable units in any project.

Proposed Change: Apply the same 15% on-site affordability requirement to projects that appropriately cluster affordable units on the same site or on another site immediately adjacent, in order to access affordable housing financing, provided that:

- The two sites are Contiguous Parcels as defined in the ordinance (5.08.160) – i.e. touching or across the street (no other parcels in between).
- The project amenities, location and other design characteristics in the affordable project are comparable to the market-rate project.
- The project is located in an area that the city has determined is in need of additional affordable housing.
- The developer of the primary project makes a meaningful financial contribution to the adjacent project.

Impact: This change will make it more likely that larger projects will choose to set aside a portion of their project site to build a 100% affordable housing developments adjacent to their market rate buildings. This may result in more units in high opportunity neighborhoods even though those units would not be integrated in the market-rate buildings.

A sizable body of academic research has documented benefits for lower-income households and society as a whole from economic integration. Children from low-income families in particular experience life-long economic benefits from moving out of areas of concentrated poverty and into more mixed-income communities. In spite of the evidence, it is very challenging to locate affordable housing in higher cost communities. Inclusionary Housing is one of the only housing program strategies that consistently places lower-income households in high cost areas.

Many people assume that the benefits of mixed-income communities stem from social interactions between lower-income residents and their higher-income neighbors. Years of research have not supported this conclusion. Instead, it seems that the documented benefits are primarily the result of access to higher quality schools, parks and jobs as well as the absence of crime, violence, and pollution. In short, the research seems to support the conclusion that access to mixed-income neighborhoods is very important, but that mixed-income buildings may add little or no additional benefit[2]. If that is the case, a strategy of clustering affordable units may make sense if it results in more units located in higher-cost locations – even if those units are not integrated within market-rate buildings.

E. Clarify Requirements for Off-Site Projects

E.1 Limit Off-Site Project Locations

Current Status: If a market rate project is located within a redevelopment area, any off-site project must be in the same area (or another RDA with approval)

Proposed Change: Remove reference to Redevelopment Project Areas and replace with a requirement that off-site or land dedication sites be approved by the City Manager as part of the review of a project's Affordable Housing Plan. Off-site or land dedication sites must either be located within one half-mile of the proposed market-rate project or in locations that are found to provide a comparable level of access to opportunity (education, transportation and jobs) as the principal market-rate project site.

Impact: This change would continue to ensure that off-site projects are located in higher opportunity locations.

[2] Levy, Diane K., Zach McDade, and Kassie Dumlao. "Effects from Living in Mixed-Income Communities for Low-Income Families: A Review of the Literature." Metropolitan Housing and Communities Center. Washington, DC: Urban Institute, 2011. http://www.urban.org/url.cfm?ID=412292.

E.2 Allow Flexibility for Construction of Off-site Affordable Projects

Current Status: Off-site projects must receive building permits and Certificates of Occupancy concurrently with the market rate project.

Proposed Change: Allow off-site projects where the affordable units are built slightly later than the proposed market-rate project with proper safeguards. Projects that do not achieve concurrent approvals may proceed if the sponsor of the proposed market-rate project provides a Financial Guarantee in the amount of the Fee In-lieu which would otherwise be owed by the market-rate project.

Impact: This change will significantly decrease the risks and complexity associated with off-site affordable housing projects which may result in more projects selecting this option. The requirement that off-site projects be completed concurrently with the market rate project can be a barrier to these partnerships. It is important that the City have some mechanism for ensuring that the off-site projects are built. However, requiring that both projects move on exactly the same timeline makes these partnerships much harder to accomplish and much riskier for both the market-rate and the affordable housing developers.

Boulder, Colorado addresses this issue in their Inclusionary Housing program by allowing sponsors to move forward with a market rate project prior to an off-site affordable housing project only if the developer provides a strong financial guarantee for at least as much money as the project would owe if they paid the in-lieu fee. This guarantee can take the form of a letter of credit, surety bond or funds held in an escrow account. The amount is enough to ensure that the affordable projects move forward but it also ensures that if a project is not built, the city is no worse off than if they had selected the fee option in the first place.

E.3 Define a Minimum Standard for Contributions to Off-site Affordable Projects

Current Status: Developers who choose the off-site option are free to negotiate any level of contribution to those affordable projects. Often this includes donation of land to a nonprofit partner in addition to a cash contribution.

Proposed Change: Require staff review and approval of the level of financial support from the developer of the principal market-rate project to ensure that the combined value of any contributions (including the value of land or other in kind resources) is no less than 75% of the in-lieu fee charged for projects in the moderate market areas. Authorize the City Manager to approve exceptions to this standard when they find that the partnership will provide substantially greater numbers of affordable units.

Impact: This change would make off-site partnerships more predictable which may result in more projects choosing this option. The current ordinance leaves it to the sponsor of the principal market-rate project and their nonprofit partner to negotiate an appropriate contribution to the affordable housing project. In many cases developers would provide free land for these projects (either adjacent to their principal projects or other sites that they have acquired elsewhere). Often, the projects also require additional cash investments beyond the value of the land. The IHO prevents these off-site projects from accessing city funding which, to some extent prevents developers from using public funding to entirely avoid the cost of subsidizing off-site units. But, because the IHO allows these projects to access Federal, state and county resources, there is still a risk that developer contributions could be inappropriately low. This outside affordable housing subsidy is key to the appeal of off-site projects, but there are currently no guidelines about how much a developer should be contributing. The uncertainty about the level of this contribution can make these partnerships harder to secure. Nonprofit partners commented that if the City required some specific minimum level of investment for these partnerships, it could remove uncertainty and help streamline negotiations. This limit must be lower than the level of the in-lieu fee in order for sponsors to have a reason to choose this more complex and risky alternative.

F. Ensure that Units Remain Affordable for as Long as Practical

F.1 Extend the Period of Affordability to 99 years

Current Status: Rental units are restricted for 55 years and ownership units for 45 years.

Proposed Change Require IHO rental and ownership units to remain affordable for 99 years or the life of a project.

Impact: Extending the term past 55 years, can significantly expand the number of families that can benefit from an affordable housing unit without impacting the feasibility of the development. For rental projects, if the restrictions were much shorter than 55 years, it might be possible for a project sponsor to incorporate the eventual rent increase on these units when they calculate the value of their building today. But with 55-year restrictions, those increases are so far in the future that they don't significantly impact the value of a project. But longer periods of restriction mean that the IHO units created today will serve many more families.

Similarly, for homebuyers, a shorter period might encourage some families to buy IHO units with the hope that they could 'outlast' the price restriction and receive a large windfall, but with a 45-year period, this is unlikely. For homebuyers, the odds that any family will stay in a unit for longer than 45 years are quite low. Research on similar resale price restricted homeownership programs shows that most families move within the first 10 years and many after much shorter periods[3]. The current rules allow the city to reset the 45-year clock with each resale so extending the period won't impact the vast majority of families.

[3] See http://myhomekeeper.org/social-impact-dashboard/

In our feedback sessions with developers only one concern was raised about extending the affordability period. The concern only applied to 100% affordable projects. Projects financed with Low Income Housing Tax Credits sometimes face a technical challenge with what is known as the ‘true debt’ test when long term deed restrictions are recorded. As a result, many cities including San Francisco, allow an exception for projects where shorter-term restrictions are necessary to access affordable housing financing.

F.2 Allow Flexibility for 100% Affordable Housing Projects When Necessary

Current Status: 100% affordable projects must maintain the same affordability period as any other project.

Proposed Change Allow shorter affordability periods where projects demonstrate it is necessary for financing purposes.

Impact: This change would ensure that the City’s rules would not create a barrier to financing 100% affordable projects. As described above, some projects have had difficulty obtaining Low Income Housing Tax Credit financing due to what is known as the “true debt” text. This change would allow the City Manager to accept a shorter period of affordability when necessary to obtain financing for an affordable project.

F.3 Explore Creating a Resale Restriction Program for Homeownership.

Current Status: IHO homeowners may choose to repay the subsidy plus equity share and sell home at its full unrestricted market value rather than sell at the city’s restricted resale price to an income qualified buyer.

Proposed Change: Explore the creation of a resale program to ensure that IHO ownership units are resold at affordable prices for at least 99 years. While no change to the Ordinance is necessary, the Department will explore whether it should modify the IHO rules to eliminate the repayment option other than in cases where the home cannot be sold after a good faith marketing effort of at least 9 months.

Impact: The City has already released a number of homeownership units from restrictions by allowing sellers to choose the equity share option rather than selling to another lower income buyer at an affordable price. Sellers strongly prefer this option as it allows them to retain a far greater share of appreciation than the formula resale price. Removing this option will have the effect of maintaining a supply of affordable ownership units over time while limiting the appreciation realized by affordable unit owners to the level provided by the City’s resale pricing formula. That formula allows meaningful ‘wealth building’ but limits gains to a level that enables future moderate-income buyers to afford the IHO homes.

G. Facilitate Development of Specific Project Types

G.1 Temporarily Set an Adjusted In-Lieu Fee for Downtown High-Rise Projects

Current Status: The Ordinance authorizes a reduction for high-rise projects. Currently rental projects located in the Downtown Core with more than 10 stories, which receive a Certificate of Occupancy before June 30, 2021, have a $0 in-lieu fee. For-sale high-rise projects are subject to the full IHO requirements. Recent economic analyses by KMA indicates that high-rise condominiums face similar challenges as high-rise rentals.

Proposed Change: Phase in IHO requirements on downtown high-rise projects gradually to allow time for the market conditions for these projects to improve. This recommendation will be considered by the City Council in a separate action specific to setting the in-lieu fee for downtown high-rises.

Note: the proposal would only adjust the in-lieu fee and not the on-site requirements. Projects could choose to build units on-site but the economics suggest that even at the full fee, high-rise projects will prefer the fee option.

G.2 Incorporate Co-Living Building Type

Current Status: No special provisions for co-living or group housing projects.

Proposed Change: Clarify that the IHO applies to co-living (20.200.197) and group housing projects where residents lease individual bedrooms and share common areas rather than whole units. Allow these projects to comply with the on-site provisions by providing the specified affordable share of bedrooms rather than units. Establish the qualifying income for restricted co-living rooms at 90% of the relevant income limit for the household size. For example, a single person occupying a 50% of AMI co-living unit would need to earn no more than 90% of 50% of the AMI. Establish the maximum affordable rent for restricted co-living rooms at 90% of the relevant maximum rent for a studio unit.

Income Target	Max Income	Max Rent
100%	$82,800	$2,365
60%	$55,350	$1,581
50%	$46,125	$1,318

Impact: The proposed change would remove uncertainty surrounding the application of the IHO to co-living projects. The proposed rent limits will increase the cost of on-site compliance relative to the current IHO requirements. The proposed change (as discussed in A.1) to apply in-lieu fees on a per foot basis will significantly reduce the cost of the in-lieu option for co-living projects.

H. Update Program Administration and Monitoring

H.1 Allow Recertification of Tenant Income Every Two Years

Current Status: Compliance monitoring required annually when a tenant remains in the affordable apartment.

Proposed Change: Require rental project to submit recertification documentation every two years for tenants who remain in the units rather than annually.

Impact: This will reduce the administrative burden both on the market-rate developer and on city staff related to program administration. It could potentially increase the risk that an over-income tenant is in violation of the income restriction and is allowed to stay in the unit one additional year. However, the tenant would have one-year to find an alternative housing option which would help in finding a replacement apartment.

H.2 Allow for Projects that Change Tenure and Add Monitoring Process

Current Status: No provision for projects changing tenure (rental or ownership). Projects must specify their tenure up front in their Affordable Housing Compliance Plan. If the project has a tentative map that creates separately conveyable parcels that can be sold as condominiums, then the project is automatically treated as a For-Sale project under the Ownership-side of the IHO.

Proposed Change: Clarify that projects may change from the tenure specified in their Compliance Plan or Affordable Housing Agreement by submitting a new Compliance Plan or amending their Affordable Housing Agreement, subject to City approval. Developers will be required to provide all necessary documentation and comply with all the requirements for the new tenure. This may include an additional processing fee or cost to amend the recorded Agreement on file. Restricted rental units may be converted to restricted ownership units only if existing tenants are given a first right of purchase. Staff will develop guidelines for monitoring the tenure of projects until they are completed and may include a monitoring fee as well.

Impact: By allowing this new provision projects can efficiently file tentative maps on development projects that are still trying to determine their tenure upon completion of construction. This provides developers maximum flexibility to respond to changing market conditions.

EVALUATION AND FOLLOW-UP

If City Council approves staff recommendations as outlined in this memorandum, the Housing Department will amend the Inclusionary Housing Ordinance, its Implementation Guidelines, and all necessary documents consistent with this memorandum. The Housing Department will return with an amended ordinance. Lastly, the Housing Department will submit to the City Manager for approval, the amended guidelines for the Inclusionary Housing Ordinance.

POLICY ALTERNATIVES

Alternative 1:	***Lower the On-Site Requirement***
Pros:	Program could maintain focus on 50% and 80% of AMI but simply require fewer units in order to reduce the financial demands on projects.
Cons:	This approach would result in fewer price restricted affordable units being created.
Reason for not recommending:	San José residents are experiencing housing affordability challenges across a wide range of incomes. Nearly all of the city's other Affordable Housing programs target people earning much less than 80% of AMI and a significant share of the city's housing funding is reserved for Extremely Low-Income Households (earning less than 30% of AMI). Households at 80% and 100% of AMI are also facing real housing cost burdens. By shifting some of the 80% AMI units currently required, the proposal reduces the net cost of compliance on-site without reducing the share of very low income (60% AMI) units.
Alternative 2:	***Eliminate the In-Lieu Fee***
Pros:	Some people feel like the in-lieu fee is a way for developers to pay to get out of their obligations. If there were no fee, more projects would select the on-site option.
Cons:	Eliminating the fee would not address market concerns and could result in fewer residential buildings being constructed.
Reason for not recommending:	While affordable housing units are important, the housing affordability crisis is the result of a shortage of housing and building additional housing at all income levels is necessary to alleviate the problem. Including an in-lieu option provides flexibility that helps ensure that most projects can find a way to move forward. Research conducted by the Furhman Center at NYU suggests that inclusionary housing programs with in-lieu fees and

other alternative compliance options are less likely to negatively impact the rate of development. The City's Affordable Housing partners are effective at putting these funds to work serving the households with the highest need for assistance. And, while projects funded with in-lieu fees are in somewhat different locations, they are all located in appropriate locations that avoid over concentration of low-income housing.

Alternative 3: ***Additional Planning Improvements and Link to the Density Bonus***

Pros: Providing additional density, reduced parking or other planning flexibility in exchange for on-site affordable units can produce affordable units at no additional cost to the city. Additional density offers other quality of life and environmental benefits.

Cons: Given market dynamics in San José, an additional bonus is unlikely to result in additional affordable housing units.

Reason for not recommending: The City's existing Density Bonus Ordinance (Based on State Law) provides up to a 35% increase in allowable density for projects that include affordable units. While this State Density Bonus has been effective in some communities, in San José the cost of providing on-site units seems to exceed the value of the additional bonus density. It might be possible to offer even greater bonus density (for the same level of affordable housing) but this could raise significant concerns about traffic, parking and other neighborhood impacts.

Alternative 4: ***Extend the Inclusionary Housing Ordinance to Developments with One or More and Allowing a Waiver of Requirements for Developments Four Units or Less if Density is Doubled***

Pros: Extending the IHO to developments with one unit or more will ensure consistency for development across the City. In cases where small projects (four units or less) are doubling density on the site, the IHO provisions will be waived.

Cons: Developers of small projects may be challenged in understanding the complexity of the IHO program.

Reason for not recommending: Outreach to developers proposing small projects was not completed as a part of the preparation for this policy recommendation. Further review and analysis should be completed to explore this alternative.

PUBLIC OUTREACH

The Housing Department has hosted seven outreach meetings to members of the development community and other stakeholders to discuss the potential updates to the IHO program, totaling 186 attendees.

Table 16: Summary of Public Meetings

Meeting Date and Audience	Attendees
July 9 – Developers & Stakeholders	22
August 5 – Developers & Stakeholders	17
August 14 – Open Public Meeting	16
August 15 – Silicon Valley Organization	32
October 17 – Silicon Valley Organization	56
October 18 – Developers & Stakeholders	36
October 22 – Developers & Stakeholders	7
TOTAL	**186**

Additionally, on July 19, 2019 the Housing Department met with two Builders Industry Association board members. Housing Department staff have met in-person with an estimated 25 individual developers to discuss their projects, current requirements, and the potential updates to the IHO. This report will be made available to the public on October 25, 2019 through the Housing Website, and on the City of San José website and in hard copy in the City Clerk's office, prior to the City Council meeting scheduled for November 5, 2019.

COORDINATION

This item has been coordinated with the City Attorney's Office, Budget Office, Parks, Recreation and Neighborhood Services, and the Office of Economic Development.

COMMISSION RECOMMENDATION/INPUT

The Housing Department's recommendations will be presented to the Housing and Community Development Commission on October 29, 2019. A supplemental memo will be provided summarizing the Commission's recommendations and input.

FISCAL/POLICY ALIGNMENT

Policy actions in the Housing Crisis Workplan are consistent with Goals H-1 and H-2 of the Envision San José 2040 General Plan to provide housing throughout the City that addresses the needs of all San José residents, and to increase, preserve, and improve San José's affordable housing stock; and the City's *Consolidated Plan 2015-2020,* adopted by City Council on May 5, 2015, to provide homes for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

In April 2019, the City Council adopted the updated Affordable Housing Investment Plan. This plan projected the expected revenue for the City that will be dedicated to financing new affordable housing. The plan also indicated that:

> "1,412 new affordable housing units will be added to the 1,146 currently in the managed pipeline and 946 units currently funded or under construction for a total of 3,503 new affordable units that will be created, under construction or funded by the end of FY 2022/23. The total to be funded and built from both City investment and efforts outside of the City is 5,771 units. There is a significant shortfall in meeting the affordable housing production goal established by the Mayor and City Council. Over $520 million in funding is necessary to fund the gap of 4,229 units to meet the goal of providing 10,000 affordable units."

The proposed changes to the Inclusionary Housing Ordinance are expected to have a limited impact on the revenue expected in the Affordable Housing Investment Plan. The revenue projected in the Affordable Housing Investment Plan assumed revenue in the amount of $48 million in Affordable Housing Impact Fees paid. Under the proposed changes to the fee structure, these developments will most likely result in paying the same amount previously projected. Additionally, a projection of $5.5 million was made for revenue collected as in-lieu fees for projected for-sale developments. The proposed change to $25 per square foot for for-sale developments will result in an estimated reduction of $675 thousand in in-lieu fees. Finally, the report assumed 88 apartments would be built on-site through the Inclusionary Housing Ordinance requirements. It is not clear how the proposed development may evolve under the proposed changes, but it is likely the developer will continue to incorporate the 88 affordable housing units on-site. Therefore, the overall projected impact to revenues through FY 2022/23 is a reduction of $675 thousand resulting from the transition of the for-sale fee to a per square foot basis. This revenue is equivalent to a loss of funding for five affordable apartments.

In future years, the Housing Department is expecting the revenue resulting from the Inclusionary Housing Ordinance to track similarly to the amounts received by the Affordable Housing Impact Fee. If a developer has a proposed project in an area where the $18.26 per square foot fee is charged, they are most likely to pay the fee. If the developer's project is located in the West portion of the City, they are most likely to provide 5% of the affordable apartments onsite and pay the remaining obligation at the $17.60 per square foot rate. In either case, the projected revenue will continue to track at approximately $18 per square foot on market-rate housing development.

If the City Council accepts the Administration's recommendations included in this memorandum, staff will return to Council to amend the related IHO Ordinance, develop a transition from the AHIF to the IHO for applicable projects, amend the IHO, AHIF resolution, and Fees and Charges document. If possible, staff will include this as part of the 2020-2021 Proposed Fees and Charges. However, if these items are approved by Council following the publication of the document, staff will request to amend the document accordingly.

CEQA

Not a Project. File Nos. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action; and PP17-002, Consultant Services for design, study, inspection, or other professional services with no commitment to future action.

/s/
JACKY MORALES-FERRAND
Director, Housing Department

For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

Attachment A - History of Inclusionary Housing and Impact Fee Programs
Attachment B – Analysis and Context Materials in Support of Updates To The City's Inclusionary Housing Ordinance (Keyser Marston Associates)

Attachment A
History of Inclusionary Housing and Impact Fee Programs

BACKGROUND

The Inclusionary Housing Ordinance provides several ways that a developer may meet the affordable unit requirement. See **Table A** below that summarizes the current IHO compliance options:

Table A: Inclusionary Housing Ordinance Compliance Options

Compliance Options	Obligation	For-Sale	Rental
Build On-Site*	15%	120% AMI	9% at 80% AMI 6% at 50% AMI
Build Off-Site*	20%	120% AMI	12% at 60% AMI 8% at 50% AMI
Payment of In-Lieu Fee	20%	$192,946	$125,000
Dedication of Land	20%	For-Sale	Rental
Surplus In-Lieu Credits*	20%	For-Sale	Rental
Acquisition and Rehabilitation of Units*	20%	For-Sale	Rental
HUD Restricted Units*	20%	For-Sale	Rental
Alternative or Combination of Methods	Proposing an alternative compliance option or a combination of methods for City consideration and approval. If the combined alternative compliance option is proposed this method must provide substantially the same or greater level of affordability and the amount of affordable housing is as required.		

** These Compliance Options also require Developers to provide the same bedroom ratio of affordable units in comparison to the total. Please see Inclusionary Housing Ordinance Guidelines below for more details on each Compliance Option.*

Each compliance option in the table is linked to a set of implementation guidelines, also available on the Inclusionary Housing Ordinance website: www.sjhousing.org/IHO.

Affordable Housing Impact Fee (AHIF)

On November 18, 2014, the City Council adopted the AHIF Resolution, establishing the AHIF Program which required rental developments with three (3) or more units to pay an AHIF based on a $17 per square foot fee and included a 2.4% escalator (increasing the fee by 2.4% at the start of each fiscal year). Under the AHIF, the only compliance option is the impact fee. The current AHIF is $18.26 and the following table lists the rate schedule by its effective fiscal year:

Fiscal Year	Per Livable Square Foot
July 1, 2017 – June 30, 2018	$17.41
July 1, 2018 – June 30, 2019	$17.83
July 1, 2019 – June 30, 2020	**$18.26**
July 1, 2020 – June 30, 2021	$18.70

The next AHIF Annual Report will be presented to City Council on October 29, 2019. To date, approximately $1.6 million has been collected in AHIF fees. Staff estimates an additional $30 million will be collected by 2020.

ANALYSIS

Summary of Inclusionary Housing Units built

Initially, the Inclusionary Housing Policy created 1,780 income-restricted affordable units (comprised of 346 for-sale homes and 1,434 rental units) that were built on-site. Each of these Inclusionary Policy projects were built without a financial subsidy. Affordability restrictions have terms that range from 30-50 years and a majority were established between the years of 1996-2017. Thus most of these projects will return to market rate rents or may be sold to market rate buyers without resale controls over the next fifty years starting in 2027. There is an opportunity to rehabilitate these residential developments and extend or re-establish a new affordability restriction under the current IHO; no developer has expressed interest in this alternative Inclusionary compliance option.

Out of the 52 total Inclusionary Policy projects (26 for-sale and 26 rental projects), nearly one-third of the projects (15 for-sale and one rental project) have chosen to pay an in-lieu fee instead of building the restricted units on-site. Approximately $20.6 million has been collected in in-lieu fees thus far under the Policy. Three projects (Asana at Evergreen Circle, 188 W St James – formerly Silvery Towers, and Urban Oaks – iStar) are under construction and have chosen to pay the in-lieu fee. Under the Inclusionary Housing Policy, in-lieu fees are not due until Certificate of Occupancy. Asana has chosen to pay the in-lieu fee earlier in their process, prior to release of building permits. In total, Asana will pay a total of $10 million and has a remaining balance of $5.8 million to pay. Similarly, another project, Urban Oaks (i-Star) will pay a total of $8.8 million; and thus this project has a remaining balance due of $4.6 million to pay. 188 W St James – formerly Silvery Towers is the only downtown high-rise and their in-lieu fee was reduced by 50% (from $17 per square foot) to $8.50/sq ft. Thus, prior to receiving its final Certificates of Occupancy, 188 W St James – formerly Silvery Towers will pay a total of $5.3 million in in-lieu fees. These three projects total will pay $15.8 million in pending in fees.

Summary of Inclusionary Policy In-Lieu Fees Spent

Of the current $21 million already collected, an additional $3.2 million has been collected in loan repayments from multi-family projects, resulting in a total of $24.2 million from the Inclusionary Policy. This funding has been invested in the development of affordable housing units at various locations including Corde Terra Village Seniors, Metropolitan North and South (also known as Markham Terrace). Of the $23.8 million, $2.2 million has been invested in first-time homebuyer loans and $383,000 in the New San Jose Family Shelter project. The FY 2017/18 – FY 2021/22 Affordable Housing Investment Plan describes the Five-Year Affordable Housing Funding Strategy in more detail.

Attachment 2 lists all the units created and In-Lieu Fees paid under the Policy. This list does not include projects that had their own Development Agreements. Also, buyers of affordable for-sale homes were eligible to sell their property at Fair Market Value and repay the loan to the City with an equity share based on the increase in home value, after which the affordability restriction would be removed. Thus the main reason for the drop in "Number of Restricted Units" and "Current Number of Restricted Units" is due to homes being sold at Fair Market Value, paying off their loans, and being removed from the inventory. Additionally, there are several For-Sale projects that received waivers during the economic downturn, exempting some units from the original requirements of the Redevelopment Inclusionary Policy (these projects are noted in **Attachment 2** with an asterisk). The waiver provision allows developers who are building and selling for-sale housing within 5% of the affordable housing price, to sell the home without restrictions because the developer is building a market rate product at the affordable price. This proved to be an effective mechanism during the recession because it allowed developers to sell without having to further discount the sales prices to sell the homes. Currently, 1,592 units remain income-restricted affordable (comprised of 158 for-sale homes and 1,434 rental units).

Inclusionary Housing Ordinance Progress

As mentioned in the background, with the adoption of the Inclusionary Housing Ordinance, the City Council directed staff to implement a "Grace Period" allowing any for-sale residential development that had issued all its needed Planning Permits prior to June 30, 2016, to be exempted from the requirements of the Ordinance. This grace period exemption applies if Planning Permits are not subsequently modified, violated, or expired, and new Planning Permits are not obtained prior to issuance of all the final certificates of occupancy for the Residential Development. There are four projects that are exempt due to the Grace Period provision as shown in **Attachment 3**.

As shown in **Attachment 3,** currently there are seven projects subject to the IHO. These projects have submitted their Affordable Housing Compliance Plan and declared their compliance option. One project, Garden Gate, that is considering two development scenarios, so both unit estimates are included in the attachment. Of the eight subject projects, seven are planning to pay an in-lieu fee at Certificate of Occupancy, all of which are for-sale projects. Only one project (Steven's Creek Promenade) which is anticipated to be rental has selected to comply with the IHO through the build on-site compliance option where 15% of the units are affordable, totaling 88 affordable units). The project is entitled and they are actively seeking financing for their development. If all projects move forward including the grace period projects, an estimated 2,342 units will be built (or 2,845 units if the Garden Gate co-living scenario is built).

Future Use of In-Lieu Fee Revenue - Notice of Funding Availability

The City issued a Notice of Funding Availability (NOFA) stating the City's intent to fund affordable housing developments that meet the City's priorities. Currently a NOFA process for $100 million is underway and will allocate funding for projects from multiple sources including over $20 million Inclusionary Policy in-lieu fees collected, project savings and repayments from Inclusionary Policy projects. As Inclusionary Housing Ordinance in-lieu fees are collected, the Housing Department may release subsequent NOFA's for affordable housing developers to apply for these funds to build the affordability restricted units.

Research on Inclusionary Housing in Other Jurisdictions

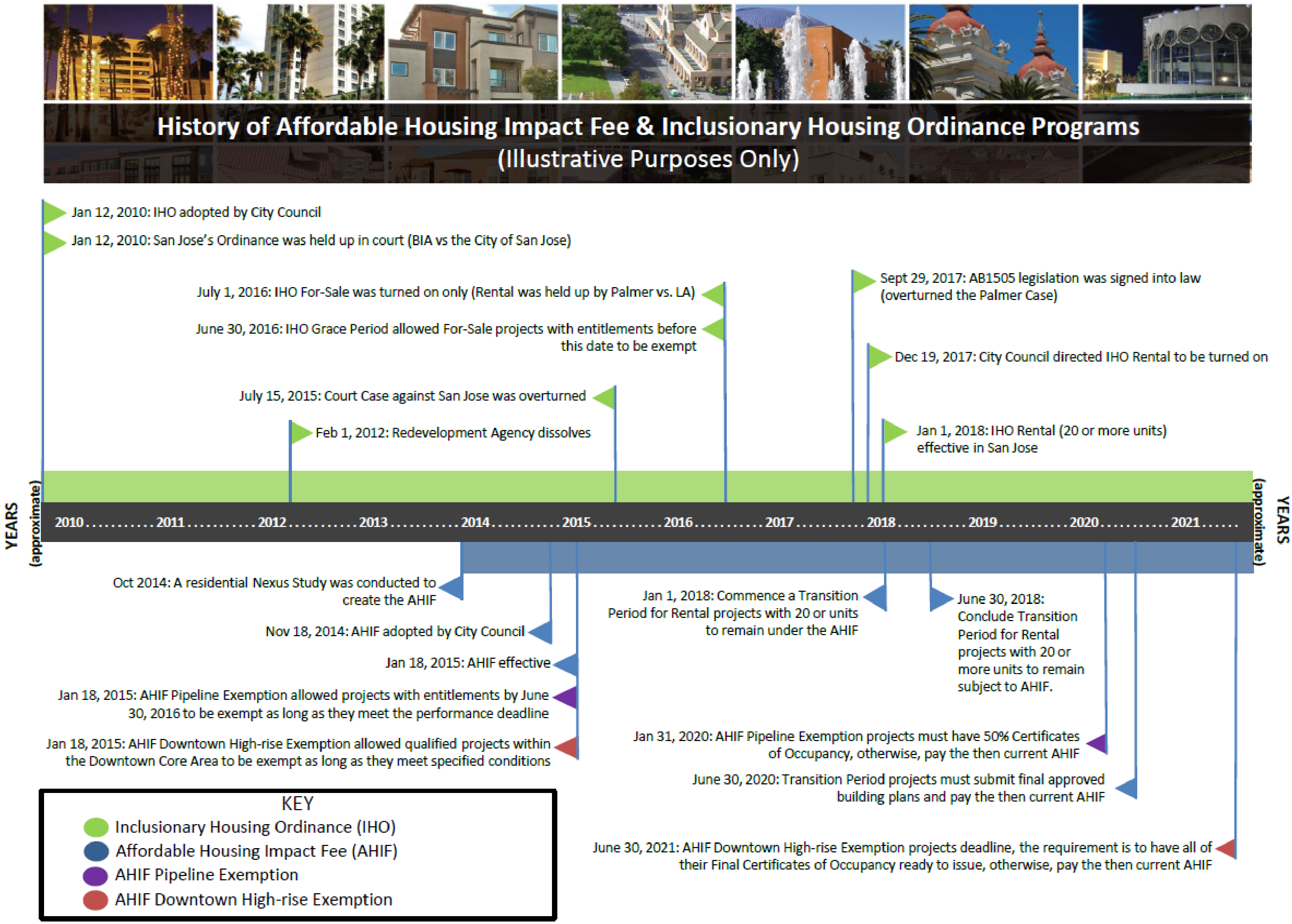
To provide more context around San José's Inclusionary Housing Ordinance, the Housing Department has also researched other affordable housing programs in Santa Clara County. See **Attachment 4** to view a list of Santa Clara County jurisdictions with Inclusionary Housing Programs or Impact Fees and their requirements. San Francisco and Oakland were also included in this benchmarking exercise as the other two large cities in the Bay Area.

As shown, several cities in Santa Clara County prefer that affordable units to be built on-site for projects above a specified size, such as seven units or more. To use an alternative compliance option, most of these cities request that the applicant provide justification for seeking to fulfill their obligation through another option and thus incorporate their proposed option into their entitlement/public hearing process. Cities that provide a preference to build on-site units include Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Mountain View, Palo Alto and Sunnyvale. San Francisco's program incentivizes on-site units through a lower affordable unit percentage obligation. All cities surveyed require on-site affordable units to be evenly dispersed throughout the project.

ATTACHMENTS

1 – History of Affordable Housing Impact Fee & Inclusionary Housing Ordinance Programs
2 – Inclusionary Policy Units and In-Lieu Fees Paid
3 – Inclusionary Housing Ordinance Projects In-Progress
4 – Jurisdictions with Inclusionary Housing Programs

ATTACHMENT 1



ATTACHMENT 2

	Project Name	Council District	RDA Assistance	Total Number of Units	Original # of Restricted Units	Current # of Restricted Units	Inclusionary Fees Paid
	Inclusionary Policy Units and In-Lieu Fees Paid (FOR-SALE)						
1	**Asana at Evergreen Circle**	**8**		**250**			**Paid: 4,200,000** **Owe: 5,800,000**
2	Autumn Terrace at Bonita	3		80	16	9	
3	Autumn Terrace at College	3		46	9	8	20,000
4	Autumn Terrace at William	3		105	21	13	
5	Fruitdale Station (SW Exp)	6		502			3,539,250
6	Keystone Place	3		42	8	2	26,000
7	Laurel Place	3		44			572,000
8	Marburg Place	3		57	11	4	20,000
9	Modern Ice	3		200	40	8*	
10	Monte Vista Cannery Square	6		383	83	37*	30,000
11	One East Julian	3		43	8	1*	
12	Orchard Park (Fox Markovits)	3		239			4,944,000
13	Parc 22	3		67			1,257,644
14	Plum Orchard	7		20			260,000
15	San Antonio Place	5		24	5	1	247,000
16	**188 W St James** **(formerly Silvery Towers)**	**3**		**640**			**Owe: 5,322,471**
17	Sonora (Regency Skyport)	3		315	63	21	
18	Tamien Place Tower I	3		121	24	24	
19	***Tamien Place Tower II***	***3***		***121***	***24***	***24***	**0**
20	The Globe	3		76	15	12	
21	The Lofts	6		40	8	2	
22	The Works	3		74	16	7*	
23	***Urban Oaks (I-Star)***	***2***		***419***			**Paid: 4,104,240** **Owe: 4,698,000**
24	Villa Almendra	3		17			221,000
25	Village Square	6		95	19	9*	
26	Westmount Square	3		60			1,562,436
	For-Sale Current Subtotal		0	2,650	346	158	$21,003,570
	Ultimate For-Sale Total		0	4,079	370	182	$36,824,041

Bolded projects are under construction. *Italicized projects are yet to be constructed, but a restriction is recorded on the property.*

* Starred projects received waivers during the economic downtown turn and didn't provide the full number of restricted affordable units.

ATTACHMENT 2

Inclusionary Policy Units and In-Lieu Fees Paid (RENTAL)							
	Project Name	**Council District**	**RDA Assistance**	**Total Number of Units**	**Original # of Restricted Units**	**Restriction Expiration***	**Inclusionary Fees Paid**
1	101 San Fernando	3		323	65	8/29/2031	
2	Bella Castello	3		87	17	12/19/2058	
3	Brookwood Terrace Family	3		84	17	1/27/2067	
4	College Park	3		367	46	12/14/2031	
5	Enclave	4		637	271	4/13/2028	
6	Fourth Street Apartments	3		100	20	6/11/2057	
7	Hitachi - Ascent	2		648	95	4/4/2069	
8	Hitachi - Charlotte Drive	2		200	197	5/27/2071	
9	Hitachi - La Moraga	2		275	60	2/2/2070	
10	Hitachi - Vio	2		234	47	10/27/2071	
11	Japantown Seniors	3		75	15	3/13/2074	
12	Market Gateway Housing	3		54	22	4/21/2030	
13	Monterey Grove	2		224	34	11/4/2029	
14	North Park The Redwoods	4		439	66	6/9/2034	
15	North Park The Cypress I	3		233	35	10/29/2031	
16	North Park The Cypress II	4		244	37	10/29/2031	
17	North Park The Laurels	4		535	80	5/13/2035	
18	North Park The Oaks	4		261	38	3/6/2033	
19	North Park The Oaks II	4		127	20	3/6/2033	
20	North Park The Pines	4		478	72	1/14/2033	
21	North Park The Sycamores	4		445	67	10/1/2037	
22	Rosemary Family	3		184	37	4/29/2069	
23	St. Claire Apartments	3		36	7	12/1/2063	10,999
24	Villa Savannah	4		140	21	5/2/2052	
25	Waterford Place	3		238	36	4/5/2030	
26	Willow Lake	4		80	12	8/4/2027	
Rental Subtotal			0	6,748	1,434	**-**	$10,999

NOTE: Each of these projects have recorded Affordability Restrictions and are still active. The inclusionary unit count was dependent on the type of restriction required, either 15% or 20% of the total unit count. For the Hitachi projects, units were transferred between the sites but resulted in an equivalent number of units to be built. For most of these projects, the Affordability Restrictions expire 30 or 50 years from commencing.

ATTACHMENT 2

	RDA Assistance	Current Number of Units Built	Original Number of Restricted Units	Current Number of Restricted Units	Inclusionary Fees Paid Thus Far
TOTALS OF FOR-SALE & RENTAL	0	9,398	1,780	1,592	$21,014,569
	RDA Assistance	**Units To Be Completed**	**Total To Be Completed**	**Restricted Units To Be Completed**	**Inclusionary Fees To Be Paid**
	0	1,429	24	24	$15,820,471
	RDA Assistance	**Total Number of Units if Projects Are Completed**	**Ultimate Number of Restricted Units**	**Restricted Units if Projects Are Completed**	**Ultimate Inclusionary Fees Paid**
	0	10,827	1,804	1,616	$36,835,040

This summary has been provided as an estimate to explain the total Inclusionary Policy In-lieu fees that were collected. Funds were distributed to partially support various affordable housing projects and all funding has been accounted for.

ATTACHMENT 3
Inclusionary Housing Ordinance Projects In-Progress

All these projects have submitted an Affordable Housing Compliance Plan indicating their selected compliance option. Next steps will be to codify this compliance option and record an agreement on the property, which must be done prior to issuance of Building Permits. So far none of these IHO projects have pulled building permits. Since in-lieu fees are due at Certificate of Occupancy and calculated accordingly, no in-lieu fees were estimated here. In addition, these unit counts are estimates and unit counts and in-lieu fees (if elected) will be verified at the end of the construction process, at Certificate of Occupancy whether it be a mixed income development or affordable.

Inclusionary Housing Ordinance (IHO) Projects In Progress (Market Rate/Mixed Income)								
	Project Name	**Council District**	**Developer**	**Tenure**	**Market Rate**	**Affordable Units**	**Total Units**	**Elected Compliance Option**
1	Steven's Creek Promenade	1	Fortbay LLC	Rental	494	88	582	15% On-Site
2	7201 Bark Lane	1	Barry Swenson Builder	For-Sale	85	-	85	In-Lieu Fee
3	Winchester Ranch	1	Pulte Home Corporation	For-Sale & Rental	688	-	688	In-Lieu Fee
4	117 N. 5th Street	3	Ice Design Inc.	For-Sale	28	-	28	In-Lieu Fee
5	Garden Gate*	3	KT Urban	For-Sale or Rental	290 / 793	-	290 / 793	In-Lieu Fee
6	The Orchard (641 N. Capitol)	5	Pulte Home Corporation	For-Sale	188	-	188	In-Lieu Fee
7	2881 Hemlock - Mixed Use	6	Cord Associates	For-Sale	48	-	48	In-Lieu Fee
8	Baywood Condominiums	6	Cord Associates	For-Sale	48	-	48	In-Lieu Fee
				Subtotal	**1,869 or 2,372**	**88**	**1,957 or 2,460**	

* The Garden Gate project is considering two development scenarios, 290 multi-family units or 793 co-living units.

ATTACHMENT 3
Inclusionary Housing Ordinance Projects In-Progress

Inclusionary Housing Ordinance (IHO) Projects In Progress (Grace Period Projects)								
	Project Name	**Council District**	**Developer**	**Tenure**	**Market Rate**	**Affordable Units**	**Total Units**	**Compliance Option Selected**
1	Ponderosa	2	Ponderosa Homes	For-Sale	26	-	26	Exempted
2	Dobbin	3	Pulte Home Corporation	For-Sale	101	-	101	Exempted
3	Berryessa Crossing	4	KB Homes	For-Sale	162	-	162	Exempted
4	Almaden Terraces	6	Silicon Sage	For-Sale	96	-	96	Exempted
				Subtotal	**385**	**-**	**385**	

Totals	**2,254 or 2,757**	**88**	**2,342 or 2,845**

ATTACHMENT 4

Please see the following table for a summary of other cities in Santa Clara County and two other large cities (Oakland and San Francisco) that have Inclusionary programs. Please note that this table is up to date as of August 22, 2019.

Jurisdictions with Inclusionary Housing Programs						
City	**Minimum Project Size (no. units)**	**Inclusionary Requirement**	**On-Site Must Be Dispersed Throughout the Project**	**On-Site Preference and Alternative Compliance Options**	**Number of Units Built Thus Far**	**In-Lieu Fees Collected Thus Far**
San José	For-Sale: 20 units Rental: 20 units	**15%** Build On-Site **20%** Alternative Options: Build-Off site, In-Lieu Fee, Dedicate Land, Acquire and Rehabilitate Units, etc.	Yes	**On-site Incentivized** by lower % required than alternative options: build off-site, in-lieu fee, etc.	**For-Sale:** 0 **Rental:** 0	**Inclusionary Policy:** $12.1 million **Inclusionary Ordinance:** $0
Campbell	10 units	**For-Sale:** 15% 8% @ Mod (120% AMI) 7% @ Low (80% AMI) **Rental:** 15% 9% @ Low (80% AMI) 6% @ Very Low (50% AMI)	Yes	**Alternative options permitted:** • Off-site • Land dedication • **In-lieu fee:** available to projects less than 6 du/acre only	**For-Sale:** 68 **Rental:** 54	So far no in-lieu fees collected
Cupertino	1 unit	**For-Sale:** 15% 7.5% @ Mod (120% AMI) 7.5% @ Median (100% AMI) **Rental:** 15% 6% @ Low (80% AMI) 9% @ Very Low (50% AMI)	Yes	**Projects with 1-6 units** may provide one unit or pay a fee. **Projects of 7 or more units** must provide 15% of the units as BMR units or seek approval from City Council for alternative compliance options.	**For-Sale:** 120 **Rental:** 142	$13,306,349 collected in total since 2005

ATTACHMENT 4

Jurisdictions with Inclusionary Housing Programs						
City	**Minimum Project Size (no. units)**	**Inclusionary Requirement**	**On-Site Must Be Dispersed Throughout the Project**	**On-Site Preference and Alternative Compliance Options**	**Number of Units Built Thus Far**	**In-Lieu Fees Collected Thus Far**
Los Altos	1 unit	**For-Sale:** 15% >50% @ Mod (120% AMI) Remainder @ Low (80% AMI) or Very Low (50% AMI)	Yes	**Fee Permitted** under separate impact fee ordinance as alternative to compliance with inclusionary program, on-site not incentivized.	**For-Sale:** 0	So far no in-lieu fees collected
		Rental: 20% Low or 15% Very Low			**Rental:** 106	
Los Gatos	5 units	**For Sale:** 5-19 units: 10% @ Median (100% AMI) 20-100: 10–20% @ Median (100% AMI) 101+: 20% @ Median (100% AMI)	Yes	**On-site Required,** fee permitted for 5-9-unit projects with Town approval. Off-site units only permitted for 5-9-unit projects and projects in Hillside zone, with Town approval.	**For-Sale:** 54	$3.5 million
		Rental: 5-19 units: 10% @ Low (80% AMI) 20-100: 10–20% @ Low (80% AMI) 101+: 20% @ Low (80% AMI)			**Rental:** 119	
Milpitas	10 units	**For-Sale:** 15% @ Mod (120% AMI)	Yes	**On-site Required,** other alternatives including fee, off-site, land dedication, permitted with Council approval.	**For-Sale:** 0	So far no in-lieu fees collected.
		Rental: 15% @ Low (80% AMI)			**Rental:** 0	

ATTACHMENT 4

Jurisdictions with Inclusionary Housing Programs						
City	**Minimum Project Size (no. units)**	**Inclusionary Requirement**	**On-Site Must Be Dispersed Throughout the Project**	**On-Site Preference and Alternative Compliance Options**	**Number of Units Built Thus Far**	**In-Lieu Fees Collected Thus Far**
Mountain View	1 unit	**For-Sale:** 15% @ Moderate (80 - 120% AMI) Townhomes: add'l 10% @ Above Moderate (120 – 150% AMI)	Yes	**Projects** under 7 units may provide units or pay a fee. **Projects of 7 or more units** must provide units. Alternative compliance options require Council approval.	**For-Sale:** 6	**For-Sale:** $53 million
		Rental: 15% @ Low – Moderate (50% - 120% AMI)			**Rental:** 320	**Rental** (from AHIF program): $41 million
Palo Alto	3 units	**For-Sale:** 15% 10% @ 80-100% AMI 5% @ 100-120% AMI	Yes	**On-site Required,** applicant must demonstrate on-site units are infeasible to utilize alternatives including off-site, land dedication and in-lieu fees.	**For-Sale:** N/A	So far no in-lieu fees collected
		Rental: Impact fee		**Fee Permitted.**	**Rental:** 1,366	
Santa Clara	3 units	15% at 100% AMI or lower, on average	Yes	**On-site units required** in for-sale projects. Fee permitted for projects under 10 units. Off-site and land dedication options with Council approval.	**For-Sale:** 200	So far no in-lieu fees collected
					Rental: 0	

ATTACHMENT 4

Jurisdictions with Inclusionary Housing Programs						
City	**Minimum Project Size (no. units)**	**Inclusionary Requirement**	**On-Site Must Be Dispersed Throughout the Project**	**On-Site Preference and Alternative Compliance Options**	**Number of Units Built Thus Far**	**In-Lieu Fees Collected Thus Far**
Sunnyvale	For-Sale: 8 Rental: 4	**For Sale:** 12.5% @ Mod (120% AMI)	Yes	**On-site Required.** Fee, off-site, other alternatives permitted only with Council approval	**For-Sale:** 387	So far no in-lieu fees collected
		Rental: Impact fee		**Fee permitted,** on-site not incentivized.	**Rental:** 147	
Bay Area – Large Cities						
Oakland	1 unit	5% Very Low (50% AMI) or 10% Low (80% AMI) or 10% Mod (120% AMI)	Yes	**Fee permitted**, on-site not incentivized. Off-site permitted with Council approval.	N/A	N/A
					N/A	N/A
San Francisco	10 units	**For-Sale:** 10-24 units = 13% @ 80% AMI 25+ units = 22% 12% @ 80% AMI average 5% @ 105% AMI average 5% @ 110% AMI average	Yes	**On-site Incentivized** through a lower % requirement than build off-site or in-lieu fee.	**For-Sale:** 893	Over $240 million
		Rental: 10-24 units = 13% @ 55% AMI 25+ units = 20% 12% @ 55% AMI average 4% @ 80% AMI average 4% @ 110% AMI average			**Rental:** 1,155	

Note: AMI levels for inclusionary requirements identified in chart represent qualifying levels.

KEYSER MARSTON ASSOCIATES

ANALYSIS AND CONTEXT MATERIALS

In Support of Updates to the City's

INCLUSIONARY HOUSING ORDINANCE

Prepared for:
City of San Jose

Prepared by:
Keyser Marston Associates

October 23, 2019

TABLE OF CONTENTS

LIST OF TABLES

1.0 INTRODUCTION AND SUMMARY

This report has been prepared by Keyser Marston Associates, Inc. (KMA) to provide research and analysis in support of a proposed update to the City of San Jose's ("City") Inclusionary Housing Ordinance (IHO). Proposed changes to the IHO are focused on the following objectives, along with other updates to the program for the years ahead:

1. Modification to the in-lieu fee structure to allow fees to scale with unit size, which is helpful for encouraging denser housing development as well as innovative housing types such as co-living;
2. Encouraging on-site production of affordable units;
3. Updates to the income levels being targeted; and
4. Building in additional flexibility and options for the provision of affordable units.

1.1 Current Compliance Alternatives Under San Jose's IHO

San Jose's existing IHO applies to residential development projects with 20 or more housing units. Current compliance options under the IHO are summarized in Table 1-1.

Table 1-1. Overview of Compliance Options Under San Jose IHO

Compliance Option	Rental	For-Sale
A. Build On-Site	15% of total units affordable With 9% Moderate (rents at 80% AMI) and 6% Very Low (rents at 50% AMI)	15% of total units affordable to Moderate Income (qualifying 80%-120% AMI, pricing at 110% AMI)
B. Build Off-Site	20% of units in market rate project with 12% at Low (rents at 60% AMI) and 8% at Very Low (rents at 50% AMI).	20% of units in market rate project at Moderate Income (qualifying 80%-120% AMI, pricing at 110% AMI)
C. In-Lieu Fee	$125,000* per required affordable unit based on 20% of the units in the residential development.	$192,946* per required affordable unit based on 20% of the units in the residential development.
Other Compliance Options: Land Dedication, Surplus Inclusionary Unit Credits, Acquisition and Rehab of Existing Units, HUD Restricted Units, Combination of Methods.		

See IHO implementation guidelines for additional information.
AMI = Area Median Income
* FY 2019-20 fee level.

The IHO has applied to for-sale projects that receive planning permits after June 30, 2016 and to rentals since January 1, 2018. Rental projects that submitted a planning application and Affordable Housing Compliance Plan prior to June 30, 2018 could elect to pay the Affordable Housing Impact Fee (AHIF), currently $18.26 per square foot, rather than comply with the IHO, subject to certain transition period conditions.

1.2 Proposed Updates to the IHO

Table 1-2 presents a summary of proposed updates to the major compliance options under the IHO. The proposal was developed by the City and refined based on input received from stakeholders with support from Street Level Advisors and KMA, consultants to the City.

For rental projects, the following key changes are proposed to the IHO compliance options:

(1) Modify the on-site affordability requirement for rental projects to address three affordability levels while maintaining a 15% requirement overall:
   a. 5% at Moderate with rents at 100% of Area Median Income (AMI),
   b. 5% at Low (rents at 60% AMI), and
   c. 5% at Very Low (rents at 50% of AMI).

(2) Add an additional compliance alternative to provide 10% of units on-site at Extremely Low Income.

(3) Move to a per square foot in-lieu fee structure to allow in-lieu fees to scale with the size of the unit.
   a. Establish a "Citywide" in-lieu fee level of $18.26 per square foot applicable in most locations in the City, a fee level consistent with the existing AHIF.
   b. Establish an in-lieu fee of $43 per square foot for West San Jose, a fee level designed to encourage projects to provide some affordable units on-site. Higher in-lieu fees are proposed for West San Jose where the economics of rental development are strongest and there is a demonstrated ability to support a stronger requirement. The proposed in-lieu fee is reflective of the estimated cost of including the required 15% affordable units on-site.

   Proposed in-lieu fee amounts would be incorporated as updates to the schedule of fees and charges while the method for determining and updating fees would be reflected as part of updates to the IHO. See Section 4 for a discussion of the proposed methodology.

(4) Incentivize projects to provide at least 5% of required affordable units on-site by establishing lower "mixed compliance" in-lieu fees that apply to these projects. Lower mixed compliance in-lieu fees are identified in Table 1-2, Row C. Mixed compliance fees would apply to the entire square footage of the project but would be due only for income tiers not included on-site (i.e. if Moderate units are provided on-site, the in-lieu fee for the Moderate tier shown in Table 1-2, Row C would not be paid).

(5) Modify the off-site affordability requirement for rental projects to address three affordability levels while maintaining a 20% requirement overall:
   a. 5% at Moderate (rents at 80% AMI),

b. 5% at Low (rents at 60% AMI), and
c. 10% at Very Low (rents at 50% of AMI).

Proposed modified off-site requirements result in an average rent level of 60% AMI, which enables all required off-site units to qualify for federal tax credit financing.

For for-sale projects, the primary change is to move to a per square foot in-lieu fee structure with an initial fee of $25 per square foot[1]. The on-site and off-site compliance options would remain the same as under the current IHO. Section 4 shows how this fee was calculated.

Table 1-2. Proposed Updated Compliance Options and In-Lieu Fee Amounts[2]

Compliance Option	Rental	For-Sale
A. Build On-Site	15% of total units affordable with: 5% Moderate (rents at 100% AMI) 5% Low (rents at 60% AMI) 5% Very Low (rents at 50% AMI) OR 10% Extremely Low (rents at 30% AMI)	15% affordable to Moderate Income with pricing at 110% of AMI (same as current)
B. Build Off-Site	20% of units in market rate project with: 5% Moderate (rents at 80% AMI) 5% Low (rents at 60% AMI) 10% Very Low (rents at 50% AMI) OR 13% Extremely Low (rents at 30% AMI)	20% of units in market rate project affordable to Moderate Income (same as current)
C. In-Lieu Fee	**Citywide:** $18.26 per square foot **West San Jose:** $43 per square foot **Mixed Compliance fees** for projects providing at least 5% on-site: 100% AMI $1.80 60% AMI $7.70 50% AMI $9.90 *Projects pay only for income tiers not provided on-site i.e. if 5% at Moderate (100% AMI) provided on-site, in-lieu fee of $7.70 + $9.90 = $17.60/SF is due.* **Downtown High-Rise**: initially $0, then phase in.	**For-Sale:** $25 per square foot **Downtown High-Rise:** initially $0, then phase in.
Other Compliance Options: Land Dedication, Surplus Inclusionary Unit Credits, Acquisition and Rehab of Existing Units, HUD Restricted Units, Combination of Methods.		

[1] Proposed in-lieu fee amounts would be incorporated as updates to the schedule of fees and charges while the method for determining and updating fees would be reflected as part of updates to the IHO.
[2] Ibid

Refinements to other compliance options under the IHO are expected to be considered as part of the proposed IHO update, although not specifically addressed in this report. Calculations supporting proposed for-sale and rental in-lieu fees applicable to West San Jose and the Mixed Compliance option are provided in Section 4. The Citywide rental in-lieu fee is equal to the existing AHIF.

1.3 Cost of Development Study

A “Cost of Development Study” (“COD Study”) was prepared by KMA examining the economics of high-density rental and for-sale residential development in San Jose, updating and expanding a prior version of the study prepared in 2018. The COD Study is presented in two memoranda, one addressing high-density rental development and the other, high density for-sale development. Section 2 of this report provides a summary of the COD Study findings and additional analysis testing the proposed IHO updates. Key findings are:

- The economics of rental developments have become more marginal in most locations as a result of rising development costs and moderation in rent growth over the past few years. West San Jose is the only area where rental projects are projected to generate profit levels consistent with developer and investor expectations. Construction costs in San Jose are the same as elsewhere in Silicon Valley but market rents are lower than in some cities such as Sunnyvale, Mountain View or Campbell, which creates more of a challenge to the economics of rental projects in San Jose.

- Proposed IHO updates will improve the economics of rental projects but the underlying challenges, driven by escalation in construction costs and moderation in rent growth, remain.

- Low-rise stacked condos have been a less active development type in San Jose in recent years; however, these projects are approaching economic feasibility in stronger locations. The proposed conversion to a per square foot-based fee under the IHO update reduces in-lieu fees for condos due to their smaller average size, which results in a slight improvement to the economics of stacked condominiums that will be helpful in encouraging these projects. Table 1-4 provides an illustration of how for-sale in-lieu fees would change by type of project.

- Development costs, including land and construction cost, for high-rise residential were not found to be supported by current sales prices and rent levels in the Downtown. Longer-term investors who see an upside to rents and sales prices might choose to move forward with projects today despite challenging economics. Co-living projects also promise to perform better financially but remain an unproven project type at this point.

1.4 Compliance Cost Analysis Findings

The compliance cost analysis presented in Section 3 provides information regarding the cost to new developments of complying with existing and proposed IHO compliance alternatives. All per square foot cost figures identified below reflect the cost per total net rentable or net sellable square feet in the development.

Rental Projects Current IHO

- The existing $125,000 per affordable unit rental project in-lieu fee translates into a cost of approximately $28 per square foot.

- Including affordable units on-site consistent with existing IHO requirements is estimated to cost in the range of $45 per square foot, significantly more than the in-lieu fee, which provides a strong incentive to pay the fee.

Rental Projects – Proposed Updated IHO

- For areas in which the proposed Citywide in-lieu fee of $18.26 per square foot applies, the in-lieu fee is estimated to be the lowest cost option that most projects are likely to select.

- With the proposed in-lieu fee applicable for West San Jose, projects would be incentivized to provide 5% affordable units on-site at 100% of AMI rents and pay the reduced mixed compliance in-lieu fee totaling $17.60 per square foot (See Table 1.2, Row C) to meet the remaining 10% IHO obligation. This mixed compliance option is estimated to equate to a combined cost of approximately $25 per square foot, which is less costly than payment of the full in-lieu fee rate of $43 per square foot.

  Additional mixed compliance alternatives with 5% of units at Very Low or Low Income are identified in Table 1-3 and are estimated to be represent a cost in the range of $27 to $28 per square foot. Including 5% Very Low-Income units on-site likely would also qualify the project for a 20% State density bonus and reduced parking and setbacks under the City's density bonus ordinance[3].

Table 1-3. Estimated Cost of Proposed Mixed Compliance Alternatives

	A. **5% On-Site at 100% AMI**	B. **5% On-Site at 50% AMI**	C. **5% On-Site at 60% AMI**
Mixed Compliance In-Lieu Fee	$17.60 /SF	$9.50 /SF	$11.70 /SF
Estimated Cost: 5% On-site Units	$7.40 /SF	$18.40 /SF	$15.60 /SF
Combined Cost	**$25.00 /SF**	**$27.90 /SF**	**$27.30 /SF**

See Table 3-11 D for supporting calculations.

[3] See chapter 21.190 of the San Jose Municipal Code.

➢ The option to provide 10% of units at Extremely Low Income (ELI) may be a workable option for a larger rental project that has the scale to provide affordable units in a separate building utilizing tax credit financing. This option is estimated to equate to a cost of approximately $37 per square foot after tax credit financing but without other subsidy sources and assuming units are provided in a separate building.

➢ The overall cost to comply with the IHO would significantly decrease from $28 per square foot currently with the in-lieu fee to $18.26 per square foot in areas eligible for the Citywide in-lieu fee and slightly decrease to an estimated $25 per square foot where the higher in-lieu fee rate for West San Jose applies, in which case the mixed compliance option is estimated to represent the lowest cost.

Chart 1 provides a summary of estimated compliance costs for rental projects under the existing IHO and proposed updates. Figures are intended as representative estimates and may vary somewhat from project to project due to differences in development costs, average unit size, or other features. Figures reflect low-rise rentals. Supporting information for these estimates is provided in Section 3 along with additional estimates for mid-rise and high-rise projects. Costs for mid-rises are similar (within +/- $1/SF). Costs for high-rises to comply with proposed requirements are also provided in Section 3 for illustration purposes; however, high-rises are proposed to have an initial in-lieu fee of zero ($0) for an initial period with in-lieu fees phased in over a subsequent period of years.

Chart 1
Rental Project Compliance Cost Estimates - Existing IHO and Proposed Update
($ / NSF in Project)

Note: compliance options most likely to be selected are indicated with darker colors and bold text.

See Section 3 for the supporting analysis for the compliance cost estimates presented above. Estimates for the existing IHO reflect application of the 20% off-site requirement when units are provided in a separate building (third column of Chart 1). The existing on-site / separate building option and proposed 10% ELI option both assume financing available through Low Income Housing Tax Credits (LIHTC).

Section 3 also provides an analysis of alternative inclusionary percentage requirements that are estimated to be roughly equivalent in cost.

For-Sale Projects – Current IHO

- The current for-sale in-lieu fee is a fixed amount of $192,946 per affordable unit, which translates to a fixed amount per market rate unit in the project. This means that on a square foot basis, larger single family units pay the least (approx. $11/SF) and condominiums, with their smaller unit sizes, pay the most ($34/SF for low-rise condos)[4].

- Providing on-site units in a for-sale projects represents an estimated cost of $27 to $40 per square foot, depending on the unit type.

- Projects are incentivized to pay the in-lieu fee since the cost is less than providing affordable units on-site.

For-Sale Projects – Updated IHO

- Proposed updates would not alter the cost of providing units on-site and the in-lieu fee would continue to be the lower cost option that most projects would be anticipated to utilize.

- With the proposed change to a $25 per square foot in-lieu fee for for-sale units, a 1,544 square foot for-sale unit would have the same fee before and after the update. In other words, 1,544 square feet is the cost-neutral or break-even unit size assuming a $25 / SF for-sale in-lieu fee. Units smaller than this size would see a decrease in fees. Units larger than this size would see an increase. Table 1-4 provides a calculation of how fees would change by project type based on representative unit sizes.

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[4] Per square foot figures are calculated by multiplying the fee per affordable unit by the 20% requirement and dividing by representative market rate unit sizes as identified in Table 1-4, below.

Table 1-4. Existing and Proposed In-Lieu Fees: For-Sale							
		Existing Fee		Proposed Fee		Net Change	
Project Type	Representative Unit Size (Sq. Ft.)	Per Market Rate Unit (1)	Per Square Foot	Per Market Rate Unit	Per Square Foot	Per Market Rate Unit	Per Square Foot
Single Family - large lot	3,400	$38,589	$11.35	$85,000	$25	$46,411	$13.65
Single Family - small lot	2,300	$38,589	$16.78	$57,500	$25	$18,911	$8.22
Townhome	1,750	$38,589	$22.05	$43,750	$25	$5,161	$2.95
Condo: low-rise	1,150	$38,589	$33.56	$28,750	$25	($9,839)	($8.56)
Condo: high-rise (2)	950	$38,589	$40.62	$0	$0	($38,589)	($40.62)

(1) $192,946 in-lieu fee per affordable unit X 20% off-site requirement.
(2) Downtown high-rises are proposed to have an initial in-lieu fee of zero ($0).

1.5 Research on How Other Programs Address Specific Implementation Issues

To help inform updates to the IHO, KMA researched how other programs address a series of specific implementation issues identified by the City. Findings are briefly recapped below with the full discussion presented in Section 5.

1. **Undetermined Project Tenure (rental or for-sale) and Changes in Tenure** – For projects where tenure is determined late in the development process or that are initially rented and later sold, key considerations include providing flexibility for the developer while ensuring no inconsistencies are created, establishing a compliance plan for projects with onsite units that convert tenure, and establishing a policy regarding fee payment. Approaches taken by other cities are outlined in Section 5.

2. **Co-Living Projects** – Key issues include how a “unit” is defined, how in-lieu fees are applied and how affordable rents are determined. Establishing in-lieu fees on a per square foot basis avoids creating a disincentive for this unit type. Affordable rents are generally set at a percentage of that applicable to a studio. Boston and San Francisco both define a “unit” as the individually-rented bedrooms rather than the entire co-living “suite.”

3. **Affordable Units in Separate Building, floor, or wing** – Many other cities’ programs prohibit grouping affordable units on a portion of the site in a separate building, floor or wing. In some cases, exceptions are permitted when grouping of units in a separate building or wing is necessary for affordable housing financing purposes. We did not find examples of programs that apply alternative percentage or AMI levels when units are not dispersed but some require a finding that it furthers affordable housing opportunities.

4. **Monitoring and Enforcement Processes for Inclusionary Units** – Enforcement of covenants is key to maintaining units as affordable. Many small and medium-sized cities contract with third parties to handle this responsibility. It is common to charge an annual regulatory fee to offset monitoring and enforcement costs.

5. **Eligibility of Inclusionary Units for Local Public Funding** – There is a wide range of policies regarding whether and which types of public funding may be used to assist development of inclusionary units. Most cities that specify a policy do so to restrict the use of public funding for meeting the base inclusionary requirement, especially local or competitively allocated sources. Even where other subsidy sources are prohibited, 4% tax credit financing may be permitted.

6. **Term of Affordability for Inclusionary Units** – 55-years is the most common term of affordability, sometimes with a shorter term applicable to for-sale units that renews with each change of ownership. While less common, some programs require longer terms such as 99-years, for the "life of the project," or in perpetuity.

7. **In-Lieu Fee Structure for Other Large Cities** – Most major cities on the West Coast are using a per square foot fee structure. This includes Portland, Seattle, San Francisco, Los Angeles and San Diego.

1.6 Small and Lower Density Projects

To provide context for consideration of adjustments to the current 20-unit project size threshold for applicability of IHO requirements, KMA reviewed City data on permitting activity in projects with fewer than 20 units from July 1, 2010 through June 30, 2018. Over this eight-year period, an average of 77 units per year were permitted in projects with fewer than 20 units, of which 24 units per year were in projects with one to four units and 53 were in projects from five to nineteen units in size. See Section 6 for additional information.

Table 1-5. Average Number of Units Permitted Per Year in Projects with Fewer than 20 Units, 2010-2018

Project Size (No. of Units)	Average No. Units Permitted Per Year	%
1-4	24	31%
5-19	53	69%
Total	77	100%

Source: City of San Jose permit data for July 1, 2010 to June 30, 2018

KMA also prepared a conceptual pro forma analysis of low-density townhomes and single-family detached projects. The City anticipates these projects will occur primarily in smaller-scale infill projects within lower-density zoning districts, where available land is limited. The analysis indicates that townhomes and single-family detached projects are projected to generate returns consistent with developer and investor expectations under both the current IHO and the proposed update. Analysis findings are reflective of expected smaller project sizes, including projects under the existing 20-unit minimum project size for application of IHO requirements, and indicate that these smaller projects can sustain existing and proposed updated IHO requirements. See Section 6 and Appendix A for additional information.

2.0 COST OF DEVELOPMENT STUDY

The COD Study evaluates the economics of high-density market rate rental and for-sale residential development in San Jose with current IHO requirements in place. This section provides a recap of the COD Study findings and tests how proposed changes to the IHO would impact the results. COD Study findings for high-density market rate projects are presented in two memoranda:

- **Market Rate Rental** – the rental analysis is presented in an KMA memorandum regarding Conceptual Pro Forma Analysis of High-Density Apartment Development.
- **Market Rate For-Sale** – the for-sale analysis is presented in an KMA memorandum regarding Conceptual Pro Forma Analysis of High-Density For-Sale Residential Development.

A separate KMA report entitled Review of Affordable Housing Development Costs, provides an analysis of development costs for affordable units that are assisted by the City.

The COD analysis addresses high-density market rate development projects representative of the types of projects San Jose expects to see in the future as summarized in Table 2-1.

Table 2-1. Prototypical Market Rate Project Types Addressed in COD Study

	Height	Construction Type	Avg. No. of Bedrooms	Avg. Market Rate Unit Size
Rental				
Low-Rise	Up to 5 stories	Type V	1.4	900 sq ft
Mid-Rise	Up to 7 stories	Type III	1.4	900 sq ft
High-Rise	20-25 Stories	Type I	1.4	900 sq ft
For-Sale				
Condos, Low-Rise	4 to 5 stories	Type V	1.5	1,150 sq ft
Condos, High-Rise	~20 stories	Type I	1.5	950 sq ft

The COD Study does not address lower density single family and townhome projects because land available for lower density development is limited in San Jose and future lower density projects are expected to occur primarily within smaller scale projects. Section 6.2 and Appendix A include a separate pro forma analysis that addresses lower-density projects.

2.1 Rental Project Findings

The COD Study indicates development economics are challenging for apartment projects in San Jose due to rising construction costs and moderation of rent growth (see the COD Study for rentals, Exhibit 4 for information on rent and cost trends). A Multifamily Land Price Analysis prepared by David Paul Rosen and Associates evaluating trends in land prices over time indicates that land prices have been rising as well.

Market values for new apartments exceed development costs in most locations; however, profit margins are substandard because they fall below a minimum target profit level of 10% to 15% estimated to be necessary for developers to attract the debt and equity investment needed to move forward with their projects. Projects in West San Jose are an exception where profit targets are estimated to be achieved as a result of higher rents in this area. Construction costs are the same in San Jose as other nearby Silicon Valley cities like Mountain View, Sunnyvale and Campbell but market rents are lower in San Jose, which creates more of a challenge for projects in San Jose.

Profit levels identified in this report are calculated as the dollar amount by which estimated market value upon completion exceeds the estimated total development cost expressed as a percentage of cost. The 10% to 15% minimum profit target reflects KMA's experience with development economics of apartment projects in the Bay Area; however, it should be noted that some developers have expressed that a profit level above 15% is necessary to move forward.

For additional information, Appendix Table 1 also identifies development return findings as a return on cost (ROC). ROC is a separate annual development return metric calculated as the projected annual net rental income divided by the total development cost and expressed as a percentage.

For information regarding the analysis that supports findings in this section, please refer to the COD Study.

Estimated Profit Levels for Rental Projects with Existing and Proposed Updates to IHO

Table 2-2 provides a summary of estimated profit levels generated by rental projects with the existing IHO in place and with proposed updates to the IHO. In Summary:

- West San Jose is the only location in which minimum target returns for developers are estimated to be achieved.

- In Central and North San Jose, projects are approaching but still below a minimum 10% to 15% developer profit level estimated to be necessary to attract the interest of developers and investors. Proposed updates to the IHO improve estimated developer returns by approximately 2%, which will be helpful in encouraging projects to move forward.

- In South and East San Jose, the analysis indicates that no profit is generated under either the existing or proposed IHO because estimated development costs exceed estimated market value.

For downtown high-rises, reducing the in-lieu fee to zero is estimated to bring projects from no profit up to a profit level of 3%, but still well below target profit levels.

Table 2-2. Estimated Developer Profit for Rental Projects per COD Study With Existing IHO and Proposed Update

		Existing IHO	Proposed IHO Update	
Prototype	Location	w/ In-Lieu Fee of $125,000 per required affordable unit (~$28/SF)	Mixed compliance: 5% on-site at 100% AMI + $17.60/SF fee	Citywide in-lieu fee $18.26/SF, $0 for high-rise
Low-Rise	South and East	0%	0%	**0%**
Low-Rise	Central	7%	8%	**9%**
Mid-Rise	Central	6%	7%	**8%**
Mid-Rise	West	17%	**17%**	N/A
Mid-Rise	North	5%	6%	**7%**
High-Rise	Downtown	0%	0%	**3%**

Key

Achieve or Exceed Target 10%-15% Develop Return

Substandard Developer Return: 5% - 9%

Low or No Developer Return

N/A = not applicable

Prototype rental project types are identified by geographic location based on pro forma testing which indicates that mid-rise rentals generally perform better than low-rise in West and North San Jose and that Low- and Mid-Rise rentals generate similar profit levels in Central San Jose based on prevailing rents and land values by location.

Market Rent Adjustments Sufficient to Achieve Target Returns

Market rate rents are a key driver of rental project economics. Table 2-3 provides an illustration of the increased market rent levels estimated to be sufficient to reach a minimum target return level of 10%. This analysis illustrates how relatively small changes in market rents can affect the findings. Of course, rents are set by the market and developers can only charge what the market will bear.

The sensitivity testing presented in Table 2-3 focuses on the rental prototypes that are within range of minimum profit level targets as these projects are more likely to move forward and were thus considered most relevant for purposes of sensitivity testing. Estimates assume proposed updated IHO requirements which are less costly than current requirements.

Table 2-3. Test of Market Rent Increase Sufficient to Reach Minimum Target Return – Rental Projects				
	Pro Forma Market Rent Based on Market Data	Estimated Rent Required to Reach Target Returns*	Net Increase in Market Rent Needed	% Rent Adjustment Required to Reach Target Returns*
Low-Rise: Central	$3,300 /mo.	$3,320 /mo.	$20 /mo.	0.6%
Mid-Rise: Central	$3,300 /mo.	$3,350 /mo.	$50 /mo.	1.5%
Mid-Rise: West	$3,550 /mo.	$3,550 /mo.	None	0%
Mid-Rise: North	$3,300 /mo.	$3,370 /mo.	$70 /mo.	2%

*With development costs held constant and rents adjusted to a level sufficient to achieve a minimum target return of 10%, rounded to the nearest $10.

For Central and North San Jose, a 0.6% to 2% increase in rents is estimated to be sufficient to reach target minimum profit levels, which equates to about $20 to $70 per month. Costs are held constant for purposes of this illustration. For an improvement in project economics to be realized, the additional value supported by rent growth would need to exceed any cost increases.

Land Cost Adjustments Sufficient to Achieve Target Returns

The COD Study estimates land costs based on recent land sales. This section provides an illustration of potential adjustments to the estimated land prices that would be sufficient to reach minimum profit level targets. Pricing of development sites can adjust in response to changing market conditions. When project economics are strong, upward pressure on land prices is created as developers compete for a limited supply of quality sites. When costs rise or market conditions soften, downward pressure on land prices can be created as developers “price in” these changes into their pro formas and adjust what they can afford to pay for sites.

While adjustments to land costs are possible, several factors limit the extent to which adjustments can occur. Existing uses on a site that generate income or alternative land uses that compete for a site will tend to dampen the potential for downward adjustments to land price. Landowners also have expectations regarding the value of their property and may hold the property off the market rather than accept a less attractive price, especially if the property is generating income.

Table 2-4 provides an illustration of reduced land costs that would allow projects to achieve target return levels. The illustration assumes rents and development costs other than land are held constant. Column A shows estimated land costs reflected in the COD Study pro forma. Column B shows the land cost that projects can afford and still achieve a minimum target return of 10%. The sensitivity testing presented in Table 2-4 focuses on the rental prototypes that are within range of minimum profit level targets as these projects are more likely to move forward and were thus considered most relevant for purposes of sensitivity testing.

Table 2-4. Test of Land Price Reduction Sufficient to Achieve Minimum Target Return – Rental Projects			
	A. Pro Forma Land Cost Based on Comparable Sales	B. Land Price Supported by Project Economics*	C. % Land Cost Adjustment to Reach Minimum Target Return
Low-Rise: Central	$4.8M/acre	$4.6M/acre	-4%
Mid-Rise: Central	$4.8M/acre	$4.1M/acre	-15%
Mid-Rise: West	$5.2M/acre	$5.2M/acre	Achieve target without any adjustment
Mid-Rise: North	$4.3M/acre	$3.2M/acre	-26%

*With a 10% profit and all other pro forma assumptions held constant, rounded to the nearest $0.1M/acre

For Central and North San Jose, a 4% to 26% reduction in land costs would be sufficient to reach target return levels. For West San Jose, projects achieve target return levels without any land cost adjustment.

2.2 For-Sale Project Findings

The COD Study found that higher-density for-sale residential development is not estimated to generate a profit commensurate with the expectations of developers and investors in today's market. Table 2-5 provides a summary of estimated developer profits with for-sale projects estimated with the existing $192,946 per affordable unit in-lieu fee and with the proposed change to a $25 per square foot in-lieu fee.

Table 2-5. COD Study Conclusions and Testing: High-Density For-Sale Projects		
Estimated Developer Profit Levels	**Existing IHO**	**Proposed IHO Update**
	w/ In-Lieu Fee of $192,946 per required affordable unit	w/ $25/SF in-lieu fee; $0/SF for Downtown high-rise
South and East	0%	1%
Central, West, North	8%	9%
Downtown Core (High-Rise)	0%	2%

Key

Achieve or Exceed Target 10%-15% Return

Substandard Return: 5% - 9%

Low or No Developer Return

High-density for-sale projects are approaching feasibility in Central, West, and North San Jose with returns approaching the target level of 10% to 15%. With the proposed conversion to a per square foot in-lieu fee, condos would see a reduction in in-lieu fees due to their smaller average unit size. This change is estimated to increase returns for projects in Central, West and North San Jose by 1%, to just below the minimum target return level of 10%.

In South and East San Jose, high-density for-sale projects face greater challenges due to lower market sales prices that are generally not sufficient to cover construction costs of condominiums with structured parking. Projects in South and East San Jose are estimated to generate little or no return.

Downtown high-rise condominium projects are not estimated to generate any profit with the current in-lieu fee and improve to a low 2% profit with a zero in-lieu fee. A challenge for the analysis is the fact that there are no recent comparable sales for new high-rise condos. Findings for high-rise condos may warrant being revisited once sales prices for the high-rise condo project under construction at 188 West St. James are available.

3.0 COMPLIANCE COST ANALYSIS

The compliance cost analysis is designed to provide information regarding the cost of complying with inclusionary requirements under existing and potential modified IHO alternatives. The purpose is to help inform consideration of proposed modifications to the program.

The compliance cost analysis addresses the following prototype projects, which include the prototype projects analyzed in the COD Study, as summarized in Table 2-1, and the lower density project types addressed in Section 6 and Appendix A:

Rental	For-Sale Projects
Low-Rise up to 5 stories	Low-Rise Condos up to 5 stories
Mid-Rise up to 7 stories	High-Rise Condos, ~20 stories
High-Rise, 20-25 stories	Single Family, Larger Lot
	Single Family, Smaller Lot
	Townhomes

For rental projects, the analysis addresses compliance costs at a range of affordability levels from Extremely Low Income through Moderate and separately evaluates compliance costs for units developed adjacent to market rate units rather than dispersed throughout the project. Developing affordable units in a separate building can facilitate access to Low Income Housing Tax Credit Financing (LIHTC) financing, which helps offset the cost of delivering the affordable units.

With for-sale units, the analysis addresses compliance costs when units are priced at 110%, AMI consistent with existing and proposed requirements.

3.1 Affordability Gap Analysis

The affordability gap analysis evaluates the net cost associated with setting aside each required unit of affordable housing. The affordability gap analysis separately addresses the cost of inclusionary units under the following scenarios:

a) Rental inclusionary units dispersed throughout the development;
b) Rental inclusionary units provided in a separate building to facilitate LIHTC financing; and
c) For-sale inclusionary units dispersed throughout the development.

With rentals, affordability gaps reflect the difference between the estimated development cost of the units and the debt and equity investment that can be supported by affordable rents. With for-sale units, affordability gaps represent the difference between market rate and affordable sales prices.

a. Rental Inclusionary Units, On-site Dispersed Configuration

The affordability gap analysis for including affordable rental units in a dispersed configuration as part of a market rate project is summarized in Table 3-1. Estimates are based on the difference between the estimated development cost of the affordable units and the developer investment that can be supported by affordable rents.

Table 3-1. Estimated Affordability Gap Per Unit
On-Site Dispersed Inclusionary Rental Units

	AMI Level for Setting Rents				
	100% AMI	80% AMI	60% AMI	50% AMI	30% AMI
Low-Rise Rental					
Total Development Cost	$482,300	$482,300	$482,300	$482,300	$482,300
Investment Supported (Debt/Equity)(1)	($350,500)	($256,600)	($202,400)	($152,500)	($53,000)
Affordability Gap Per Unit	**$131,800**	**$225,700**	**$279,900**	**$329,800**	**$429,300**
Mid-Rise Rental					
Total Development Cost	$486,700	$486,700	$486,700	$486,700	$486,700
Investment Supported (Debt/Equity)(1)	($350,500)	($256,600)	($202,400)	($152,500)	($53,000)
Affordability Gap Per Unit	**$136,200**	**$230,100**	**$284,300**	**$334,200**	**$433,700**
High-Rise Rental					
Total Development Cost	$579,100	$579,100	$579,100	$579,100	$579,100
Investment Supported (Debt/Equity)(1)	($353,300)	($254,300)	($197,100)	($144,500)	($39,500)
Affordability Gap Per Unit	**$225,800**	**$324,800**	**$382,000**	**$434,600**	**$539,600**

(1) Indicates the level of investment in the units, including debt and equity, estimated to be supported by affordable rents at the applicable AMI level.

Affordability gaps increase as the AMI level of affordable units is reduced. This is because there is a wider gap between the development cost of the units and the level of investment that can be supported by the affordable rents. Affordability gaps are higher for high-rise development due to the greater development costs for Type I steel and concrete construction used for high-rises.

Supporting calculations for the on-site dispersed compliance cost analysis are presented in Tables 3-7A to 3-7C at the end of this section. Affordable units are assumed to be smaller than market rate units based on current program guidelines that permit affordable units to be up to 15% smaller than market rate units. Development cost are based on the COD Study and are summarized in additional detail in Tables 3-7A to 3-7C.

b. Affordability Gap for Rental Inclusionary Units in Separate Building

Allowing inclusionary units to be provided in a separate building or a separate condo floor can facilitate access to tax credit financing. Estimates in this section address the net cost of providing rental inclusionary units in a separate building or condo floor with use of 4% tax credit financing.

Development cost estimates are based on land and construction cost estimates drawn from the COD Study as well as recent LIHTC affordable projects, focusing on those with the following characteristics:

1. 4% LIHTC projects, rather than limited and competitive 9% credits;
2. Family units rather than senior, special needs, or single room occupancy; and
3. Without obligations or funding sources that would require payment of prevailing wages.

Projects meeting the above criteria were the focus due to the objective of identifying the cost associated with a developer-initiated LIHTC project that does not receive subsidies beyond tax credits. Three projects were identified as most relevant, including two projects in Fremont that satisfied inclusionary obligations in connection with residential developments near the Warm Springs BART station and a separate “80/20” project in Sunnyvale (80/20 refers to 80% market rate and 20% affordable at no more than 50%AMI). Cost information for these projects is summarized in Table 3-9. In addition, indirect and financing costs are also informed by a separate analysis of affordable unit development costs in San Jose summarized in a KMA report entitled Review of Affordable Unit Development Costs to be made available as one component of the COD Study. Cost estimates differ from overall averages for affordable projects assisted by the City due to the focus of this estimate on projects consistent with the above criteria that would be used to meet inclusionary obligations. Development cost estimates are higher with a LIHTC project due to additional soft costs such tax credit syndication and more significant upfront developer fees than typical for a market rate project.

Funding sources available to offset the cost of the affordable units include tax-exempt permanent debt financing supported by the project’s operating income, a deferred developer fee, and equity generated by 4% federal low income housing tax credits. Although affordable projects that are built to satisfy inclusionary obligations could apply for and be awarded subsidies beyond tax credits, this analysis is intended to provide an estimate of the cost of providing affordable units without these other subsidies. The estimated financing sources vary as a function of both AMI level, which affects supportable debt, and development costs, which is a factor in determining the amount of tax credit financing.

Affordability gaps are summarized in Table 3-2. Affordability gaps are calculated as the difference between the cost of developing the affordable units and the available funding sources. Supporting calculations are provided in Tables 3-8A to 3-8D. Gaps are less than those without LIHTC financing.

Table 3-2. Estimated Affordability Gap Per Inclusionary Rental Unit With Inclusionary Units Provided in Separate Building with LIHTC Financing				
	AMI Level for Setting Rents			
	60% AMI	50% AMI	50% / 60% Mix	30% AMI
Low-Rise Rental				
Total Development Cost	$558,800	$558,800	$558,800	$558,800
Financing Sources	($391,000)	($354,000)	($388,000)	($259,000)
Affordability Gap Per Unit	**$167,800**	**$204,800**	**$170,800**	**$299,800**
Mid-Rise Rental				
Total Development Cost	$564,100	$564,100	$564,100	$564,100
Financing Sources	($391,000)	($364,000)	($398,000)	($269,000)
Affordability Gap Per Unit	**$173,100**	**$200,100**	**$166,100**	**$295,100**
High-Rise Rental				
Total Development Cost	$649,600	$649,600	$649,600	$649,600
Financing Sources	($391,000)	($394,000)	($418,000)	($299,000)
Affordability Gap Per Unit	**$258,600**	**$255,600**	**$231,600**	**$350,600**

The affordability gap for projects with a mix of 50% and 60% AMI units is estimated to be somewhat less than with only 60% AMI units because inclusion of 50% AMI units results in an increase in the eligible basis limit for purposes of tax credit financing.

c. For-Sale Inclusionary Units

The net cost of providing for-sale inclusionary units is summarized in Table 3-3. Estimates are provided for each of the five for-sale development types. Estimates reflect the difference between the estimated market value of the units and the restricted affordable sales prices. Market value estimates are based on the COD Study and the low-density residential pro forma analysis presented in Appendix A, adjusted to reflect the smaller sizes of inclusionary units.

Table 3-3. Affordability Gap Estimate – For-Sale Inclusionary Units					
	Single Family Large Lot	**Single Family Small Lot**	**Townhomes**	**Condos Low Rise**	**Condos High Rise**
Average No. of Bedrooms	4.5	3.5	2.5	1.5	1.5
Unit Size (Square Feet)					
market rate unit size	3,400	2,300	1,750	1,150	950
affordable unit size	2,200	1,800	1,500	975	800
Inclusionary Unit Market Value Estimate	$1,210,000	$1,125,000	$975,000	$780,000	$720,000
Sales Price PSF	*$550 /SF*	*$625 /SF*	*$650 /SF*	*$800 /SF*	*$900 /SF*
Affordable Sales Prices					
Pricing @110% AMI	$639,000	$611,000	$563,000	$480,000	$480,000
Affordability Gap					
Gap @110% AMI	$571,000	$514,000	$412,000	$300,000	$240,000

Affordable sales price calculations are provided in Table 3-10.

3.2 Compliance Cost Analysis for Rentals

This section estimates the cost to new rental developments to comply with existing and proposed inclusionary requirements. Compliance costs are calculated by multiplying affordability gaps identified in the prior sections by the applicable inclusionary percentages, which results in a compliance cost per unit. Per square foot costs are then calculated by dividing by average unit size. Per unit and per square foot costs apply to all units and all net square feet in the project, not just the affordable units. See Tables 1-1 and 1-2 for a summary of current and proposed IHO compliance options.

For the Existing IHO, the analysis of compliance costs for rental projects indicates:

- The existing in-lieu fee of $125,000 per affordable unit translates into a cost of approximately $28 per square foot for rental projects based on a 900 square foot average unit size.

- The cost of including the required 15% affordable units on-site under the existing IHO is significantly higher than the fee, estimated to range from $45 to $62 per square foot, depending on the project type, if affordable units are dispersed throughout the project.

- If the affordable units are provided in a separate building and financed with 4% tax credits, the estimated cost is somewhat lower at $37 to $51 per square foot. This estimate reflects application of the 20% off-site requirement, which applies under the current IHO when units are provided in a separate building. This cost may be reduced to the extent the affordable component is awarded subsidy sources beyond tax credits.

With the proposed IHO updates, estimated compliance costs for rentals are as follows:

- The cost of including all 15% affordable units on-site is estimated to be similar to the current ordinance at $42 to $59 per square foot depending on the project type.

- For areas where the Citywide $18.26 per square foot in-lieu fee applies, the fee is estimated to be the lowest cost compliance option and most projects are likely to select this option.

- In West San Jose where higher in-lieu fees are proposed, projects would have an incentive to provide 5% affordable units on-site at 100% of AMI rents and pay the mixed compliance in-lieu fee totaling $17.60 per square foot to meet the remaining 10% IHO obligation. The mixed compliance option is estimated to equate to a cost of approximately $25 per square foot, less costly than the higher $43 per square foot in-lieu fee and also less costly than the existing in-lieu fee.

➢ An alternative option to provide 10% ELI units on-site is estimated to represent a cost of $36 to $43 per square foot assuming ELI units are provided in a separate building and receive LIHTC financing. The developer share of costs would be reduced to the extent other subsidy sources beyond tax credits are awarded, or if the project is successful in obtaining 9% tax credits.

Although compliance costs are estimated for high-rises assuming requirements apply, in-lieu fees for high-rises are proposed to be initially set at zero and then phased in over a subsequent period of years.

Findings of the compliance cost analysis for rental projects are summarized in Table 3-4. Supporting calculations are provided in Tables 3-11A to 3-11C at the end of this section.

Table 3-4. Estimated Compliance Cost
With Existing IHO and with Proposed Changes, Rental Projects

		Low-Rise Rental	Mid-Rise Rental	High-Rise Rental (2)
Existing IHO Alternatives				
In-Lieu Fee	Fee of $125,000 per inclusionary unit owed	$28 /SF	$28 /SF	$28 /SF
On-site	9% at Mod (80% AMI) and 6% at VL (50% AMI)	$45 /SF	$46 /SF	$62 /SF
On-site, separate building(1)	12% at Low (60% AMI) and 8% at VL (50% AMI)	$38 /SF	$37 /SF	$51 /SF
Proposed IHO Updates – Selected Alternatives				
All On-site	5% Mod (100% AMI), 4% Low (60% AMI), 6% VL (50% AMI)	$42 /SF	$43 /SF	$59 /SF
In-Lieu Fee – Citywide	All areas except West San Jose	$18.26 /SF	$18.26/SF	$0 /SF
In-Lieu Fee – West San Jose	Proposed for West San Jose	$43 /SF	$43 /SF	$0 /SF
Mix 5% On-site + Fee	5% Mod (100% AMI) and $17.60 / SF in-lieu fees (mixed compliance rate applies)	$25 /SF	$25 /SF	$30 /SF
ELI Units (1)	10% ELI (30% AMI) Units	$37 /SF	$36 /SF	$43 /SF

(1) Assumes affordable units provided in separate building. Assumes financing with 4% tax credits. To the extent additional subsidies are received, costs could be reduced from these estimates.
(2) High-rise rentals within the Downtown core are proposed to have an initial in-lieu fee of zero.

Estimates in this section assume the current 50% park fee discount for affordable units, currently available to units affordable to 80% of AMI and below, is extended to 100% AMI units as well. If 100% AMI units are not made eligible for the 50% discount, estimates in Table 3-4 for the proposed IHO update would increase by $0.46 per square foot for low-rise and mid-rise projects and $0.30 per square foot for high-rise projects under the following compliance options:

- All on-site; and
- Mix of 5% on-site+ fee

Estimated per square foot costs for other compliance options would remain unchanged.

Alternative Affordable Unit Percentage Requirements Representing Similar Cost

The compliance cost analysis was used to identify alternative inclusionary percentage requirements that would be roughly equivalent in cost to:

a. Mixed fee/on-site compliance under the proposed updated IHO, which has an estimated cost of $25 per square foot; and

b. Providing all inclusionary units on-site consistent with proposed modified on-site requirements.

Findings are summarized in Table 3-5. Column A indicates that providing 7% Very Low Income units, 8% Low Income units, or 10% of units at 80% of AMI dispersed throughout the project are each similar in cost to the approximately $25 per square foot cost associated with the mixed fee/on-site compliance option. If units are provided in a separate building and financed with LIHTC, then 7% Extremely Low, 10% Very Low or 12% Low Income units would each be approximately equivalent to the $25 per square foot cost of the mixed 5% on-site + in-lieu fee option. Table 3-5, Column B, identifies options similar in cost to providing all 15% required units on-site under proposed IHO requirements.

Table 3-5. Equivalent Cost Compliance Options – Rental Projects

Income Level	AMI Level of Rents	A. Options Similar in Cost to Proposed Option of 5% affordable on-site + in-lieu fee		B. Options Similar in Cost to Proposed On-site Requirement	
		Dispersed Units	Adjacent Units with LIHTC	Dispersed Units	Adjacent Units with LIHTC
Moderate	100% AMI	17%	not applicable	28%	not applicable
Moderate	80% AMI	10%	not applicable	17%	not applicable
Low	60% AMI	8%	12%	14%	18%
Very Low	50% AMI	7%	10%	12%	16%
Extremely Low	30% AMI	5%	7%	10%*	10%*

*Providing 10% of units at Extremely Low Income is proposed as an option under the IHO update and so, by definition, providing 10% of units at Extremely Low Income has a similar cost to the proposed requirement.

Equivalency estimates reflect low and mid-rise projects. Supporting calculations are provided in Table 3-12.

3.3 Compliance Cost Analysis for For-Sale

This section estimates the cost to new for-sale developments to comply with existing and proposed modified inclusionary requirements. Compliance costs are calculated by multiplying affordability gaps identified in the prior sections by the applicable inclusionary percentage, which results in a compliance cost per total unit in the project. Per square foot costs are then calculated by dividing by average unit size. Per square foot costs apply to all square feet in the project, not just square footage of affordable units.

Findings for for-sale projects with current IHO requirements are:

- Provision of on-site units represents a cost in the range of $27 to $40 per square foot, depending on the prototype.

- The current for-sale in-lieu fee is a fixed amount per unit. When this fixed amount is expressed on a per square foot basis, larger single family units have the lowest in-lieu fee (approximately $11/SF) while condominium units, with their smaller average unit sizes, pay the most per square foot (approximately $34/SF for low-rise condos).

- There is an incentive to pay the in-lieu fee since the cost is less than providing the affordable units on-site.

Findings for for-sale projects with proposed updated IHO requirements are:

- The cost of providing affordable units on-site would remain the same as under the existing IHO ordinance.

- The proposed per square foot in-lieu fee totaling $25 per square foot would continue to be less costly than providing for-sale affordable units on-site.

- The proposed $25 per square foot in-lieu fee would result in increased fees for larger single-family homes, similar fees to current for townhomes, and lower fees for higher density condominiums. See also Table 1-4.

Findings are summarized in Table 3-6. Supporting calculations are provided in Table 3-13.

Table 3-6. Estimated Compliance Cost under Existing IHO and with Proposed Changes, For-Sale Projects

		Single Family Large Lot	Single Family Small Lot	Townhomes	Condos Low Rise	Condos High Rise
Existing IHO						
In-Lieu Fee	$192,946 per inclusionary unit owed	$11 /SF	$17 /SF	$22 /SF	$34 /SF	$41 /SF
On-site	15% at Mod (pricing at 110% AMI)	$27 /SF	$35 /SF	$36 /SF	$40 /SF	$39 /SF
With Proposed Changes						
In-Lieu Fee	Per square foot fee	$25 /SF	$25 /SF	$25 /SF	$25 /SF	$25 /SF
On-site	15% requirement with units priced at 110% AMI (no change)	$27 /SF	$35 /SF	$36 /SF	$40 /SF	$39 /SF

Table 3 - 7A
Affordability Gap - Onsite Compliance - Low-Rise Rental
Inclusionary Housing Analysis
City of San Jose

1	Average Market Rate Unit Size		900 sq ft					
2	Affordable Unit Size (85% mkt rate)		800 sq ft					
3	Number of Bedrooms		1.4					
4	Household Size		2.4					
	Estimated Development Cost of Inclusionary Unit (800 SF rental inclusionary unit, on-site)							
5	Land		$65,300	$110/SF of land, 74 du per acre				
6	Direct Construction		$314,500	$315 per GSF, 800 SF unit size, 80% efficiency				
7	Indirects and City Fees		$79,800	Indirects at 18.5% of directs, City fees at $21,700 without affordable housing fee and park fee @ 50%				
8	Financing		$22,700	5.5% interest, 65% loan to cost, 55% avg draw, 1% points & fees, 24 mo. term				
9	Total Development Cost		$482,300					
	Affordable Unit Supported Investment							
	AMI Level for Setting Rents		**100% AMI**	**80% AMI**	**60% AMI**	**50% AMI**	**30% AMI**	
10	Gross Monthly Rent[1]		$2,749	$2,175	$1,838	$1,531	$920	
11	(less) vacancy allowance @	5.0%	($137)	($109)	($92)	($77)	($46)	
12	(less) utility allowance[2]		($101)	($101)	($101)	($101)	($101)	
13	Net Monthly Rent		$2,511	$1,965	$1,645	$1,354	$773	
14	Annual Rent		$30,131	$23,585	$19,742	$16,245	$9,273	
15	Annual Operating Expenses[3]		($9,800)	($8,700)	($8,000)	($7,400)	($6,200)	
16	Annual Net Operating Income		$20,331	$14,885	$11,742	$8,845	$3,073	
17	Supported Investment, ROC @ [4]	5.80%	$350,500	$256,600	$202,400	$152,500	$53,000	
18	***Gap***		**$131,800**	**$225,700**	**$279,900**	**$329,800**	**$429,300**	

Notes
1. Per City of San Jose 2019 Affordable Rent Schedule based on HCD occupancy guidelines and weighted based on average number of bedrooms.
2. Estimated based on 2018 County Housing Authority utility allowance schedule.
3. Assumes $5,600 in annual operating expenses consistent with COD Study plus property taxes estimated at 1.2% of supported investment.
4. ROC or return on cost is generally based on the approximately 5.3% ROC reflected in the COD Study for the West San Jose prototype that is projected to achieve minimum profit levels targeted plus an additional 0.5% premium added in consideration of the limited rent growth potential that applies to affordable units.

Table 3 - 7B
Affordability Gap - Onsite Compliance - Mid-Rise Rental
Inclusionary Housing Analysis
City of San Jose

1	Average Market Rate Unit Size	900 sq ft
2	Affordable Unit Size (85% mkt rate)	800 sq ft
3	Number of Bedrooms	1.4
4	Household Size	2.4

Estimated Development Cost of Inclusionary Unit (800 SF rental inclusionary unit, on-site)

5	Land	$47,400	$110/SF of land, 101 du per acre
6	Direct Construction	$334,700	$334 per GSF, 800 SF unit size, 80% efficiency
7	Indirects and City Fees	$81,600	Indirects at 18% of directs, City fees at $21,700 without affordable housing fee and park fee @ 50%
8	Financing	$23,000	5.5% interest, 65% loan to cost, 55% avg draw, 1% points & fees, 24 mo. term
9	Total Development Cost	$486,700	

Affordable Unit Supported Investment

	AMI Level for Setting Rents		**100% AMI**	**80% AMI**	**60% AMI**	**50% AMI**	**30% AMI**
10	Gross Monthly Rent[1]		$2,749	$2,175	$1,838	$1,531	$920
11	(less) vacancy allowance @	5.0%	($137)	($109)	($92)	($77)	($46)
12	(less) utility allowance[2]		($101)	($101)	($101)	($101)	($101)
13	Net Monthly Rent		$2,511	$1,965	$1,645	$1,354	$773
14	Annual Rent		$30,131	$23,585	$19,742	$16,245	$9,273
15	Annual Operating Expenses[3]		($9,800)	($8,700)	($8,000)	($7,400)	($6,200)
16	Annual Net Operating Income		$20,331	$14,885	$11,742	$8,845	$3,073
17	Supported Investment, ROC[4] @	5.8%	$350,500	$256,600	$202,400	$152,500	$53,000
18	***Gap***		**$136,200**	**$230,100**	**$284,300**	**$334,200**	**$433,700**

Notes
1. Per City of San Jose 2019 Affordable Rent Schedule based on HCD occupancy guidelines and weighted based on average number of bedrooms.
2. Estimated based on 2018 County Housing Authority utility allowance schedule.
3. Assumes $5,600 in annual operating expenses consistent with COD Study plus property taxes estimated at 1.2% of supported investment.
4. ROC or return on cost is generally based on the approximately 5.3% ROC reflected in the COD Study for the West San Jose prototype that is projected to achieve minimum profit levels targeted plus an additional 0.5% premium added in consideration of the limited rent growth potential that applies to affordable units.

Table 3 - 7C
Affordability Gap - Onsite Compliance - High-Rise Rental
Inclusionary Housing Analysis
City of San Jose

1	Average Market Rate Unit Size		900 sq ft					
2	Affordable Unit Size (85% mkt rate)		800 sq ft					
3	Number of Bedrooms		1.4					
4	Household Size		2.4					
	Estimated Development Cost of Inclusionary Unit (800 SF rental inclusionary unit, on-site)							
5	Land		$56,000	$482/SF of land, 375 du per acre				
6	Direct Construction		$405,600	$395 per GSF, 800 SF unit size, 78% efficiency				
7	Indirects and City Fees		$84,700	Indirects at 17% of directs, City fees at $14,700 w/o affordable housing fee, park fee @ 50%, const. taxes @50%				
8	Financing		$32,800	5.5% interest, 65% loan to cost, 55% avg draw, 1% points & fees, 30 mo. term				
9	Total Development Cost		$579,100					
	Affordable Unit Supported Investment							
	AMI Level for Setting Rents		**100% AMI**	**80% AMI**	**60% AMI**	**50% AMI**	**30% AMI**	
10	Gross Monthly Rent[1]		$2,749	$2,175	$1,838	$1,531	$920	
11	(less) vacancy allowance @	5.0%	($137)	($109)	($92)	($77)	($46)	
12	(less) utility allowance[2]		($101)	($101)	($101)	($101)	($101)	
13	Net Monthly Rent		$2,511	$1,965	$1,645	$1,354	$773	
14	Annual Rent		$30,131	$23,585	$19,742	$16,245	$9,273	
15	Annual Operating Expenses[3]		($10,700)	($9,600)	($8,900)	($8,300)	($7,100)	
16	Annual Net Operating Income		$19,431	$13,985	$10,842	$7,945	$2,173	
17	Supported Investment, ROC[4] @	5.5%	$353,300	$254,300	$197,100	$144,500	$39,500	
18	***Gap***		**$225,800**	**$324,800**	**$382,000**	**$434,600**	**$539,600**	

Notes
1. Per City of San Jose 2019 Affordable Rent Schedule based on HCD occupancy guidelines and weighted based on average number of bedrooms.
2. Estimated based on 2018 County Housing Authority utility allowance schedule.
3. Assumes $6,700 in annual operating expenses consistent with COD Study plus property taxes estimated at 1.2% of supported investment.
4. ROC or return on cost is based on research and developer interviews conducted as part of the COD study which indicates an approximately 5% ROC is necessary for high-rise projects . An additional 0.5% premium is added in consideration of the limited rent growth potential that applies to affordable units.

Table 3 - 8A
Affordability Gaps for Clustered Compliance, Low-Income Units
Assuming 4% Tax Credits
City of San Jose, CA

			High-Rise (Type I)	Mid-Rise (Type III)	Low-Rise (Type V)
I.	**Affordable Prototype**				
	Tenure		Rental	Rental	Rental
	Average Unit Size		800 square feet	800 square feet	800 square feet
II.	**Development Costs** [1]		Per Unit	Per Unit	Per Unit
	Land		$56,000	$47,400	$65,300
	Construction		$405,600	$334,700	$314,500
	Indirects		$140,000	$140,000	$140,000
	Financing		$48,000	$42,000	$39,000
	Total Development Costs		$649,600	$564,100	$558,800
III.	**Supported Financing**		Per Unit	Per Unit	Per Unit
	Affordable Rents				
	Average Number of Bedrooms			1.4 BR	
	Maximum TCAC Rent [2]		$1,844	$1,844	$1,844
	(Less) Utility Allowance [3]		($101)	($101)	($101)
	Maximum Monthly Rent		$1,743	$1,743	$1,743
	Net Operating Income (NOI)				
	Gross Potential Income				
	Monthly		$1,743	$1,743	$1,743
	Annual		$20,914	$20,914	$20,914
	Other Income		$110	$110	$110
	(Less) Vacancy	5.0%	($1,051)	($1,051)	($1,051)
	Effective Gross Income (EGI)		$19,972	$19,972	$19,972
	(Less) Operating Expenses		($5,900)	($5,900)	($5,900)
	(Less) Property Taxes [4]		$0	$0	$0
	Net Operating Income (NOI)		$14,072	$14,072	$14,072
	Permanent Financing				
	Permanent Debt	5.50%	$196,000	$196,000	$196,000
	Deferred Developer Fee		$25,000	$25,000	$25,000
	Tax Credit Equity [5]		$170,000	$170,000	$170,000
	Total Sources		$391,000	$391,000	$391,000
IV.	**Affordability Gap**		Per Unit	Per Unit	Per Unit
	Supported Permanent Financing		$391,000	$391,000	$391,000
	(Less) Total Development Costs		($649,600)	($564,100)	($558,800)
	Affordability Gap		($258,600)	($173,100)	($167,800)

Notes

[1] Costs without prevailing wage assumed to reflect projects subsidized by the market rate project component to comply with the inclusionary ordinance which does not receive subsidy sources beyond 4% tax credits and soft debt or land contributions from the market rate developer.
[2] Maximum rents per Tax Credit Allocation Committee (TCAC) for projects utilizing Low Income Housing Tax Credits.
[3] Estimated based on County Housing Authority utility allowance schedule.
[4] Assumes tax exemption for non-profit general partner.
[5] Assumes 4% tax credits. Tax credit equity estimate assumes 3.25% applicable percentage, adjustments to basis limits for elevator, structured parking, and pricing at $0.95.

Table 3 - 8B
Affordability Gaps for Clustered Compliance, Very Low-Income Units
Assuming 4% Tax Credits
City of San Jose, CA

			High-Rise (Type I)	Mid-Rise (Type III)	Low-Rise (Type V)
I.	**Affordable Prototype**				
	Tenure		Rental	Rental	Rental
	Average Unit Size		800 square feet	800 square feet	800 square feet
II.	**Development Costs** [1]		Per Unit	Per Unit	Per Unit
	Land		$56,000	$47,400	$65,300
	Construction		$405,600	$334,700	$314,500
	Indirects		$140,000	$140,000	$140,000
	Financing		$48,000	$42,000	$39,000
	Total Development Costs		$649,600	$564,100	$558,800
III.	**Supported Financing**		Per Unit	Per Unit	Per Unit
	Affordable Rents				
	Average Number of Bedrooms			1.4 BR	
	Maximum TCAC Rent [2]		$1,482	$1,482	$1,482
	(Less) Utility Allowance [3]		($101)	($101)	($101)
	Maximum Monthly Rent		$1,381	$1,381	$1,381
	Net Operating Income (NOI)				
	Gross Potential Income				
	Monthly		$1,381	$1,381	$1,381
	Annual		$16,567	$16,567	$16,567
	Other Income		$110	$110	$110
	(Less) Vacancy	5.0%	($834)	($834)	($834)
	Effective Gross Income (EGI)		$15,843	$15,843	$15,843
	(Less) Operating Expenses		($5,900)	($5,900)	($5,900)
	(Less) Property Taxes [4]		$0	$0	$0
	Net Operating Income (NOI)		$9,943	$9,943	$9,943
	Permanent Financing				
	Permanent Debt	5.50%	$139,000	$139,000	$139,000
	Deferred Developer Fee		$25,000	$25,000	$25,000
	Tax Credit Equity [5]		$230,000	$200,000	$190,000
	Total Sources		$394,000	$364,000	$354,000
IV.	**Affordability Gap**		Per Unit	Per Unit	Per Unit
	Supported Permanent Financing		$394,000	$364,000	$354,000
	(Less) Total Development Costs		($649,600)	($564,100)	($558,800)
	Affordability Gap		($255,600)	($200,100)	($204,800)

Notes

[1] Costs without prevailing wage assumed to reflect projects subsidized by the market rate project component to comply with the inclusionary ordinance which does not receive subsidy sources beyond 4% tax credits and soft debt or land contributions from the market rate developer.
[2] Maximum rents per Tax Credit Allocation Committee (TCAC) for projects utilizing Low Income Housing Tax Credits.
[3] Estimated based on County Housing Authority utility allowance schedule.
[4] Assumes tax exemption for non-profit general partner.
[5] Assumes 4% tax credits. Tax credit equity assume 3.25% applicable percentage, adjustments to basis limits for very low income units, elevator, structured parking, and pricing at $0.95.

Table 3 - 8C
Affordability Gaps for Clustered Compliance, 60/40 Mix of Low and Very Low-Income Units
Assuming 4% Tax Credits
City of San Jose, CA

			High-Rise (Type I)	Mid-Rise (Type III)	Low-Rise (Type V)
I.	**Affordable Prototype**				
	Tenure		Rental	Rental	Rental
	Average Unit Size		800 square feet	800 square feet	800 square feet
II.	**Development Costs** [1]		Per Unit	Per Unit	Per Unit
	Land		$56,000	$47,400	$65,300
	Construction		$405,600	$334,700	$314,500
	Indirects		$140,000	$140,000	$140,000
	Financing		$48,000	$42,000	$39,000
	Total Development Costs		$649,600	$564,100	$558,800
III.	**Supported Financing**		Per Unit	Per Unit	Per Unit
	Affordable Rents				
	Average Number of Bedrooms			1.4 BR	
	Maximum TCAC Rent [2]		$1,699	$1,699	$1,699
	(Less) Utility Allowance [3]		($101)	($101)	($101)
	Maximum Monthly Rent		$1,598	$1,598	$1,598
	Net Operating Income (NOI)				
	Gross Potential Income				
	Monthly		$1,598	$1,598	$1,598
	Annual		$19,175	$19,175	$19,175
	Other Income		$110	$110	$110
	(Less) Vacancy	5.0%	($964)	($964)	($964)
	Effective Gross Income (EGI)		$18,321	$18,321	$18,321
	(Less) Operating Expenses		($5,900)	($5,900)	($5,900)
	(Less) Property Taxes [4]		$0	$0	$0
	Net Operating Income (NOI)		$12,421	$12,421	$12,421
	Permanent Financing				
	Permanent Debt	5.50%	$173,000	$173,000	$173,000
	Deferred Developer Fee		$25,000	$25,000	$25,000
	Tax Credit Equity [5]		$220,000	$200,000	$190,000
	Total Sources		$418,000	$398,000	$388,000
IV.	**Affordability Gap**		Per Unit	Per Unit	Per Unit
	Supported Permanent Financing		$418,000	$398,000	$388,000
	(Less) Total Development Costs		($649,600)	($564,100)	($558,800)
	Affordability Gap		($231,600)	($166,100)	($170,800)

Notes

[1] Costs without prevailing wage assumed to reflect projects subsidized by the market rate project component to comply with the inclusionary ordinance which does not receive subsidy sources beyond 4% tax credits and soft debt or land contributions from the market rate developer.
[2] Maximum rents per Tax Credit Allocation Committee (TCAC) for projects utilizing Low Income Housing Tax Credits.
[3] Estimated based on County Housing Authority utility allowance schedule.
[4] Assumes tax exemption for non-profit general partner.
[5] Assumes 4% tax credits. Tax credit equity estimate assumes 3.25% applicable percentage, adjustments to basis limits for elevator, structured parking, and pricing at $0.95.

Table 3 - 8D
Affordability Gaps for Clustered Compliance, Extremely Low-Income Units
Assuming 4% Tax Credits
City of San Jose, CA

		High-Rise (Type I)	Mid-Rise (Type III)	Low-Rise (Type V)
I. Affordable Prototype				
Tenure		Rental	Rental	Rental
Average Unit Size		800 square feet	800 square feet	800 square feet
Representative Density		250 du/acre	90 du/acre	65 du/acre
II. Development Costs [1]		Per Unit	Per Unit	Per Unit
Land		$56,000	$47,400	$65,300
Construction		$405,600	$334,700	$314,500
Indirects		$140,000	$140,000	$140,000
Financing		$48,000	$42,000	$39,000
Total Development Costs		$649,600	$564,100	$558,800
III. Supported Financing		Per Unit	Per Unit	Per Unit
Affordable Rents				
Average Number of Bedrooms			1.4 BR	
Maximum TCAC Rent [2]		$889	$889	$889
(Less) Utility Allowance [3]		($101)	($101)	($101)
Maximum Monthly Rent		$788	$788	$788
Net Operating Income (NOI)				
Gross Potential Income				
Monthly		$788	$788	$788
Annual		$9,451	$9,451	$9,451
Other Income		$110	$110	$110
(Less) Vacancy	5.0%	($478)	($478)	($478)
Effective Gross Income (EGI)		$9,083	$9,083	$9,083
(Less) Operating Expenses		($5,900)	($5,900)	($5,900)
(Less) Property Taxes [4]		$0	$0	$0
Net Operating Income (NOI)		$3,183	$3,183	$3,183
Permanent Financing				
Permanent Debt	5.50%	$44,000	$44,000	$44,000
Deferred Developer Fee		$25,000	$25,000	$25,000
Tax Credit Equity [5]		$230,000	$200,000	$190,000
Total Sources		$299,000	$269,000	$259,000
IV. Affordability Gap		Per Unit	Per Unit	Per Unit
Supported Permanent Financing		$299,000	$269,000	$259,000
(Less) Total Development Costs		($649,600)	($564,100)	($558,800)
Affordability Gap		($350,600)	($295,100)	($299,800)

Notes

[1] Costs without prevailing wage assumed to reflect projects subsidized by the market rate project component to comply with the inclusionary ordinance which does not receive subsidy sources beyond 4% tax credits and soft debt or land contributions from the market rate developer.
[2] Maximum rents per Tax Credit Allocation Committee (TCAC) for projects utilizing Low Income Housing Tax Credits.
[3] Estimated based on County Housing Authority utility allowance schedule.
[4] Assumes tax exemption for non-profit general partner.
[5] Assumes 4% tax credits. Tax credit equity assume 3.25% applicable percentage, adjustments to basis limits for ELI units, elevator, structured parking, and pricing at $0.95.

Table 3 - 9
Affordable Housing Costs Summary - 4% Tax Credit Projects Without Prevailing Wage
Inclusionary Housing Analysis
City of San Jose

Project	Atria		Warm Springs Inclusionary		Warm Springs TOD Village Affordable #1	
Location	Sunnyvale		Fremont		Fremont	
Year	2018		2017		2018	
Notes	Structured parking		Four stories, structured pkg (partly underground)		4-5 stories over podium parking. Also included a 9% credit component	
# of units	108 units		102 units		71 units	
Avg. BRs	1.32 BRs		1.54 BRs		2.01 BRs	
Development Costs	Total	Per Unit	Total	Per Unit	Total	Per Unit
Land	$7,457,203	$69,048	$75,001	$735	$7,260,000	$102,254
Construction	$32,996,707	$305,525	$28,585,470	$280,250	$24,424,864	$344,012
Indirect	$14,052,302	$130,114	$16,971,946	$166,392	$12,515,940	$176,281
Financing	$5,439,339	$50,364	$3,016,985	$29,578	$2,614,437	$36,823
Total	$59,945,551	**$555,051**	$48,649,402	**$476,955**	$46,815,241	**$659,370**
Total, excl land		**$486,003**		**$476,220**		**$557,116**
Indirects as % Directs		*43%*		*59%*		*51%*
Financing as % Directs		*16%*		*11%*		*11%*

Table 3 - 10
Affordable Sales Price Calculations
Inclusionary Housing Analysis
City of San Jose, CA

	Single Family			Townhome		Condo	
Unit Size (Bedroom)	3-Bedroom	4-Bedroom	5-Bedroom	2-Bedroom	3-Bedroom	1-Bedroom	2-Bedroom
Household Size	4-person HH	5-person HH	6-person HH	3-person HH	4-person HH	2-person HH	3-person HH
Santa Clara County 2019 Median Income	$131,400	$141,900	$152,400	$118,250	$131,400	$105,100	$118,250
Home Price at 110% of AMI	$144,540	$156,090	$167,640	$130,075	$144,540	$115,610	$130,075
% for Housing Costs	35%	35%	35%	35%	35%	35%	35%
Available for Housing Costs	$50,589	$54,632	$58,674	$45,526	$50,589	$40,464	$45,526
(Less) Property Taxes	($7,360)	($7,919)	($8,530)	($6,654)	($7,415)	($5,608)	($6,383)
(Less) HOA	($1,800)	($1,800)	($1,800)	($3,000)	($3,000)	($4,800)	($4,800)
(Less) Maintenance	($720)	($840)	($960)	($300)	($360)	($240)	($300)
(Less) Utilities	($3,288)	($3,888)	($4,920)	($1,656)	($2,124)	($1,056)	($1,440)
(Less) Hazard Insurance [4]	($900)	($900)	($900)	($900)	($900)	($900)	($900)
(Less) Mortgage Insurance	($4,475)	($4,815)	($6,483)	($4,045)	($4,508)	($3,409)	($3,881)
Income Available for Mortgage	$32,046	$34,470	$35,081	$28,971	$32,282	$24,451	$27,823
Supported Mortgage	$559,400	$601,700	$612,300	$505,700	$563,500	$426,800	$485,700
Down Payment @5%	$29,400	$31,700	$32,200	$26,600	$29,700	$22,500	$25,600
Home Price @110% AMI	**$588,800**	**$633,400**	**$644,500**	**$532,300**	**$593,200**	**$449,300**	**$511,300**
Expense Assumptions							
- HOA [1]	*$150*	*$150*	*$150*	*$250*	*$250*	*$400*	*$400*
- Utilities [2]	*$274*	*$324*	*$410*	*$138*	*$177*	*$88*	*$120*
- Maintenance [3]	*$60*	*$70*	*$80*	*$25*	*$30*	*$20*	*$25*

Common Assumptions

- Mortgage Interest Rate	*4.00%*	Freddie Mac average 30-year fixed rate mortgages of June 11, 2019, rounded.
- Down Payment	*5.00%*	Estimated consistent with City of San Jose affordable price calculator
- Property Taxes (% of sales price)	*1.25%*	Estimated consistent with City of San Jose affordable price calculator
- Mortgage Insurance [4]	*0.80%*	loans up to $625,000
	1.00%	loans over $625,000

Notes
(1) Estimated based on data reported by Redfin.com on HOA dues applicable to homes built since 2000 and sold from July through September 2019.
(2) Utility allowances per Santa Clara County Housing Authority (2018).
(3) Per City of San Jose affordable sales price calculations.
(4) Based on FHA mortgage insurance premium schedule.
(5) Calculated consistent with City of San Jose inclusionary housing guidelines. For attached units, reflects a "walls-in" policy.

Table 3 - 11A
Compliance Cost Calculations - Low Rise Rental
Inclusionary Housing Analysis
City of San Jose

	A.	B.	C.	D.	E.	F.
		Percent Affordable		**Cost of Compliance[(1)]**		
	Affordability Gap Per Unit	**% of Market Rate Units**	**% of Total Units**	**Per Unit in Project**	**Average Unit Size (Net SF)**	**Per Net Square Foot in Project**
				(= gap X percent)	blend of 900 SF mkt rate; 800 SF aff unit size	= D. / E.
1. Existing In-Lieu Fee	$125,000	**20%**	N/A	$25,000	900 sq ft	**$28 /SF**
2. Existing Requirement						
a. Dispersed Compliance						
Moderate (80% AMI)	$225,700	11%	9%	$20,313		$23 /SF
Very Low (50% AMI)	$329,800	7%	6%	$19,788		$22 /SF
Total Cost		18%	15%	$40,101	885 sq ft	**$45 /SF**
b. Separate Building (off-site rqrmt applies) 60/40 Mix of Low and Very Low	$170,800	**20%**	17%	$34,160	900 sq ft	**$38 /SF**
3. Proposed Modified Requirement						
a. All Inclusionary Units On-Site						
Moderate Income (100% AMI)	$131,800	6%	5%	$6,590		$7 /SF
Low Income (60% AMI)	$279,900	5%	4%	$11,196		$13 /SF
Very Low Income (50% AMI)	$329,800	7%	6%	$19,788		$22 /SF
		18%	15%	$37,574	885 sq ft	**$42 /SF**
b. Mix of On-site Units and Fees						
On-Site Moderate Income (100% AMI)	$131,800	6%	5%	$6,590	895 sq ft	$7.36 /SF
Fee in-lieu of Low Income (60% AMI)				proposed in-lieu fee with discount:		$7.70 /SF
Fee in-lieu of Very Low Income (50% AMI)				proposed in-lieu fee with discount:		$9.90 /SF
				[5% on-site + $17.6/SF in-lieu fee]		**$25 /SF**
c. ELI Unit Option assumes separate building	$299,800	11%	10%	$32,978	900 sq ft	**$37 /SF**
4. 15% at 80% of AMI	$225,700	11%	15%	$24,827	885 sq ft	**$28 /SF**

(1) When affordable units are provided in a separate building, per unit and per square foot compliance costs are expressed in relation to the market rate units, assuming the affordable units would be developed as a separate "project" in conjunction with a separate non-profit developer.

Table 3 - 11B
Compliance Cost Calculations - Mid-Rise Rental
Inclusionary Housing Analysis
City of San Jose

	A.	B.	C.	D.	E.	F.
		Percent Affordable		**Cost of Compliance[1]**		
	Affordability Gap Per Unit	**% of Market Rate Units**	**% of Total Units**	**Per Unit in Project**	**Average Unit Size (Net SF)**	**Per Net Square Foot in Project**
				(= gap X percent)	blend of 900 SF mkt rate; 800 SF aff unit size	= D. / E.
1. Existing In-Lieu Fee	$125,000	**20%**	N/A	$25,000	900 sq ft	**$28 /SF**
2. Existing Requirement						
a. Dispersed Compliance						
Moderate (80% AMI)	$230,100	11%	9%	$20,709		$23 /SF
Very Low (50% AMI)	$334,200	7%	6%	$20,052		$23 /SF
Total Cost		18%	15%	$40,761	885 sq ft	**$46 /SF**
b. Separate Building (off-site rqrmt applies) 60/40 Mix of Low and Very Low	$166,100	**20%**	17%	$33,220	900 sq ft	**$37 /SF**
3. Proposed Modified Requirement						
a. All Inclusionary Units On-Site						
Moderate Income (100% AMI)	$136,200	6%	5%	$6,810		$8 /SF
Low Income (60% AMI)	$284,300	5%	4%	$11,372		$13 /SF
Very Low Income (50% AMI)	$334,200	7%	6%	$20,052		$23 /SF
		18%	15%	$38,234	885 sq ft	**$43 /SF**
b. Mix of On-site Units and Fees						
On-Site Moderate Income (100% AMI)	$136,200	6%	5%	$6,810	895 sq ft	$7.61 /SF
Fee in-lieu of Low Income (60% AMI)				proposed in-lieu fee with discount:		$7.70 /SF
Fee in-lieu of Very Low Income (50% AMI)				proposed in-lieu fee with discount:		$9.90 /SF
				[5% on-site + $17.6/SF in-lieu fee]		**$25 /SF**
c. ELI Unit Option assumes separate building	$295,100	11%	10%	$32,461	900 sq ft	**$36 /SF**
4. 15% at 80% of AMI	$230,100	11%	15%	$25,311	885 sq ft	**$29 /SF**

(1) When affordable units are provided in a separate building, per unit and per square foot compliance costs are expressed in relation to the market rate units, assuming the affordable units would be developed as a separate "project" in conjunction with a separate non-profit developer.

Table 3 - 11C
Compliance Cost Calculations - High-Rise Rental
Inclusionary Housing Analysis
City of San Jose

	A.	B.	C.	D.	E.	F.
	Affordability Gap Per Unit	**Percent Affordable**		**Cost of Compliance(1)**		
		% of Market Rate Units	**% of Total Units**	**Per Unit in Project**	**Average Unit Size (Net SF)**	**Per Net Square Foot in Project**
				(= gap X percent)	blend of 900 SF mkt rate; 800 SF aff unit size	= D. / E.
1. Existing In-Lieu Fee	$125,000	**20%**	N/A	$25,000	900 sq ft	**$28 /SF**
2. Existing Requirement						
a. Dispersed Compliance						
Moderate (80% AMI)	$324,800	11%	9%	$29,232		$33 /SF
Very Low (50% AMI)	$434,600	7%	6%	$26,076		$29 /SF
Total Cost		18%	15%	$55,308	885 sq ft	**$62 /SF**
b. Separate Building (off-site rqrmt applies) 60/40 Mix of Low and Very Low	$231,600	**20%**	17%	$46,320	900 sq ft	**$51 /SF**
3. Proposed Modified Requirement						
a. All Inclusionary Units On-Site						
Moderate Income (100% AMI)	$225,800	6%	5%	$11,290		$13 /SF
Low Income (60% AMI)	$382,000	5%	4%	$15,280		$17 /SF
Very Low Income (50% AMI)	$434,600	7%	6%	$26,076		$29 /SF
		18%	15%	$52,646	885 sq ft	**$59 /SF**
b. Mix of On-site Units and Fees						
On-Site Moderate Income (100% AMI)	$225,800	6%	5%	$11,290	895 sq ft	$12.61 /SF
Fee in-lieu of Low Income (60% AMI)				proposed in-lieu fee with discount:		$7.70 /SF
Fee in-lieu of Very Low Income (50% AMI)				proposed in-lieu fee with discount:		$9.90 /SF
				[5% on-site + $17.6/SF in-lieu fee]		**$30 /SF**
c. ELI Unit Option assumes separate building	$350,600	11%	10%	$38,566	900 sq ft	**$43 /SF**
d. Initial In-lieu Fee						**$0 /SF**
4. 15% at 80% of AMI	$324,800	11%	15%	$35,728	885 sq ft	**$40 /SF**

(1) When affordable units are provided in a separate building, per unit and per square foot compliance costs are expressed in relation to the market rate units, assuming the affordable units would be developed as a separate "project" in conjunction with a separate non-profit developer.

Table 3 - 11D
Mixed On-Site / Fee Compliance Options at Alternative AMI Levels - Low -Rise Rentals
Inclusionary Housing Analysis
City of San Jose

		Mixed Compliance Alternatives Available Under Proposed IHO Update		
		A.	*B.*	*C.*
		100% AMI Units + Fee	**50% AMI Units + Fee**	**60% Units + Fee**
Cost of Providing 5% On-Site Affordable Units				
Affordability Gap for Each On-Site Unit		$131,800	$329,800	$279,900
Percent of Units On-Site		5%	5%	5%
Cost Per Unit in Project	= % X Gap	$6,590	$16,490	$13,995
Cost Per Net Sq.Ft. in Project	= per unit cost / 895 sf avg size.	**$7.40 /SF**	**$18.40 /SF**	**$15.60 /SF**
Fee Payment for Balance of IHO Obligation [with discount]				
100% Tier		on-site	$1.80 /SF	$1.80 /SF
60% Tier		$7.70 /SF	$7.70 /SF	on-site
50% Tier		$9.90 /SF	on-site	$9.90 /SF
Total		**$17.60 /SF**	**$9.50 /SF**	**$11.70 /SF**
Total Cost of Fee + Units		**$25 /SF** *[lowest cost]*	**$27.90 /SF**	**$27.30 /SF**

Table 3 - 12
Calculation of Equivalent Cost Compliance Options
Inclusionary Housing Analysis
City of San Jose

	A.	B.	C.	D.	E.	F.
	Affordability Gap Per Unit	Percent Affordable		Cost of Compliance		
		% of Market Rate Units	% of Total Units	Per Unit	Average Unit Size	Per Square Foot
	avg of low-rise and mid-rise			(= gap X percent)	blend of mkt rate and affordable unit sizes	= D. / E.
Options Similar in Cost to Mixed Compliance with Proposed Modifications						
Dispersed						
100% AMI	$134,000	20%	17%	$22,780	883 sq ft	$26 /SF
80% AMI	$227,900	11%	10%	$22,790	890 sq ft	$26 /SF
60% AMI	$282,100	9%	8%	$22,568	892 sq ft	$25 /SF
50% AMI	$332,000	8%	7%	$23,240	893 sq ft	$26 /SF
30% AMI	$431,500	5%	5%	$21,575	895 sq ft	$24 /SF
Adjacent with LIHTC						
60% AMI	$170,450	14%	12%	$23,243	900 sq ft	$26 /SF
Mix of 50% & 60%	$168,450	14%	12%	$22,970	900 sq ft	$26 /SF
50% AMI	$202,450	11%	10%	$22,494	900 sq ft	$25 /SF
30% AMI	$297,450	8%	7%	$22,389	900 sq ft	$25 /SF
Alternatives Similar in Cost to Existing and Proposed On-Site Requirements						
Dispersed						
100% AMI	$134,000	39%	28%	$37,520	872 sq ft	$43 /SF
80% AMI	$227,900	20%	17%	$38,743	883 sq ft	$44 /SF
60% AMI	$282,100	16%	14%	$39,494	886 sq ft	$45 /SF
50% AMI	$332,000	14%	12%	$39,840	888 sq ft	$45 /SF
30% AMI (1)	$431,500	11%	10%	$43,150	890 sq ft	$48 /SF
Adjacent with LIHTC						
60% AMI	$170,450	22%	18%	$37,416	900 sq ft	$42 /SF
Mix of 50% & 60%	$168,450	22%	18%	$36,977	900 sq ft	$41 /SF
50% AMI	$202,450	19%	16%	$38,562	900 sq ft	$43 /SF
30% AMI (1)	$297,450	11%	10%	$33,050	900 sq ft	$37 /SF

(1) 10% on-site at 30% AMI is one of the proposed on-site options.

Table 3 - 13
Compliance Cost Estimate - For-Sale Projects
Inclusionary Housing Analysis
City of San Jose

		Single Family Large Lot	Single Family Small Lot	Townhomes	Condos Low Rise	Condos High Rise
Unit Size (Square Feet)						
market rate		3,400	2,300	1,750	1,150	950
affordable		2,200	1,800	1,500	975	800
Average (with 15% aff)		3,220	2,225	1,713	1,124	928
Affordability Gap With Units Priced at 110% AMI		$571,000	$514,000	$412,000	$300,000	$240,000
Estimated Cost to Comply On-Site						
Existing In-Lieu Fee	$192,946 per affordable unit owed	$11 /SF	$17 /SF	$22 /SF	$34 /SF	$41 /SF
Proposed In-Lieu Fee		$25 /SF	$25 /SF	$25 /SF	$25 /SF	$25 /SF
Existing and Proposed On-Site	15% priced at 110% AMI	$27 /SF	$35 /SF	$36 /SF	$40 /SF	$39 /SF

4.0 IN-LIEU FEE CALCULATION

This section provides supporting analysis for the calculation of in-lieu fees under the proposed IHO update. Proposed in-lieu fees are summarized in Table 4-1. Additional provisions related to the process for escalation and annual updates to fees are expected to be incorporated as part of the proposed updated IHO but are not specifically described here.

<table>
<tr><th colspan="2">Table 4-1. Proposed In-Lieu Fees</th></tr>
<tr><th>Rental</th><th>For-Sale</th></tr>
<tr><td>Per square foot in-lieu fee with individual rates by income tier. Mixed Compliance fee schedule applies for remaining tiers if at least 5% on-site.

<table>
<tr><td>In-Lieu Fee
if no units on-site
($/SF)</td><td colspan="2">Mixed Compliance Fee
for remaining tiers
[5%+ On-Site] ($/SF)</td></tr>
<tr><td>Citywide: $18.26</td><td>100% AMI</td><td>$1.80</td></tr>
<tr><td>West San Jose: $43</td><td>60% AMI</td><td>$7.70</td></tr>
<tr><td></td><td>50% AMI</td><td>$9.90</td></tr>
</table>
</td><td>Per square foot in-lieu fee of $25/SF</td></tr>
</table>

4.1 Proposed Rental In-lieu Fees

The proposed rental in-lieu fee for West San Jose is based on the affordability gap associated with providing affordable units on-site within new apartment projects at the required income levels. Proposed Citywide in-lieu fees are equal to the existing AHIF.

For purposes of calculating in-lieu fees proposed to apply in West San Jose, the affordability gap is proposed to be determined formulaically using the following approach.

(1) Effective market rate rents would be obtained from market data provider CoStar for projects representing the most recently built 3,000 market rate apartment units, excluding affordable units and projects for special populations such as seniors. The data is shown in Table 4-2.

Table 4-2. Market Rate Rent for Most Recent 3,000 Market Rate Rentals Completed in San Jose									
Address	Year Built	No. Units	% Studios	% 1-Bed	% 2-Bed	% 3-Bed	Avg No. of BRs	Avg Unit SF	Avg Effective Rent Per Month
808 W San Carlos St	2018	315	6%	43%	51%	0%	1.44	974	$2,705
415 E Taylor St	2018	403	12%	52%	36%	0%	1.23	842	$3,213
2455 Masonic Dr	2018	86	0%	44%	35%	21%	1.77	1,189	$3,349
787 The Alameda	2018	168	17%	63%	19%	1%	1.05	879	$3,473
1729-1731 N 1st St	2017	376	0%	63%	37%	0%	1.37	878	$2,862
5560 Lexington Ave	2017	387	0%	55%	45%	0%	1.45	874	$2,525
515 Lincoln Ave	2017	190	13%	55%	32%	0%	1.19	761	$2,978
1700 Newbury Park Dr	2016	230	14%	44%	41%	0%	1.27	834	$2,663
868 S 5th St	2016	238	8%	46%	46%	0%	1.37	836	$2,492
60 Pierce Ave	2016	232	9%	43%	49%	0%	1.40	940	$3,112
5700 Village Oaks Dr	2016	234	8%	53%	30%	9%	1.41	904	$2,681
99 Vista Montana	2016	554	0%	29%	51%	21%	1.92	1,087	$3,413
Total / Weighted Avg.		3,413	6%	48%	41%	5%	1.44	918	**$2,954**

Source: CoStar

(2) Affordable rents are determined for each income category applicable to the on-site inclusionary requirement, weighted according to the average bedroom size reflected in the data for the market rate units. See Table 4-3.

Table 4-3. Affordable Monthly Rent					
	Studios	**1-Bed**	**2-Bed**	**3-Bed**	**Weighted Average for 1.44 BRs**
Gross Affordable Rents(1)					
100% AMI	$2,300	$2,628	$2,956	$3,285	**$2,773**
60% AMI	$1,538	$1,757	$1,976	$2,195	**$1,854**
50% AMI	$1,281	$1,464	$1,646	$1,829	**$1,544**
Less: Utility Allowance (2)	($66)	($88)	($120)	($152)	($103)
Affordable Rents Net of Utilities					
100% AMI	$2,234	$2,540	$2,836	$3,133	**$2,670**
60% AMI	$1,472	$1,669	$1,856	$2,043	**$1,751**
50% AMI	$1,215	$1,376	$1,526	$1,677	**$1,442**

(1) Per City of San Jose 2019 Affordable Rent Schedule based on HCD occupancy guidelines and weighted based on average number of bedrooms.

(2) Assumes gas heat, hot water and cooking, electricity and water.

(3) The affordability gap is determined based on the difference between market rate and affordable rents for each income category divided by a published capitalization rate (Integra Realty Resources Going-in Cap Rate for Class A urban multifamily in San Jose). See Table 4-4, A. and B.

(4) The in-lieu fee is then calculated by multiplying the affordability gap for each income category by the on-site affordable unit requirement and dividing by the average unit size. The calculation results in a total in-lieu fee of $43 / SF. See Table 4-4, C. and D.

(5) Reduced mixed compliance in-lieu fees are proposed for projects that provide at least 5% of required affordable units on-site. Mixed compliance in-lieu fees are determined by applying a downward adjustment to the calculated in-lieu fees. An initial adjustment factor of 55% is proposed. This adjustment factor is designed to limit the combined cost of in-lieu fees and providing 5% on-site affordable units to no greater than the cost of the existing in-lieu fee in consideration of the COD Study findings summarized in Section 2.

Table 4-4. Rental In-Lieu Fee Calculation

	100% AMI	**60% AMI**	**50% AMI**	**Total**
A. Rent Gap				
Market Rate Rents Per Month	$2,954	$2,954	$2,954	
Affordable Rents Per Month	$2,670	$1,751	$1,442	
Rent Difference Per Month	$284	$1,203	$1,513	
Rent Difference Per Year	**$3,409**	**$14,440**	**$18,152**	
B. Affordability Gap				
Capitalization Rate (1)	4.50%	4.50%	4.50%	
Capitalized Value of Rent Difference	**$76,000**	**$321,000**	**$403,000**	
C. Calculated In-Lieu Fee Per Net SF				
Affordable Unit Percentage	5%	5%	5%	15%
Average Net Unit Size, Most Recent 3,000 Apartments	918 sq ft	918 sq ft	918 sq ft	
D. Full In-Lieu Fee Per Net SF [= gap X affordable unit % / unit SF]	**$4 /SF**	**$17 /SF**	**$22 /SF**	**$43 /SF**
Fee Adjustment Factor for Mixed Compliance	**55%**	**55%**	**55%**	
E. Mixed Compliance Fees [=calculated fee * (1- adjustment factor)]	**$1.80 /SF**	**$7.70 /SF**	**$9.90 /SF**	

(1) Integra Realty Resources cap rate for Class A urban multifamily in San Jose published April 2019.

In-lieu fees for the mixed compliance option vary depending on the affordability level of the units provided on-site. Table 4-5 identifies in-lieu fees for three alternatives as to the AMI level of on-site units.

Table 4-5. Mixed Compliance Fees – Three Scenarios for On-Site Units						
	A.		*B.*		*C.*	
	5% On-Site at 100% AMI		**5% On-Site at 50% AMI**		**5% On-Site at 60% AMI**	
100% Tier	N/A	all on-site	$1.80 /SF	all in-lieu fee	$1.80 /SF	all in-lieu fee
60% Tier	$7.70 /SF	all in-lieu fee	$7.70 /SF	all in-lieu fee	N/A	all on-site
50% Tier	$9.90 /SF	all in-lieu fee	N/A	all on-site	$9.90 /SF	all in-lieu fee
Total	**$17.60 /SF**		**$9.50 /SF**		**$11.70 /SF**	

4.2 For-Sale In-Lieu Fees

Proposed for-sale in-lieu fees are based on the affordability gap associated with providing attached for-sale affordable units on-site. The affordability gap is proposed to be determined formulaically based on the difference between the average market rate sales price for attached units built in the prior five years and sold within the prior two years and affordable sales prices for the average-sized unit. The affordability gap is then multiplied by the 15% affordable unit requirement and divided by the average square footage size of the units reflected in the sales data to determine the fee per net square foot. Applying this approach yields an in-lieu fee of $25 per square foot as shown in Table 4-6.

Table 4-6. Proposed For-Sale In-Lieu Fee Method			
A. Newer Attached Units Built Within Previous Five Years and Sold within Previous Two Years			
Source: CoreLogic.			
Average Sales Price			$872,000
Average no. of Bedrooms			2.93
Average net square footage			1,730 sq ft
B. Affordable Sales Price	2 BR	3 BR	Weighted Average for 2.93 Bedrooms
at 110% AMI (Table 3-10)	$532,300	$593,200	$589,000
C. Affordability Gap Per Unit		[= A. - B.]	**$283,000**
Average SF of units from sales data			1,730 sq. ft.
Affordable Unit Percentage			15%
D. Fee Per Net SF [gap X affordable unit % / unit SF]			**$25 /SF**

5.0 RESEARCH ON OTHER INCLUSIONARY PROGRAMS FOCUSED ON SPECIFIC PROVISIONS

To inform the development of updates to its IHO, the City identified a series of specific program provisions and implementation issues for research. This section summarizes KMA's research on how other cities handle the specific implementation issues. Some provisions are specialized, necessitating that our research extend outside of the Bay Area to find relevant examples. This information is provided as background; the report makes no recommendations with respect to the items discussed in Section 5.0.

5.1 Inclusionary Compliance when Project Tenure Changes or Is Not Yet Known

This section summarizes research on how other cities apply inclusionary housing requirements to projects where the tenure of the units is not determined or where the project has a condominium map but is initially rented.

In general, cities that have addressed these issues in their inclusionary housing ordinance or program guidelines have taken the approach of planning for one tenure type while also establishing a plan should the tenure type change. For example, the City of Palo Alto states that "no residential condominium map shall be approved without provision for the future sale of BMR ownership units…, even though the project will be initially operated as rental housing." In San Francisco, the developer must determine the tenure prior to Planning Commission approval, as it is part of the conditions of approval and recorded in the Notice of Special Restrictions prior to the issuance of the first construction permit. If the tenure changes, a new Notice of Special Restrictions must be recorded reflecting such change.

For projects that provide affordable units onsite, the affordable units are typically rented while the market rate units are rented, with a provision for the sale of the affordable units if and when the market rate units are eventually sold. Both San Francisco and Salinas, for example, require onsite inclusionary rental units to convert to inclusionary ownership units if the market rate units convert. Salinas states specifically that the affordable units must be sold to households at the same income level as the rental inclusionary units.

Projects that pay in-lieu or impact fees present a separate issue in cities like San Jose where the fee varies by tenure. Emeryville takes the approach that if a project has a recorded condominium map, it is considered an ownership project for the purposes of the inclusionary requirement, even if the project is initially rented. Emeryville's approach may be driven in part by the fact that, for ownership units, a 20% inclusionary requirement applies versus 12% for rentals. Sunnyvale, however, takes the opposite approach and requires projects with condominium maps that are initially rented to pay the rental housing impact fee. Sunnyvale's program includes the following, as well: "In the event the developer has paid the fees and later sells the units within fifty-five years of the fee payment, developer shall receive credit for the housing impact fees paid against the BMR ownership obligations."

From the City's perspective, the considerations include providing flexibility for the developer while ensuring that no loopholes have been created, establishing a compliance plan for projects with onsite units that convert tenure, and establishing a policy regarding in lieu fee payment.

Table 5-1. Policies Applicable When Tenure is Not Yet Determined or Changes

City	Policy
Sunnyvale	Developments that have recorded a condominium map but the developer intends to initially rent the units are subject to the Rental Housing Impact Fee. In the event the developer has paid the fees and later sells the units within 55 years of the fee payment, developer shall receive credit for the housing impact fees paid against the BMR ownership obligations.
San Francisco	Project tenure must be determined before Planning Commission approval and recorded in the Notice of Special Restrictions prior to the issuance of the first construction permit. If the tenure changes, a new Notice of Special Restrictions will need to be recorded. An inclusionary unit will remain an Inclusionary restricted unit if it converts from rental to ownership. The sale of the unit will be guided and monitored by the City. Existing tenants have right of first refusal and the affordable sales price of the unit will be determined by the City.
Salinas	Inclusionary rental units that are initially rented despite a recorded condominium map must be sold to households within the same affordability range as required for the inclusionary rental unit. Existing tenants have right of first refusal to purchase their apartment on terms available to other tenants if it is converted to a condominium.
Palo Alto	No residential condominium map shall be approved without provision for the future sale of BMR ownership units or an equivalent alternative acceptable to the City, even though the project will be initially operated as rental housing.
Emeryville	A residential ownership project includes the conversion of apartments to condominiums and residential rental projects having a recorded condominium plan. Where the applicant elects to initially rent all units in an ownership residential project, the applicant has the option of providing rental affordable units.

5.2 Special Provisions Related to Co-Living Projects

The City recently modified its zoning code to allow 'co-living' projects, in the downtown. This housing model, where individual bedrooms are rented out and kitchen and living areas are shared, can offer an affordable housing option in expensive housing markets. Several cities have adopted policies regarding co-living, with several in the process of considering how to address this unit type.

The City of San Francisco recently modified its Inclusionary Housing program to specify that "the use of the word 'unit' will also mean bedrooms for purposes of housing types that include co-living with affordable units set at 75% of the level for studio units.

Both the cities of New York and Boston are piloting programs related to encouraging co-living. In New York, the City recently launched an initiative titled ShareNYC, which aims to "create innovative and affordable shared housing developments in an effort to test new ways to better address unmet housing needs." The program released a Request for Information and a Request for Expressions of Interest “seeking proposals for the design, construction, and management of shared housing by qualified development teams on private sites throughout the city.” The City will work with successful respondents in an iterative process to provide financing or other assistance and to expedite the pre-development process.

In Boston, the City launched the “Compact Living Policy,” a two-year pilot program designed to encourage compact living units with shared common areas that meet minimum unit standards and offer transportation options. The buildings in the program must comply with the City’s inclusionary policy, and the program specifies that bedrooms in a co-living suite are treated as single room occupancy units.

In 2014, the City of Seattle revised its regulations regarding shared housing, establishing a new code subsection that specifies allowable configurations of interior spaces. The City also established that “groups of sleeping rooms with a shared kitchen within a single dwelling unit” would no longer be allowed.[5] Developers are allowed to develop ‘small efficiency dwelling units’, which are complete dwelling units containing a full kitchen or kitchenette. Small efficiency dwelling units are required to have a minimum room size of 150 square feet and must meet a set of regulations established by the City. The changes to the city’s regulations were in response to a significant amount of shared housing and small efficiency unit development that was able to proceed without design or environmental review and with minimal parking requirements, given the prior language in the City’s code.

Inclusionary housing in-lieu fees are typically assessed on either a per-unit basis or a per-square-foot basis. For co-living units, whether or not a per unit fee creates an incentive or disincentive depends upon how flat per unit fees are applied. If applied to each individual sleeping room, per unit fees are a disincentive. If applied to an entire group of sleeping rooms with shared living and cooking spaces, a per unit fee would generally provide an incentive for co-living. The City of Berkeley assesses their affordable housing fee on a per-unit basis, regardless of unit size or number of bedrooms. Recently, a co-living project in Berkeley was denied by the zoning board for the third time; among the many reasons given was that the project was perhaps increasing the number of bedrooms in the units, and reducing the total number of units in the project, in order to lower the total affordable housing in lieu fee owed by the project. The City Council later overturned the decision and approved the project, with one councilmember indicating that she is working on a proposal to change the city’s fee structure to be based on square footage instead of number of units.

Both San Francisco and Boston establish distinct affordable rent standards for small units and those rented by the bedroom. In San Francisco, units less than 350 square feet which are rented by the bedroom are required to be rented at 75% of the maximum rent for studio units. In Boston, the maximum allowable rent for units less than 450 square feet is 90% of the maximum

[5] Congregate residences, which the City defines as units for nine or more persons not constituting a household, are still allowed but only in certain high-density areas of the city.

for studio units. For both cities, this is consistent with the rent levels established for single room occupancy (SRO) units. The City of Seattle adopted an affordable housing program in 2019; under this program, affordable units with less than 400 square feet are set aside for households earning up to 40% of median income, while affordable rental units larger than 400 square feet are set aside for households earning 60% of median income.

The inclusionary program in the City of Davis allows the city to approve projects setting aside less than the normally required 35% of units as affordable, if the project is rented by the bed or bedroom (the 35% requirement applies to projects of 20 units or more). This gives the City flexibility to encourage this type of housing development. The provision sunset in June 2019, as the City anticipated a comprehensive update of its program to be completed by then. The City is evaluating the appropriateness of different levels of inclusionary housing placed on various project types, including traditional multifamily, student-oriented, vertical mixed-use and core infill.

Table 5-2. Special Provisions Related to Co-Living

City	Policy
San Francisco	Affordable rents are set at 75% of the level for studio units for units rented by the bedroom, which is consistent with the City's policy for SRO units.
Boston	Bedrooms in a co-living suite are treated as SRO units for inclusionary housing purposes. Rents for affordable co-living units / SROs are 90% of the level for studio units.
Seattle	Groups of sleeping rooms with a shared kitchen within a single dwelling unit are not allowed. (Congregate residences (units for nine or more people) are allowed in certain areas of the city.) Developers are allowed to build small efficiency dwelling units, which contain a full kitchen or kitchenette. Small efficiency dwelling units are required to have a minimum room size of 150 square feet and must meet a set of regulations established by the City.
Davis	The City may approve projects setting aside less than the normally required 35% of units as affordable, if the project is rented by the bed or bedroom (the 35% requirement applies to projects of 20 units or more). This gives the City flexibility to encourage this type of housing development.

5.3 Providing Affordable Units in a Separate Building or Wing

KMA researched whether other cities allow inclusionary units to be placed on one portion of the site in a separate building or wing and if so, what, if any, additional requirements apply. Under the City's current program, developers are allowed to place inclusionary units in one portion of the site; however, doing so triggers the higher 20% off-site affordability requirement.

The majority of local cities do not allow units to be placed in a separate area of the site; most ordinances specify that the units must be 'reasonably dispersed' throughout the project. Santa Clara and Sunnyvale allow the City to make exceptions in certain circumstances. Palo Alto and Napa County allow exceptions when it furthers affordable housing opportunities. San Francisco requires units to be dispersed, but makes an exception for high rises, allowing the affordable units to be dispersed throughout the lower 2/3 of the building. Salinas allows rental units to be clustered on a portion of the site to qualify for public financing. Sacramento County allows units to be clustered for financing requirements but does not allow the affordable units to be a separate product apart from the market rate project.

Table 5-3. Concentration of Onsite Affordable Units

City	Dispersed Units Required?	Description of Dispersed Unit Requirement and Exceptions
San Jose	Yes	Single-family detached inclusionary units shall be dispersed throughout the residential development. Townhouse, row-house, and multifamily inclusionary units shall be located so as not to create a geographic concentration of inclusionary units within the residential development.
Milpitas	Yes	Affordable units shall be reasonably dispersed throughout the project.
Mountain View	Yes	Affordable units shall be reasonably dispersed within the residential project. Except when required to develop senior housing in compliance with applicable laws, development of the affordable units in a separate, stand-alone structure, even if that stand-alone structure was on the same parcel or APN as a separate market-rate building, does not meet the definition of on-site.
Palo Alto	Yes	Affordable units shall be reasonably dispersed within the residential project. Subject to the approval of the planning and community environment director, units may be clustered within the residential project when this furthers affordable housing opportunities.
Cupertino	Yes	Affordable units shall be dispersed throughout the project.
Campbell	Yes	Affordable units shall be reasonably dispersed throughout the project.
Santa Clara	Yes	Affordable units shall be reasonably dispersed throughout the project, unless otherwise approved by City Council through a Development Agreement.
Sunnyvale	Yes	Affordable units shall be distributed evenly throughout the project. The decision-making body may waive the location requirement if: (1) Significant physical site constraints prevent even distribution; or (2) Granting the waiver would result in improved site or building design, or a more favorable location of the affordable units than would otherwise be provided.
Oakland	Yes	Affordable units must be reasonably dispersed throughout the project.
San Francisco	Yes	Affordable units shall be evenly distributed throughout the building. For buildings over 120 feet in height, the affordable units may be distributed throughout the lower 2/3 of the building, as measured by the number of floors.
Napa County	Yes	Affordable units shall be dispersed throughout the residential project, or, subject to the approval of the planning director, may be clustered within the residential project when this furthers affordable housing opportunities.
Sacramento County	Yes	Affordable housing units should be dispersed to the maximum extent feasible, taking financing requirements into account. Affordable units should not be a separate product apart from the overall development project, but should be included within the overall project.
Salinas	Yes	Rental units may be grouped so that state and federal financing sources may be used.

5.4 Monitoring and Enforcement Processes for Inclusionary Units

KMA reviewed ongoing monitoring and enforcement procedures for inclusionary units in other jurisdictions in Santa Clara County, plus Oakland and San Francisco. KMA also identified whether each city uses a third-party organization to handle aspects of the administration of the inclusionary program. Typically, cities require an annual certification from occupants of inclusionary units. For for-sale inclusionary units, owners must verify that they are occupying their unit, and for rental inclusionary units, renters must confirm that they remain income eligible to occupy the unit. Some cities charge an annual monitoring fee, the amount is typically included in the city's master fee schedule. Other cities charge a one-time fee at the time the inclusionary housing agreement is signed. Still others charge a larger fee when the agreement is signed and a smaller annual fee going forward.

Enforcement is typically detailed in the agreement signed by the inclusionary owners and renters and entails legal action, although many cities also include language regarding efforts to rectify the situation with owners, renters and property managers first. Some cities specify that monies received above the restricted sales price or rent levels will be subject to forfeiture.

Many Santa Clara County cities contract out portions of the administration and monitoring of their inclusionary programs to third parties, including Cupertino, Campbell, Mountain View, Palo Alto, and Santa Clara.

Table 5-4. Monitoring, Enforcement, and Third-Party Administration

City	Monitoring	Enforcement	Contracted to Third Party
Cupertino	Annual Certification of Owner Occupancy. Annual Re-certification of Income (Rental units). The Affordable Housing Agreement shall include "financing of ongoing administrative and monitoring costs (City and private)."	BMR purchasers must sign Resale Agreement, which details the City's enforcement options.	Hello Housing administers and monitors the City's program.
Milpitas	Rental property owners must submit an annual report to City Manager. Homeowners are subject to "City's monitoring program" for owner-occupancy.	City may suspend or revoke any building permit or approval upon finding a violation. City may institute any appropriate legal actions or proceedings necessary to ensure compliance.	N/A
Mountain View	Household income of renters shall be verified at least annually. For BMR owners, failure to maintain eligibility for homeowners property tax exemption shall be used to determine that BMR unit is not occupied by owner.	If sell/rent restricted units in violation of the program, required to forfeit all excess monetary amounts. City may pursue Civil or criminal prosecution.	The City contracts with Palo Alto Housing to administer its BMR program.
Palo Alto	Affordable housing agreement shall specify the financing of ongoing administrative and monitoring costs. The city council may establish fees for ongoing administration and monitoring.	The City Attorney shall… enforce the provisions of the ordinance by civil action and any other proceeding or method permitted by law.	The City contracts with Palo Alto Housing to administer BMR program.
Campbell	Not specified in ordinance.	The City Attorney shall… enforce the provisions of the ordinance by civil action and any other proceeding or method permitted by law.	The City contracts with HouseKeys to administer its BMR program.

City	Monitoring	Enforcement	Contracted to Third Party
Santa Clara	Annual Certification of Ownership. If Owner fails to maintain homeowner's property tax exemption, the home will no longer be considered his/her primary place of residence.	It shall be a misdemeanor to sell or rent an affordable unit…at a price or rent exceeding the maximum allowed…or to a household not qualified. The City Attorney shall… enforce the provisions of the ordinance by civil action and any other proceeding or method permitted by law.	The City contracts with Housing Trust Silicon Valley to administer the Below Market Purchase Program.
Sunnyvale	Property manager submits Annual Certification of Eligibility of BMR Renters. City conducts audits. BMR owners must submit annual certification with documentation that they occupy their home as a primary residence.	The City may institute any appropriate legal actions or proceedings. For ownership units, the City "will use any enforcement measures available under the Ordinance, these Guidelines, the Deed of Trust, and/or Agreement to restore compliance."	The Housing Division administers the program.
Oakland	The City may levy an annual fee to offset costs associated with implementation and monitoring of the Agreement. Such fee shall be included in the City's Master Fee Schedule.	City may pursue civil penalties, civil action and/or other legal remedies. If housing units are not timely produced as required, City may impose a charge equal to one hundred fifty percent (150%) of the Impact Fee which would have been otherwise due. If not paid, City may record a special assessment lien against the property in the amount of any charge and interest owed, and the City may revoke or suspend the certificate of occupancy.	N/A
San Francisco	Annual recertification of BMR Rental Units is required. BMR Renters required to provide Household income documentation and other applicable Household information to Project Owner. BMR Owners required to provide documentation of occupancy status, insurance and any other information deemed necessary by City to determine compliance.	BMR Renters who fail to timely provide the required documentation are in violation of the Program and will not have their lease renewed. City will not consider requests for subordination, capital improvements, title change or other requests if an Owner is non-compliant with any Program rule.	The Mayor's Office of Housing and Community Development administers the program.
BMR: Below Market Rate. N/A = Not Available or Not Specified.			

5.5 Eligibility of Inclusionary Units for Local Public Funding

There is a wide range of policies regarding whether and which types of public funding may be used to assist the development of inclusionary units. Most cities that specify this information in their ordinance or administrative guidelines do so to restrict the use of public funding for inclusionary units. For many cities, inclusionary housing is one of many affordable housing programs that together try to address the range of housing needs in the city; inclusionary housing programs are often designed to supplement, not replace or compete with, the programs that rely on public funding and financing. As such, some cities specifically limit the types of funding and financing available for inclusionary housing units.

One way that cities handle this is to restrict the use of local development subsidies except in cases where it deepens the affordability of the units provided (e.g., Cupertino, San Francisco). Another way is to allow inclusionary units to receive non-competitive public financing programs such as tax-exempt bond financing and 4% tax credits but not other types of funding (San Francisco, Boston). The City of Campbell allows off-site units to receive public funding as long as the developer contributes the same economic value to the off-site project as it would have in order to comply with the program on-site. Salinas allows for public subsidies and financing, but requires the developer to provide details regarding the funding source and its requirements and gain City approval.

Allowing the use of public funding and/or financing increases the flexibility of the program and potentially lowers the compliance cost associated with creating units (either onsite or offsite) compared to paying the fee. However, it also introduces additional uncertainty to a project, both in terms of the timing of the project and in terms of the competitive nature of public affordable housing funding.

Table 5-5. Eligibility of Inclusionary Units for Local Public Funding

City	Policy
Cupertino	City affordable housing funds can be used to achieve deeper affordability or more affordable units.
Campbell	If off-site units receive any public assistance, the developer of the residential project will contribute to the off-site units the economic value equivalent to the value of making on-site units in the developer's residential project affordable.
San Francisco	Inclusionary units may not use development subsidies from any Federal, State or local housing program. (Subsidies may be used to deepen affordability of units.) Other units in the same project may receive such subsidies. A project may use tax-exempt bond financing and 4% tax credits in certain cases.
Portland, OR	An offsite project cannot be supported by any additional subsidy from the City (they are eligible to receive the basic financial incentives the city provides inclusionary units).
Boston, MA	Off-site units cannot use competitive financing unless approved by staff.
Sacramento County	SHRA may use fee revenue to deepen affordability of inclusionary units.
Salinas	Requires that projects list details regarding any public subsidies or public financing that will be used for the inclusionary units. Rental units may be grouped so that state and federal financing sources may be used.

5.6 Term of Affordability for Inclusionary Units

Under the current program, affordable inclusionary units “shall remain affordable to the targeted income group for no less than the time periods set forth in California Health and Safety Code

Sections 33413(c)(1) and (2)," which is currently a minimum of 55 years for rental units and 45 years for ownership units. Most inclusionary programs include a 55-year term of affordability, although some require longer or shorter time periods. For example, Palo Alto, Cupertino and Portland, OR, have a 99-year team. San Francisco requires units to remain affordable for the life of the project, and Hayward requires the units to remain affordable in perpetuity. In addition, many programs require that the term of affordability resets upon sale of the property, to maintain long-term continued affordability.

Table 5-6. Term of Affordability for Inclusionary Units

City	Policy
San Jose	R: 55 years; FS: 45 years
Milpitas	55 years
Mountain View	55 years
Palo Alto	99 years
Cupertino	99 years
Campbell	55 years
Santa Clara	R: 55 years; FS: 20 years
Sunnyvale	R: 55 years, FS: 30 years
Hayward	In perpetuity
Oakland	55 years
San Francisco	Life of the project
San Diego	55 years
Portland, OR	99 years
R= Rental; FS: For Sale	

5.7 Inclusionary Housing Credits and Publicly Funded Units

Some inclusionary housing programs allows developers who build extra affordable units in one project to generate credits that can be used to offset an inclusionary requirement in a different project (either by 'banking' the credits for use by the same developer or by selling the credits to a different developer). The City of San Jose asked KMA to determine whether cities with credit programs allow the affordable units that generate the credits to use public funding. Many of the same considerations discussed in Section 5.5 above regarding public funding for onsite and offsite inclusionary units apply to this situation as well.

In general, most cities that articulate their policy regarding the use of public funds for affordable units generating inclusionary credits do not allow the use of local subsidies for the units (Sacramento County, Longmont CO, San Diego). The City of Irvine reduces the credits awarded if the project utilizes funding from the City's affordable housing in-lieu fund. Sacramento County does not allow projects to use local public funding, but does allow projects to include tax credit or mortgage revenue bond financing. The City of Salinas allows all inclusionary units to utilize public financing if it meets certain conditions; excess affordable units within the City's Future Growth Area are eligible to generate credits. The City of San Diego specifies that credit-generating projects cannot receive local public funding.

Table 5-7. Inclusionary Housing Credits and Publicly Funded Affordable Units

City	Policy
Sacramento County	Credits shall accrue only for affordable units in developments produced without the use of local public funding. Tax credit or mortgage revenue bond financing without local public funding may be eligible to generate credits.
Longmont, CO	No federal, state, local agency or city assistance, financial subsidy, tax relief or other credit can be used to support the extra affordable homes.
Salinas	Developers within the Future Growth Area may produce more affordable housing than required and generate credits to offset future affordable housing obligations. Allows affordable units to include public financing, but must specify that they are doing so and provide details.
Irvine, CA	Projects with excess affordable units that have received affordable housing in-lieu fees from the City shall have their credits reduced based on the proportion of their affordable units that have been fully or partially assisted with the affordable housing in-lieu fees.
San Diego	Inclusionary requirements may be satisfied by transfer of credits between developers. The affordable units may not utilize any local public funds to meet the affordability requirements.
San Francisco	No inclusionary housing credit program.
Oakland	No inclusionary housing credit program.

5.8 In-Lieu Fee Structure for Other Large Cities

Most major cities on the West Coast use a per square foot fee structure for affordable housing in-lieu and impact fees. San Francisco, Los Angeles, Seattle, Portland, Denver and San Diego all have fees structured on a per square foot basis. San Francisco recently moved to a per square foot fee from a fee charged on a per affordable unit owed basis. Oakland has a fee charged per market rate unit. Los Angeles, in addition to per square foot fees, also has an affordable housing requirement established through voter initiative in 2016 that applies to certain re-zonings and general plan amendments where in-lieu fees apply on a per unit basis.

Table 5-8. Affordable Housing Fee Structure Used in Other Large Cities

City	Fee Structure	Rental Fee	For-Sale Fee	Methodology
San Jose	Per affordable unit owed	$125,000 per affordable unit required	$192,946 per affordable unit required	For-sale fee based on difference between market rate and affordable prices. Rental fee is based on average City subsidy per affordable rental unit.
San Francisco	Per square foot	$59.85/SF (=30% requirement X $199.50 /SF affordable unit net cost)	$65.84/SF (=33% requirement X $199.50 /SF affordable unit net cost)	City recently moved to a per square foot fee from a per affordable unit owed structure. Per square foot fee is calculated each year based on City's average cost to construct affordable units in the prior three years and the average gross residential floor area of projects electing to pay the fee. Fees vary between for-sale and rental. Projects under 25 units pay a lower fee.
Oakland	Per market rate unit	$3,000 to $20,000 per market rate unit depending on zone	$0 to $11,500 per market rate unit depending on zone	Fees vary by zone (3 zones). Separate rates for single family detached, attached, and multi-family.
Los Angeles	Generally applicable fees: **per square foot.** Measure JJJ (2016): **fee per unit** (or on-site units) for discretionary re-zonings, general plan amendments and height changes that increase residential density more than 35% or permit residential where not previously allowed.	Generally applicable: $8/SF to $15/SF depending on zone. Measure JJJ Projects: $43,695 to $81,817 per market rate unit depending on bedroom size and approval type	Generally applicable: $8/SF to $15/SF depending on zone. Measure JJJ Projects: in-lieu fees vary widely by community plan area from a few hundred dollars to over $400,000 per market rate unit.	City-wide fees vary according to four zones tied to market strength, project size and unit type. Measure JJJ in-lieu fees for rentals vary by number of bedrooms. Fees for for-sale units differ for each of 37 community plan areas and by unit size.
Seattle	Per square foot fee	$6/SF to $36/SF depending on the zone	$6/SF to $36/SF depending on the zone	Separate rates for three zones based on market strength.
San Diego	Per square foot fee	$13/SF	$13/SF	Single rate covering both for-sale and rental An increase to $22 per square foot was passed by the City Council in 2019 but vetoed by the Mayor.
Portland	Per square foot fee	$23/SF and $27/SF in the Central City	$23/SF and $27/SF in the Central City	Two rates: Central City and Gateway Plan District and rest of City.
Denver, CO	Per square foot fee	$1.57/SF for multi-unit buildings regulated under international building code and $0.63/SF for other residential uses	$1.57/SF for multi-unit buildings regulated under international building code and $0.63/SF for other residential uses	Two rates: multi-unit buildings regulated and other residential uses.

6.0 SMALL AND LOWER DENSITY RESIDENTIAL PROJECTS

This section provides analysis and context information related to small and lower density residential development projects in San Jose including:

- A summary of permitting activity for small projects; and
- A summary of the conceptual pro forma analysis addressing lower density single family and townhome developments prepared by KMA and provided in Appendix A. The pro forma analysis is reflective of the primarily smaller-scale infill development that has occurred in lower-density zoning districts in San Jose where available land is limited.

6.1 Historic Permitting Data for Small Projects

To provide context information for adjustments to the current 20-unit project size threshold for applicability of IHO requirements, KMA reviewed City data on permitting activity from July 1, 2010 through June 30, 2018 for projects that are smaller than 20 units. A summary is presented in Table 6-1. As shown:

- An average of 77 units per year were permitted within projects under 20 units in size;
- Of these, approximately 24 units were in projects with one to four units; and
- 93% are for-sale units.

Table 6-1. Permitting Activity, Projects with 1-19 Units
July 1, 2010 to June 30, 2018

Eight-Year Totals

No. of Units in Project	For Sale Units	Rental Units	Total Units	%
1	72	1	73	12%
2	34	6	40	7%
3	36		36	6%
4	32	12	44	7%
5	25		25	4%
6	42		42	7%
7	14		14	2%
8	32		32	5%
9	18	9	27	4%
10	70		70	11%
12	12		12	2%
13	65		65	11%
14	14		14	2%
16	48		48	8%
17	17	17	34	6%
18	36		36	6%
19	0		0	0%
8-Year Total	**567**	**45**	**612**	100%

Annual Average

No. Units in Project	For Sale Units Per Year	Rental Units Per Year	Total Units Per Year	%
1-4	22	2	24	31%
5-19	49	4	53	69%
Total	71	6	77	100%

Source: City of San Jose permitting data. Summary includes new construction, teardown/rebuild projects, conversions from single family to duplexes and conversions to residential from non-residential. Remodels and additions that do not add a new unit are not included.

Table 6-2 provides a summary by planning area. For projects under 20 units in size, the Evergreen area has had the greatest share of lower density single family units. Central San Jose had the largest share of attached units and projects with more than 10 units per acre.

Table 6-2. Percent of Units by Planning Area, For-Sale Projects with 1-19 Units			
City of San Jose Planning Areas	**Single Family Units and Less Than 10 du/acre**	**Attached Units or More Than 10 du/acre**	**Combined**
Almaden	19%	10%	16%
Alum Rock	18%	1%	11%
Alviso	2%	1%	2%
Berryessa	6%	5%	6%
Cambrian/Pioneer	3%	3%	3%
Central	11%	31%	19%
Edenvale	3%	9%	6%
Evergreen	25%	0%	15%
South	2%	4%	3%
West Valley	2%	26%	12%
Willow Glen	8%	10%	9%

Source: City of San Jose Permitting Data for July 1, 2010 to June 30, 2018.

6.2 Conceptual Pro Forma Analysis for Low Density Residential

KMA prepared a conceptual pro forma analysis of low-density for-sale residential development in San Jose. The conceptual analysis addresses prototypes developed with City staff to illustrate “typical” low-density for-sale residential projects (detached single family and townhomes) under current market conditions. The prototypes reflect primarily smaller-scale infill development that has occurred in lower-density zoning districts, where available land is limited. The conceptual pro forma analysis is based on current market conditions and provides an understanding of the general development economics of low-density for-sale residential. The purpose is to support consideration of the proposed extension of IHO requirements to projects from 5 to 19 units in size. Currently IHO requirements apply only to projects of 20 units or more.

The conceptual pro forma compares the estimated price of the completed units and the estimated development costs for the prototypes analyzed to determine the supported profit. Profit is based on the difference between the sales price and the total development cost, including the cost of sale. The estimated minimum profit target for all prototypes is 10% to 15% of gross sales. It should be noted that many developers have expressed that a profit of more than 15% is necessary. A summary of the projected developer profit levels is provided in Table 6-3. It is important to note that specific projects may perform better or worse than the “typical” prototypes shown here.

Per Table 6-3, low-density for-sale residential prototypes generate a profit that meets the targeted 10% to 15% profit threshold. Returns range from 12% to 15% with the current in-lieu fee and 10% to 15% with the proposed $25 per square foot fee. Shifting to a per square foot in-lieu fee results in higher fees for larger units as shown in Table 1-4. This results in an estimated decrease in profit of 2% for the single family prototypes but minimum profit level targets are still achieved. Profit levels for townhomes are similar with the existing and proposed in-lieu fee.

Table 6-3. Summary of Pro Forma Findings			
		Estimated Developer Profit	
Submarket	**Building Type**	**With Existing In-Lieu Fee of $192,946 Per Affordable Unit**	**With Proposed In-Lieu Fee of $25/SF**
Evergreen	Large Detached SF	12%	10%
South & East	Small Detached SF	13%	11%
	Townhomes	13%	13%
Central, West & North	Townhomes	15%	15%

Analysis findings for single family and townhome prototype projects are intended as representative for smaller projects, including those under the current 20-unit threshold for application of the IHO. The findings indicate that the economics of these smaller projects are able to sustain an IHO requirement.

While detached single-family homes and townhomes generate a profit that is commensurate with the expectations of developers and investors, relatively little land is available in the city for this type of development, as the City's General Plan encourages growth to occur in higher density, mixed use districts.

The complete analysis is presented in Appendix A.

APPENDIX A

Conceptual Pro Forma Analysis of Low-Density Residential Development

Introduction

Keyser Marston Associates, Inc. has prepared a conceptual pro forma analysis of low-density for-sale residential development in San Jose. The conceptual analysis addresses prototypes developed with City staff to illustrate "typical" low-density for-sale residential projects (detached single family and townhomes) under current market conditions. The prototypes reflect primarily smaller-scale infill development that has occurred in lower-density zoning districts, where available land is limited. The purpose of the analysis is to provide additional analysis to support consideration of the proposed extension of IHO requirements to projects under 20 units in size. Currently IHO requirements apply only to projects of 20 units or more.

The conceptual pro forma analysis is based on current market conditions and provides an understanding of the general development economics of low-density for-sale residential development in San Jose. The analysis indicates low-density for-sale residential development is likely to generate a profit that is commensurate with the expectations of developers and investors in today's market.

Analysis Approach and Limitations

The conceptual pro forma analysis utilizes a static financial model to evaluate the development economics of prototypical projects representative of "average" or "typical" low-density for-sale residential projects in San Jose. By its nature the conceptual analysis can only provide an overview-level assessment of real estate development economics. The development economics may be better or worse when a specific project is proposed, due to any number of unique circumstances, such as site configuration and conditions, construction efficiencies, project design, land cost basis, and sources of capital. As a result, all financial and programmatic estimates are preliminary in nature.

The analysis presents a snapshot in time as of mid-2019. Real estate development economics are fluid and are impacted by constantly changing conditions with regard to sales prices, construction costs, land costs, and costs of financing. A year or two from now, conditions will undoubtedly be different, so the pro forma conclusions are not expected to hold over a longer-term time horizon.

A summary of the conceptual pro forma analysis is provided in this memorandum; financial and market inputs are detailed in the attached tables.

Conceptual Development Programs

In collaboration with City staff, a set of generic prototypes were selected to serve as examples of low-density for-sale residential development in San Jose:

- Large detached single family
- Small detached single family
- Townhomes.

The prototypes reflect development in low-density zoning districts. Because available land for single family development in San Jose is limited, low-density prototypes are likely to be primarily smaller-scale infill projects, including those with fewer than 20 units, the current minimum project size subject to the City's Inclusionary Housing Ordinance (IHO).

Average unit sizes are representative for projects occurring across a broad range of locations in the city recognizing that unit sizes for specific individual projects or specific areas of the city may vary.

Exhibit 1. Conceptual Development Programs

Housing Type	Construction Type	Building Stories	Density	Average Unit Size
Large Detached Single Family	Type V	2 to 3 stories	4 du/ac	3,400 SF
Small Detached Single Family	Type V	2 to 3 stories	10 du/ac	2,300 SF
Townhomes	Type V	2 to 3 stories	20 du/ac	1,750 SF

San Jose Submarkets

The pro forma analysis compares the development economics of the conceptual development programs based on market conditions in submarkets where each development type is likely to occur. These submarkets include:

- Evergreen
- South and East San Jose
- Central, West, and North San Jose

Pro forma assumptions including sales prices, land costs, and city fees differ by submarket. The large detached single-family prototype is analyzed based on market conditions in Evergreen. The small detached single-family prototype reflects market conditions in South and East San Jose. Townhome prototypes are analyzed based on market conditions in South and East San Jose, as well as Central, West, and North San Jose.

Exhibit 2. Conceptual Development Programs Analyzed by Submarket

Housing Type	Evergreen	South & East	Central, West & North
Large Detached Single Family	X		
Small Detached Single Family		X	
Townhomes		X	X

Development Pro Forma Assumptions

The financial and market assumptions informing the conceptual pro forma analysis are presented in narrative description that follows as well as in the tables and charts provided at the end of this Appendix A. The assumptions were developed based on information provided by real estate professionals, developers, and investors actively participating in San Jose development. Data was also collected from published sources, such as land transactions and home sales prices. This information was adjusted to reflect the prototypes being evaluated and the local context of the submarkets.

Home Sales Prices

The estimated average sales price of the prototypes is based on the prices of recently built comparable for-sale projects. For purposes of the pro forma analysis, the estimated average sale price ranges from approximately $1.0 million per unit for a 1,750 square foot townhome in the South and East submarket ($575 per square foot) to $1.8 million per unit for a large, 3,400 square foot detached single family home in Evergreen ($530 per square foot).

Exhibit 3. Estimated Sales Prices by Submarket

Submarket	Housing Type	Sale Price Per Unit	Price Per SF
Evergreen	Large Detached Single Family	$1,802,000	$530
South & East	Small Detached Single Family	$1,265,000	$550
	Townhomes	$1,006,000	$575
Central, West & North	Townhomes	$1,138,000	$650

Development Costs

The development cost estimates include direct construction costs, as well as indirect, or soft costs of development, such as architecture and engineering, school fees, taxes, insurance, financing, developer overhead and administration, and an allowance for entitlements.

The estimates of development costs are based on a combination of sources. First, KMA regularly works on new residential development projects in cities throughout the Bay Area. Through this experience, KMA reviews pro formas for numerous private development projects and works in conjunction with outside construction consultants and cost estimators, general contractors, architects, engineers, and public agencies. The development cost estimates also utilize third party construction cost data from sources such as Marshall & Swift and RS Means which estimate costs for a wide variety of building types in varying locales.

Construction costs vary from project to project depending upon the quality of finishes and architecture, the level of amenities provided, and site-specific construction challenges such as demolition or environmental remediation requirements, unusual site grading or foundation costs, or tight/irregularly shaped parcels that result in cost inefficiencies. The construction cost estimates utilized in this study assume quality construction, architecture, and finishes but do not assume any extraordinary costs that would be atypical for the market. Construction is assumed to be open shop (open to both unionized and non-unionized contractors).

For single family detached homes, direct construction costs are estimated to be $220 per livable square foot for larger homes and $240 per livable square foot for smaller homes. For townhomes, direct construction costs are estimated to be $275 per livable square foot.

San Jose Reach Code

In September 2019, the San Jose City Council approved a reach code ordinance that introduces building standards for new construction that go beyond the 2019 California Green Building Standards Code and California Building Efficiency Standards. Taking effect in 2020, the reach code requires greater energy efficiency from mixed-fuel buildings and increases requirements for electric vehicle charging infrastructure. The cost to comply with the reach code is not reflected in the analysis because there was not enough available information regarding the impact on the prototype projects.

City Fees

City fees and permits costs are based on current estimates of impact fees and construction taxes. The City has five types of development-related fees:

- *Inclusionary Housing In-Lieu Fee* – San Jose's current Inclusionary Housing Ordinance requires that residential developers provide 15% of for-sale housing units at sales prices affordable to moderate-income households or pay an in-lieu fee based on a 20% requirement. Payment of the fee is estimated to represent a lower-cost option than providing affordable units on site for most projects. The current in-lieu fee of $192,946 per affordable unit multiplied by the 20% in-lieu requirement is equivalent to $38,600 per market rate unit. Low-density prototypes built on small sites would potentially fall below the City's current 20-unit threshold at which the existing inclusionary requirements apply; however, for purposes of this pro forma analysis, inclusionary requirements are reflected for all prototypes. The analysis also evaluates project economics with the proposed updated in-lieu fee of $25 per square foot.

- *Park In-Lieu Fee* – San Jose's Park Impact Ordinance requires that residential developers provide three acres of parkland per 1,000 new residents or pay an in-lieu fee. Developers can satisfy up to half of the parkland requirement by providing on-site amenities, such as swimming pools, plazas, and picnic areas. For the conceptual pro forma, it is assumed that projects offset 30% of the parkland requirement through private recreation credits or land dedication and pay the in-lieu fee to satisfy the remainder of the requirement. Pursuant to the 2018 Parkland In-Lieu Fee Schedule, the park fee net of credits is estimated to range from $9,100 to $13,700 per unit, varying by submarket.

- *Traffic Impact Fees* – San Jose has adopted traffic impact fees for Transportation Development Policy areas including Evergreen and US 101/Oakland/Maybury. In the Evergreen policy area, the fee per residential unit is $15,600 per unit. The fee for the US 101/ Oakland/ Maybury policy area is estimated to be approximately $2,200 per unit. For the conceptual pro forma, a reduced US 101/ Oakland/ Maybury fee of $1,100 is assumed in recognition that the policy area covers only a portion of the Central, West, and North submarket.

- *Development Construction Taxes* – Residential projects are subject to construction taxes totaling 3.96% of the building permit value, plus $200 per unit. Construction taxes are estimated to range from $8,400 to $16,200 per unit based on the Building Division's current valuation table.

- *Development Permitting Fees* – Residential projects are subject to development permitting fees aimed at recovering city costs associated with entitlement, plan check, permit review, inspection, and public improvements. Based on recently built projects, the cost of development permitting fees is estimated to total $6,500 per unit.

Exhibit 4 summarizes the estimated city fees by submarket. Fees imposed by other jurisdictions, including school fees and habitat conservation fees (Evergreen only), are included in the estimate of other indirect costs. Total fees are shown with the existing affordable housing in-lieu fee and the proposed new $25 per square foot in-lieu fee.

Exhibit 4: City Fees by Submarket and Housing Type

	Affordable Housing Per Unit						Total Per Unit	
Submarket/ Housing Type	**Existing**	**Proposed $25/SF**	**Parks (net) per unit**	**Const. Taxes per unit**	**Traffic (net) per unit**	**Dev. Permits per unit**	**With Existing Per Unit Affordable Housing Fee**	**With Proposed $25/SF Affordable Housing Fee**
Evergreen								
Large Detached SF	$38,600	$85,000	$13,000	$16,200	$15,600	$6,500	$89,900	$136,300
South & East								
Small Detached SF	$38,600	$57,500	$9,100	$11,000	$0	$6,500	$65,200	$84,100
Townhome	$38,600	$43,750	$9,100	$8,400	$0	$6,500	$62,600	$67,750
Central, West & North								
Townhome	$38,600	$43,750	$13,700	$8,400	$1,100	$6,500	$68,300	$73,450

Land Costs

Land costs are informed by recent land transactions within or near the applicable submarkets. Comparable sales include land with residential development potential. Based on recent sales, land costs are estimated to range from $1.7 million per acre in Evergreen to $4.8 million per acre in the Central, West, & North submarket. Per entitled unit, land costs are in the range of $163,000 to $436,000 per unit, depending on the density.

The high land costs per unit for single family homes and townhomes reflects the scarcity of land for low-density residential development. These sites are assumed to be smaller infill sites with typical offsite improvements and no unusual site conditions. Land costs per unit would be significantly less for a greenfield site but infrastructure and site improvement costs would be higher.

Exhibit 5: Land Costs by Submarket

Submarket	Housing Type	Land Cost Per Acre	Conceptual Density	Land Cost Per Unit
Evergreen	Large Detached SF	$1.7M/ac	4 du/ac	$435,500/du
South & East	Small Detached SF	$2.8M/ac	10 du/ac	$283,300/du
	Townhomes	$3.3M/ac	20 du/ac	$163,400/du
Central, West & North	Townhomes	$4.8M/ac	20 du/ac	$240,000/du

Cost of Sale

For-sale residential projects incur transaction costs such as commissions, fees, incentives, and other closing costs upon sale of the completed units. The pro forma estimates the cost of sale to be four percent of the gross sales price.

Profit

Profit is based on the difference between the sales price and the total development cost, including the cost of sale. The estimated minimum profit target for all prototypes is 10% to 15% of gross sales. It should be noted that many developers have expressed that a profit of more than 15% is necessary.

Conceptual Pro Forma Findings

The conceptual pro forma compares the estimated price of the completed units and the estimated development costs for the prototypes analyzed to determine the supported profit. A summary of the conceptual pro forma estimates is presented in Exhibit 6; detail on each component is provided in the appendix tables. It is important to note that specific projects may perform better or worse than the “typical” prototypes shown here.

Per Exhibit 6, the findings indicate that low-density for-sale residential prototypes generate a profit that meets the targeted threshold. Returns range from 12% to 15% with the current in-lieu fee and 10% to 15% with the proposed $25 per square foot fee. Shifting to a per square foot in-lieu fee results in higher fees for larger units as shown in Table 1-4. This results in an estimated decrease in profit of 2% for the single family prototypes but minimum profit level targets are still achieved.

While detached single-family homes and townhomes generate a profit that is commensurate with the expectations of developers and investors, little land is available in the city for this type of development, as the City's General Plan encourages growth to occur in higher density, mixed use districts. Low-density projects are expected to consist of smaller-scale infill developments.

Exhibit 6: Summary of Pro Forma Findings

Submarket	Building Type	Price Per Unit	Total Cost Per Unit[1]	Estimated Profit[2] Per Unit with Existing In-Lieu Fee: $192,946 Per Affordable Unit	Estimated Profit[2] Per Unit with Proposed In-Lieu Fee: $25/SF
Evergreen	Large Detached SF	$1,802,000	$1,578,100	$223,900 (12%)	$177,500 (10%)
South & East	Small Detached SF	$1,265,000	$1,106,200	$158,800 (13%)	$139,900 (11%)
	Townhomes	$1,006,250	$874,150	$132,100 (13%)	$126,950 (13%)
Central, West & North	Townhomes	$1,137,500	$963,600	$173,900 (15%)	$168,750 (15%)

[1] Includes land, direct construction, indirect costs, financing, permits and fees and 4% cost of sale. Figures reflect the existing affordable housing in-lieu fee.
[2] As percentage of gross sales.

Table A-1
Conceptual Pro Forma: Large Detached Single Family Residential
Evergreen
Cost of Development Study
San Jose, CA

PROGRAM			
Construction Type	Type V		
Building Stories	2	to 3	
Density	4	du/acre	
Average Unit Size	3,400	SF/unit	
Average Lot Size	7,500	SF lot	
DEVELOPMENT COSTS			**$/Unit**
Land	$1.7M	/acre	$435,500
Direct Costs	$220	/NSF	$748,000
Indirect Costs [(1)]	24%	of direct costs	$176,100
City Fees (see below)			$89,900
Construction Financing	5.50%	interest	$56,500
	1.5	years	
	55%	avg drawdown	
Total Cost Per Unit			$1,506,000
Including Cost of Sale			*$1,578,100*
SALES PRICE			
Weighted Average Sales Price	$530	/NSF	$1,802,000
Cost of Sale	4.0%		$72,100
ESTIMATED PROFIT			
Net Sales Proceeds			$1,729,900
(Less) Development Costs			-$1,506,000
Estimated Profit (as % of sales) - with existing in-lieu fee			$223,900	12% profit
- with $25/SF in-lieu fee			$177,500	10% profit
CITY FEES DETAIL			
Affordable Housing			$38,600
Parks (net)	30%	onsite credit	$13,000
Construction Tax			$16,200
Development Svcs Fees			$6,500
Traffic - Evergreen			$15,600
Total			$89,900

[(1)] Includes school and regional governmental fees (habitat conservation).

Table A-2
Conceptual Pro Forma: Small Detached Single Family Residential
South & East San Jose
Cost of Development Study
San Jose, CA

PROGRAM			
Construction Type	Type V		
Building Stories	2 to 3		
Density	10 du/acre		
Average Unit Size	2,300 SF/unit		
Average Lot Size	2,500 SF lot		
DEVELOPMENT COSTS		**$/Unit**	
Land	$2.8M /acre	$283,300	
Direct Costs	$240 /NSF	$552,000	
Indirect Costs [1]	21% of direct costs	$115,600	
City Fees (see below)		$65,200	
Construction Financing	5.50% interest	$39,500	
	1.5 years		
	55% avg drawdown		
Total Cost Per Unit		$1,055,600	
Including Cost of Sale		*$1,106,200*	
SALES PRICE			
Weighted Average Sales Price	$550 /NSF	$1,265,000	
Cost of Sale	4%	$50,600	
ESTIMATED PROFIT			
Net Sales Proceeds		$1,214,400	
(Less) Development Costs		-$1,055,600	
Estimated Profit (as % of sales) - with existing in-lieu fee		$158,800	13% profit
- with $25/SF in-lieu fee		$139,900	11% profit
CITY FEES DETAIL			
Affordable Housing		$38,600	
Parks (net)	30% onsite credit	$9,100	
Construction Tax		$11,000	
Development Svcs Fees		$6,500	
Total		$65,200	

[1] Includes school fees.

Table A-3
Conceptual Pro Forma: Townhomes
South & East San Jose
Cost of Development Study
San Jose, CA

PROGRAM			
Construction Type	Type V		
Building Stories	2 to 3		
Density	20 du/acre		
Average Unit Size	1,750 SF/unit		
DEVELOPMENT COSTS		**$/Unit**	
Land	$3.3M /acre	$163,400	
Direct Costs	$275 /NSF	$481,300	
Indirect Costs [1]	20% of direct costs	$95,400	
City Fees (see below)		$62,600	
Construction Financing	5.50% interest	$31,200	
	1.5 years		
	55% avg drawdown		
Total Cost Per Unit		$833,900	
Including Cost of Sale		*$874,150*	
SALES PRICE			
Weighted Average Sales Price	$575 /NSF	$1,006,250	
Cost of Sale	4%	$40,250	
ESTIMATED PROFIT			
Net Sales Proceeds		$966,000	
(Less) Development Costs		-$833,900	
Estimated Profit (as % of sales) - with existing in-lieu fee		$132,100	13% profit
- with $25/SF in-lieu fee		$126,950	13% profit
CITY FEES DETAIL			
Affordable Housing		$38,600	
Parks (net)	30% onsite credit	$9,100	
Construction Tax		$8,400	
Development Svcs Fees		$6,500	
Total		$62,600	

[1] Includes school fees.

Table A-4
Conceptual Pro Forma: Townhomes
Central, West & North San Jose
Cost of Development Study
San Jose, CA

PROGRAM			
Construction Type	Type V		
Building Stories	2	to 3	
Density	20	du/acre	
Average Unit Size	1,750	SF/unit	

DEVELOPMENT COSTS			**$/Unit**	
Land	$4.8M	/acre	$240,000	
Direct Costs	$275	/NSF	$481,300	
Indirect Costs [1]	20%	of direct costs	$94,200	
City Fees (see below)			$68,300	
Construction Financing	5.50%	interest	$34,300	
	1.5	years		
	55%	avg drawdown		
Total Cost Per Unit			$918,100	
Including Cost of Sale			*$963,600*	
SALES PRICE				
Weighted Average Sales Price	$650	/NSF	$1,137,500	
Cost of Sale	4%		$45,500	
ESTIMATED PROFIT				
Net Sales Proceeds			$1,092,000	
(Less) Development Costs			-$918,100	
Estimated Profit (as % of sales) - with existing in-lieu fee			$173,900	15% profit
- with $25/SF in-lieu fee			$168,750	15% profit
CITY FEES DETAIL				
Affordable Housing			$38,600	
Parks (net)	30%	onsite credit	$13,700	
Construction Tax			$8,400	
Development Svcs Fees			$6,500	
Traffic - Oak./101/Maybury	partial	fee	$1,100	
Total			$68,300	

[1] Includes school fees.

Table A-5
For-Sale Pro Forma Assumptions
Cost of Development Study
San Jose, CA

Development Costs			**Income/Revenues**		
Land Costs			Market Rate Sale Prices		
South & East (Large SF)	$1.7M	/acre	Single Family Large Lot	$530	/SF
South & East (Small SF)	$2.8M	/acre	Single Family Small Lot	$550	/SF
South & East (TH)	$3.3M	/acre	Townhomes (N/C/W)	$650	/SF
			Townhomes (S/E)	$575	/SF
Direct Construction Costs			**Sales Expense**		
Townhomes: Type V	$275	/NSF			
Small Single Family: Type V	$240	/NSF	Sales Expense	4%	of gross
Large Single Family: Type V	$220	/NSF			
			Financing		
Structured Parking (Above)	$50,000	/space	Loan-to-Cost	65%	LTC
Structured Parking (Below)	$80,000	/space	Interest Rate	5.50%	/year
			Term - All Single Family	18	monts
**Type V = wood frame*			Avg Outstanding Balance	55%	loan
			Points and Fees	1.0%	loan
Indirect Construction Costs					
Entitlements - Base	$500K	/project			
Entitlements - Tower	$1.5M	/project			
Professional Fees	6.0%	of directs			
Taxes	0.5%	of directs			
Insurance	2.0%	of directs			
Legal/Accounting	0.4%	of directs			
Developer Fee	3.0%	of directs			
Contingency	5.0%	of directs			
Marketing	$2,000	/unit			
Fees	Table A-6				

Table A-6
Calculation of For-Sale Residential Development Fees
Cost of Development Study
San Jose, CA

			Large Single Fam. Evergreen	Small Single Fam. S & E	Townhome S & E	Townhome C, W & N
I. Assumptions						
Residential NSF/Unit			3,400	2,300	1,750	1,750
Residential Efficiency			100%	100%	100%	100%
Residential GSF/Unit			3,400	2,300	1,750	1,750
Park Zone			3	11	11	5&6
Base Park Fee			$18,600	$13,000	$13,000	$19,500
Private Recreation Credits[1]			30%	30%	30%	30%
Traffic Impact Zone			Evergreen	None	None	101/Mayb.
Traffic Impact Fee			$15,605	$0	$0	$2,200
Traffic Impact Discount %[2]			0%	0%	0%	50%
II. Building Permit Valuation						
Residential	$118	/SF	$403,000	$272,000	$207,000	$207,000
Parking	$84	/SF	$0	$0	$0	$0
Total			$403,000	$272,000	$207,000	$207,000
III. Fees and Permits Per Unit						
Parkland (net credits)			$13,000	$9,100	$9,100	$13,700
Affordable Housing	$38,589	/du	$38,600	$38,600	$38,600	$38,600
Construction Taxes						
CRMP and B&S	4.0%	BPV	$16,000	$10,800	$8,200	$8,200
Other Cxn Taxes	$200	/du	$200	$200	$200	$200
			$16,200	$11,000	$8,400	$8,400
School Fees	$3.48	/SF	$11,800	$8,000	$6,100	$6,100
Traffic			$15,600	$0	$0	$1,100
SCV Habitat Conservation[3]			$11,200	$0	$0	$0
Other Permits and Fees						
Entitlement	$400	/du	$400	$400	$400	$400
Improvement Plan	$1,300	/du	$1,300	$1,300	$1,300	$1,300
Permit Review Fees	$2,700	/du	$2,700	$2,700	$2,700	$2,700
Offsite/ Public Works	$2,100	/du	$2,100	$2,100	$2,100	$2,100
			$6,500	$6,500	$6,500	$6,500
Total Development Fees			$112,900	$73,200	$68,700	$74,400

[1] Assuming developers receive credit for provision of private open space or land dedication.
[2] Traffic fee reduced in recognition that not all projects will be located in the Transportation Development Policy plan area.
[3] Reduced by half in recognition that not all projects will be located in a Habitat Plan Permit Area.

Table A-7
Recent Single Family Residential Land Transactions
Cost of Development Study
San Jose, CA

Source: Costar

Property	Acres	Sale Yr	Sale Price ($000s)	$/Acre $000s	$/ Land SF	$/Unit
Townhomes (SF Attached)						
South & East SJ						
Hillsdale Ave	9.8	2016	$20,516	$2,093	$48	$128,000
641 N Capitol Ave	10.6	2017	$30,200	$2,849	$65	$161,000
Great Oaks Blvd	31.1	2018	$102,800	$3,304	$76	$245,000
Urban Oak (Raleigh Rd)	3.9	2018	$12,057	$3,068	$70	
Central, West, & North SJ						
2482 Almaden Expy	1.1	2015	$4,600	$4,182	$96	$192,000
1875 Dobbin Drive	4.9	2017	$28,000	$5,691	$131	$277,000
0 Terraine St	2.3	2018	$21,000	$9,333	$214	$269,000
1480 Douglas St	0.4	2016	$1,800	$4,186	$96	$300,000
677 N 5th Street	0.3	2017	$1,100	$3,667	$84	$275,000
388 S Buena Vista Av	0.9	2009	$2,700	$2,967	$68	$150,000
Small Detached Single Family						
South & East SJ						
5550 Entrada Cedros	0.5	2014	$1,300	$2,549	$59	$200,000
1449 Clayton Rd	0.9	2018	$1,610	$1,872	$43	$201,000
Central, West, & North SJ						
1707 Ringwood Avenue	0.3	2017	$1,800	$6,000	$138	$450,000
7169 Sharon Dr	0.4	2015	$2,050	$5,694	$131	$340,000
4170 Jarvis Ave	0.5	2015	$1,375	$2,806	$64	$458,000
1288 N Capitol Ave	1.4	2016	$2,000	$1,481	$34	$333,000
Large Detached Single Family						
Evergreen/ East SJ						
3800 Dove Hill Rd	7.2	2013	$8,824	$1,219	$28	$519,000
4973 San Felipe Rd	3.2	2015	$5,525	$1,732	$40	$425,000
3886 Vista Point Ct	2.0	2012	$2,200	$1,084	$25	$578,000
2740 Ruby Av	1.9	2018	$3,700	$1,989	$46	$617,000
3770 Quimby Rd	1.0	2016	$2,600	$2,653	$61	$433,000
803-813 Rosemar Ct	2.2	2015	$2,225	$1,011	$23	$371,000

Table A-8
Asking Prices - Selected Low-Density For-Sale Projects
Cost of Development Study
San Jose, CA

	Beds	Baths	Unit Size	List Price	$/sf	
Townhomes						1/3
SP78 - Trumark						
Central						
Residence 4	2	2.5	1,301	$980,660	$754	
Reisdence 1	2	2.5	1,302	$990,546	$761	
Residence 1XALT	2	2.5	1,331	$1,010,192	$759	
Residence 2	3	3.0	1,579	$1,153,800	$731	
Onyx Series 6						
North (Berryessa)						
Plan 1	2	2.5	1,356	$972,990	$718	
Plan 2	3	2.0	1,415	$1,003,990	$710	
Plan 3	3	2.0	1,506	$1,030,990	$685	
Plan 4	3	3.0	1,500	$1,005,990	$671	
Plan 5	3	3.0	1,640	$1,076,990	$657	
Plan 6	3	3.0	1,753	$1,076,990	$614	
Plan 7	3	3.0	1,927	$1,110,990	$577	
Plan 8	3-4	3.0	2,122	$1,149,990	$542	
Metro II at Communications Hill						
South						
Plan 1 Modeled	2	2.0	1,658	$895,000	$540	
Plan 1 Mezz	2	2.0	1,895	$938,997	$496	
Plan 2 Modeled	3	3.0	1,813	$973,584	$537	
Plan 3 Modeled	4	3.5	2,002	$1,031,314	$515	
Plan 4 Modeled	4	3.5	1,995	$1,055,000	$529	
Catalyst at Communications Hill						
South						
Plan 1	2-3	3.5	1,792	$957,813	$534	
Plan 2	3	3.5	1,922	$1,007,070	$524	
Plan 3	4	3.5	2,024	$1,051,582	$520	
Indigo @ Montecito Vista						
South						
Plan 1	2	2.5	1,303	$837,000	$642	
Plan 2	3	3.0	1,452	$889,000	$612	
Plan 3	3	3.0	1,838	$917,000	$499	
Plan 4	3	3.0	1,953	$942,000	$482	

Table A-8
Asking Prices - Selected Low-Density For-Sale Projects
Cost of Development Study
San Jose, CA

	Beds	Baths	Unit Size	List Price	$/sf	
Townhomes, Continued						2/3
Rows at Urban Oak						
South						
Plan 1	2	2.5	1,601	$784,990	$490	
Plan 2	3	3.5	1,855	$854,990	$461	
Plan 3	4	3.5	2,162	$909,990	$421	
The Capitol - Pulte						
East - Near Berryessa						
Haven Plan 1	3	3.0	1,370	$844,990	$617	
Haven Plan 1L	3	3.0	1,408	$849,990	$604	
Haven Plan 2	3.5-4	2.0	1,552	$904,990	$583	
Haven Plan 2L	3.5-4	2.0	1,644	$919,990	$560	
Retreat Plan 1	3	2.5	1,561	$919,990	$589	
Retreat Plan 2	2.5-3.5	2.0	1,710	$979,990	$573	
Small Lot Detached Single Family						
Platinum II						
South						
Plan 1	4	3.5	2,256	$1,598,816	$709	
Plan 2 Modeled	4	3.5	2,588	$1,610,696	$622	
Plan 3	4	3.5	2,668	$1,645,655	$617	
Plan 4	4	3.5	2,761	$1,664,439	$603	
Promenade II						
South						
Plan 1	4	3.5	2,148	$1,156,466	$538	
Plan 2 Modeled	4	3.5	2,170	$1,158,281	$534	
Plan 3 Modeled	4-5	4.0	2,178	$1,162,000	$534	
Residences at Urban Oaks						
South						
Plan 1	4	3.5	2,258	$1,049,990	$465	
Plan 2	4	3.5	2,330	$1,074,990	$461	
Plan 3	4	3.5	2,454	$1,099,990	$448	

Table A-8
Asking Prices - Selected Low-Density For-Sale Projects
Cost of Development Study
San Jose, CA

	Beds	Baths	Unit Size	List Price	$/sf	
Small Lot Single Family, Continued						3/3
Asana						
East						
Residence 1	3-4	3.0	2,560	$1,145,000	$447	
Residence 2	3-4	3.0	2,839	$1,185,000	$417	
Residence 3	3-4	3.0	3,090	$1,210,000	$392	
Residence 4	3	3.0	2,839	$1,254,900	$442	
Residence 5	4	3.5	2,560	$1,162,500	$454	
Large Lot Detached Single Family						
Oak Knoll Creekside						
East (Evergreen)						
Plan 1 (2018 listing)	6	5.0	3,247	$1,758,440	$542	
Plan 2	5	5.0	3,549	$1,968,000	$555	
Plan 3	5	5.0	3,845	$2,068,000	$538	
Cottlestone						
East (Evergreen)						
Residence 1	4	3.0	3,008	$1,595,000	$530	
Residence 3	5	3.0	3,298	$1,700,000	$515	
Residence 4	5	3.5	3,862	$2,030,000	$526	
Residence 5	4	4.0	3,349	$1,747,000	$522	
Residence 6	4	4.0	3,349	$1,768,000	$528	

Table A-9
Reported Sale Prices - Large Detached Single Family (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	Lot SF	# Bed	# Ba	Unit SF	Sale Price	$/SF	Sale Yr
East SJ (incl Evergreen)								
1379 Story Ct	2014	12,698	5	5	3,780	$1,810,000	$479	2018
2663 Turturici Way	2015	21,135	5	5	4,512	$2,317,000	$514	2018
3891 Vista Point Ct	2015	14,742	5	6	4,507	$2,231,000	$495	2018
South SJ								
370 Neilson Ct	2018	22,581	5	6	3,297	$1,750,000	$531	2019
20601 Via Santa Teresa	2018	114,047	4	6	6,023	$3,280,000	$545	2018
West SJ								
1653 Arbor Dr	2018	7,437	6	5	3,288	$2,399,000	$730	2018
2206 Bello Ave	2014	8,169	4	5	3,416	$2,351,500	$688	2019
2102 Bello Ave	2017	8,340	5	4	3,350	$2,855,000	$852	2018
2067 Booksin Ave	2018	17,718	5	5	5,758	$4,200,000	$729	2018
1901 Cabana Dr	2015	9,651	4	4	3,843	$3,300,000	$859	2018
2252 Camrose Ave	2018	6,424	6	5	3,585	$2,400,000	$669	2018
2446 Cherry Ave	2015	6,769	4	4	3,049	$2,100,000	$689	2018
2311 Cottle Ave	2018	7,224	5	5	3,239	$2,875,000	$888	2018
1904 Creek Dr	2014	10,402	4	4	3,506	$1,760,000	$502	2019
1232 Delmas Ave	2018	7,665	4	3	3,368	$2,100,000	$624	2019
1145 Delmas Ave	2018	9,006	4	5	3,249	$2,290,000	$705	2018
1069 Franquette Ave	2018	9,860	4	3	3,530	$2,900,000	$822	2018
1138 Garfield Ave	2016	6,803	4	4	3,010	$2,400,000	$797	2018
1503 Glen Ellen Way	2018	10,772	5	4	3,151	$2,775,000	$881	2018
1536 Larkspur Dr	2014	14,346	5	6	4,084	$2,835,000	$694	2018
1703 Laurelwood Dr	2018	10,987	5	4	3,776	$3,250,000	$861	2018
1694 Lupton Ave	2017	8,965	5	5	3,594	$2,625,000	$730	2018
1173 Nevada Ave	2014	7,987	5	6	3,533	$3,275,000	$927	2018
14843 Payton Ave	2018	9,418	5	4	3,418	$2,432,000	$712	2018
14521 Weeth Dr	2018	17,264	5	5	4,370	$2,250,000	$515	2019

Table A-10
Reported Sale Prices - Small Detached Single Family (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	Lot SF	# Bed	# Ba	Unit SF	Sale Price	$/SF	Sale Yr
Central SJ								
770 Cannery Pl	2014	1,890	3	4	1,717	$1,125,000	$655	2018
103 N 26th St	2015	5,126	3	3	1,762	$1,150,000	$653	2018
East SJ								
292 La Pala Dr	2018	1,432	3	4	1,435	$645,455	$450	2018
294 La Pala Dr	2018	1,434	3	4	1,435	$670,000	$467	2018
288 La Pala Dr	2018	2,045	3	4	1,548	$720,000	$465	2018
298 La Pala Dr	2018	2,211	3	4	1,548	$697,000	$450	2018
296 La Pala Dr	2018	3,445	3	4	1,712	$778,000	$454	2018
3768 Mckee Rd	2018	1,812	3	4	1,435	$700,000	$488	2018
3756 Mckee Rd	2018	1,721	3	4	1,461	$920,000	$630	2018
3760 Mckee Rd	2018	1,720	3	4	1,461	$662,000	$453	2018
3764 Mckee Rd	2018	1,720	3	4	1,461	$657,500	$450	2018
1499 Stone Creek Dr	2018	5,768	4	3	2,520	$1,272,500	$505	2018
2415 Summer St	2017	4,008	3	2	1,270	$735,000	$579	2018
143 Sunnyslope Ave	2016	6,750	4	2	2,063	$1,110,000	$538	2019
North SJ (incl. Berryessa)								
1563 Mercado Way	2014	1,685	3	3	1,693	$1,200,000	$709	2018
1599 Mercado Way	2014	2,069	3	3	1,693	$1,220,000	$721	2018
2592 Minuet Dr	2015	4,034	4	3	2,120	$1,560,000	$736	2018
778 Opie Ct	2015	2,928	4	4	1,865	$1,025,000	$550	2018
789 Opie Ct	2015	1,875	4	4	1,865	$1,040,000	$558	2018
1552 Shore Dr	2014	1,685	3	3	1,693	$1,350,000	$797	2018
South SJ								
7126 Almaden Pl	2014	2,068	4	3	1,744	$1,295,000	$743	2018
5036 Brook Valley Loop	2018	3,010	3	3	1,992	$1,030,000	$517	2018
5056 Brook Valley Loop	2018	3,104	3	3	1,992	$1,019,000	$512	2018
5048 Brook Valley Loop	2018	3,267	3	3	2,242	$1,094,000	$488	2018
5050 Brook Valley Loop	2018	3,144	3	3	2,264	$1,084,500	$479	2018
6086 Charlotte Dr	2014	1,901	3	3	1,635	$1,101,000	$673	2018
6057 Charlotte Dr	2014	2,579	4	3	2,174	$1,213,000	$558	2018
6036 Charlotte Dr	2015	1,866	3	3	1,635	$1,108,000	$678	2018
6040 Charlotte Dr	2015	2,746	4	4	2,375	$1,260,000	$531	2019
5062 Edenvale Ave	2017	2,029	4	4	2,726	$1,198,000	$439	2018
5012 Edenvale Ave	2018	2,264	4	4	2,508	$1,199,000	$478	2018
5038 Edenvale Ave	2018	2,027	4	4	2,508	$1,077,000	$429	2018
5032 Edenvale Ave	2018	2,027	4	4	2,668	$1,075,000	$403	2018

Table A-10
Reported Sale Prices - Small Detached Single Family (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	Lot SF	# Bed	# Ba	Unit SF	Sale Price	$/SF	Sale Yr
South SJ, continued								2/2
6020 Golden Vista Dr	2015	2,413	3	3	2,131	$1,220,000	$573	2018
6032 Golden Vista Dr	2015	2,360	4	3	2,165	$1,221,000	$564	2018
1782 Infinity Way	2015	2,089	4	4	2,317	$1,125,000	$486	2018
3015 Jayhawkers Pl	2017	2,105	4	4	2,178	$1,150,000	$528	2019
1771 Lucretia Ave	2015	3,139	3	3	1,763	$990,000	$562	2018
1775 Lucretia Ave	2015	2,417	4	4	2,317	$1,050,000	$453	2018
3018 Manuel St	2017	2,103	4	4	2,149	$1,350,000	$628	2018
3065 Manuel St	2017	2,079	4	4	2,153	$1,160,000	$539	2019
1397 Palm St	2015	3,148	4	3	1,770	$1,175,000	$664	2018
6002 Rocco Ct	2018	3,008	4	3	2,281	$1,340,000	$587	2019
6011 Rocco Ct	2018	2,621	4	3	2,281	$1,300,000	$570	2019
6017 Rocco Ct	2018	2,667	4	3	2,281	$1,310,000	$574	2018
806 Rosepoint Loop	2014	2,999	3	3	2,131	$1,190,000	$558	2019
6098 Sunstone Dr	2014	2,729	3	3	2,131	$1,200,000	$563	2018
3005 Valley Of Hearts Deligl	2017	2,785	4	4	2,256	$1,300,000	$576	2018
289 William Manly St	2017	1,984	4	4	2,153	$1,125,000	$523	2019
West SJ (incl. Willow Glen)								
1296 Bird Ave	2014	4,903	4	3	2,188	$1,710,000	$782	2018
613 Dorothy Ave	2018	5,222	5	3	2,205	$1,820,000	$825	2018
1049 Fairview Ave	2018	6,450	4	4	2,885	$2,620,000	$908	2018
933 Felicidad Ct	2018	2,500	4	3	1,907	$1,521,000	$798	2019
1563 Georgetta Dr	2015	6,338	4	4	2,785	$2,175,000	$781	2018
1256 Glenwood Ave	2018	8,140	3	3	2,828	$2,450,000	$866	2019
470 Hull Ave	2018	5,393	4	3	2,377	$1,730,000	$728	2018
462 Hull Ave	2018	5,607	4	3	2,402	$1,792,000	$746	2018
1792 Johnston Ave	2015	5,515	4	3	2,731	$2,410,000	$882	2018
1789 Johnston Ave	2018	6,302	4	4	2,735	$2,250,000	$823	2018
1015 Lincoln Ct	2018	6,561	5	5	2,928	$2,350,000	$803	2019
1365 Milton Way	2018	6,194	4	3	2,797	$2,096,000	$749	2018
1150 Norval Way	2018	5,682	5	5	2,991	$2,300,000	$769	2018
4176 Olga Dr	2018	2,438	4	3	1,868	$1,472,600	$788	2019
1227 Sanfilippo Ct	2015	5,519	4	3	2,445	$1,990,000	$814	2018
828 Tina Speciale Pl	2016	2,905	3	3	1,935	$1,200,000	$620	2018
6325 Tucker Dr	2018	6,398	5	5	2,867	$3,100,000	$1,081	2018
1275 Vernon Ave	2018	5,120	5	4	2,694	$1,699,000	$631	2018

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
Central San Jose								1/8
512 Citadelle Ln	2014	4	4	1,917	$970,000	$506	2018	
448 S 22nd St	2014	3	3	1,444	$800,000	$554	2019	
546 S 22nd St	2014	3	3	1,489	$785,000	$527	2018	
476 S 22nd St	2014	4	4	1,917	$851,000	$444	2018	
1042 Victories Loop	2014	3	3	1,444	$816,000	$565	2018	
North San Jose (incl Berryessa)								
1008 Abruzzo Ln 1	2017	3	3	1,847	$1,277,500	$692	2018	
1015 Abruzzo Ln 1	2017	3	3	1,847	$1,255,000	$679	2018	
1023 Abruzzo Ln 1	2017	3	3	1,847	$1,136,000	$615	2018	
1026 Abruzzo Ln 1	2017	3	3	1,847	$1,151,000	$623	2018	
1032 Abruzzo Ln 1	2017	3	3	1,847	$949,500	$514	2018	
1037 Abruzzo Ln 1	2017	3	3	1,847	$1,027,500	$556	2018	
1008 Abruzzo Ln 2	2017	2	2	1,171	$945,000	$807	2018	
1015 Abruzzo Ln 2	2017	2	2	1,171	$927,500	$792	2018	
1023 Abruzzo Ln 2	2017	2	2	1,171	$1,126,500	$962	2018	
1026 Abruzzo Ln 2	2017	2	2	1,171	$875,500	$748	2018	
1032 Abruzzo Ln 2	2017	2	2	1,171	$755,500	$645	2018	
1008 Abruzzo Ln 3	2017	2	2	1,371	$939,000	$685	2018	
1015 Abruzzo Ln 3	2017	2	2	1,371	$1,034,000	$754	2018	
1032 Abruzzo Ln 3	2017	2	2	1,371	$881,000	$643	2018	
1023 Abruzzo Ln 4	2017	3	3	1,707	$1,082,000	$634	2018	
1032 Abruzzo Ln 4	2017	3	3	1,707	$908,000	$532	2018	
1023 Abruzzo Ln 5	2017	2	2	1,371	$1,005,000	$733	2018	
1026 Abruzzo Ln 5	2017	2	2	1,371	$890,000	$649	2018	
1023 Abruzzo Ln 6	2017	2	2	1,171	$886,500	$757	2018	
1026 Abruzzo Ln 6	2017	2	2	1,171	$895,000	$764	2018	
1032 Abruzzo Ln 6	2017	2	2	1,171	$738,000	$630	2018	
1037 Abruzzo Ln 6	2017	2	2	1,171	$969,000	$827	2018	
1026 Abruzzo Ln 7	2017	3	3	1,847	$1,172,000	$635	2018	
1032 Abruzzo Ln 7	2017	3	3	1,847	$983,000	$532	2018	
1016 Bellante Ln 1	2017	3	3	1,847	$1,165,000	$631	2019	
1025 Bellante Ln 1	2017	3	3	1,847	$1,313,500	$711	2018	
1011 Bellante Ln 2	2017	2	2	1,171	$925,000	$790	2019	
1016 Bellante Ln 2	2017	2	2	1,171	$830,000	$709	2019	
1020 Bellante Ln 2	2017	2	2	1,171	$830,000	$709	2019	
1025 Bellante Ln 2	2017	2	2	1,171	$950,000	$811	2018	
1033 Bellante Ln 2	2017	2	2	1,171	$1,029,000	$879	2018	
1011 Bellante Ln 3	2017	2	2	1,371	$998,500	$728	2019	
1016 Bellante Ln 3	2017	2	2	1,371	$946,500	$690	2019	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
North San Jose (incl Berryessa), cont.								2/8
1020 Bellante Ln 3	2017	2	2	1,371	$1,185,500	$865	2018	
1033 Bellante Ln 3	2017	2	2	1,371	$1,030,000	$751	2018	
1011 Bellante Ln 4	2017	3	3	1,707	$1,200,000	$703	2019	
1016 Bellante Ln 4	2017	3	3	1,707	$1,182,500	$693	2019	
1011 Bellante Ln 5	2017	2	2	1,371	$885,000	$646	2019	
1020 Bellante Ln 5	2017	2	2	1,371	$983,000	$717	2018	
1025 Bellante Ln 5	2017	2	2	1,371	$1,040,000	$759	2018	
1011 Bellante Ln 6	2017	2	2	1,171	$877,000	$749	2019	
1016 Bellante Ln 6	2017	2	2	1,171	$830,000	$709	2019	
1020 Bellante Ln 6	2017	2	2	1,171	$918,000	$784	2018	
1025 Bellante Ln 6	2017	2	2	1,171	$930,000	$794	2018	
1033 Bellante Ln 6	2017	2	2	1,171	$987,000	$843	2018	
1011 Bellante Ln 7	2017	3	3	1,847	$1,326,000	$718	2019	
1016 Bellante Ln 7	2017	3	3	1,847	$1,165,000	$631	2019	
1025 Bellante Ln 7	2017	3	3	1,847	$1,325,500	$718	2018	
1033 Bellante Ln 7	2017	3	3	1,847	$1,230,000	$666	2018	
1587 De Rome Dr 1	2017	3	3	1,847	$1,250,000	$677	2018	
1587 De Rome Dr 2	2017	2	2	1,171	$1,019,000	$870	2018	
1573 De Rome Dr 3	2017	2	2	1,371	$1,002,000	$731	2018	
1587 De Rome Dr 3	2017	2	2	1,371	$924,000	$674	2018	
1573 De Rome Dr 4	2017	3	3	1,707	$1,218,000	$714	2018	
1573 De Rome Dr 5	2017	2	2	1,371	$1,007,500	$735	2018	
1573 De Rome Dr 6	2017	2	2	1,171	$830,000	$709	2018	
1573 De Rome Dr 7	2017	3	3	1,847	$1,271,000	$688	2018	
1017 Gabbiano Ln 1	2017	3	3	1,847	$1,275,500	$691	2018	
1017 Gabbiano Ln 2	2017	2	2	1,171	$1,011,000	$863	2018	
1025 Gabbiano Ln 2	2017	2	2	1,171	$886,000	$757	2018	
1017 Gabbiano Ln 3	2017	2	2	1,371	$1,006,000	$734	2018	
1025 Gabbiano Ln 3	2017	2	2	1,371	$874,500	$638	2018	
1033 Gabbiano Ln 3	2017	2	2	1,371	$925,000	$675	2018	
1025 Gabbiano Ln 4	2017	3	3	1,707	$1,029,500	$603	2018	
1025 Gabbiano Ln 6	2017	2	2	1,171	$879,500	$751	2018	
1025 Gabbiano Ln 7	2017	3	3	1,847	$1,144,500	$620	2018	
1011 Giacomo Ln 1	2017	3	3	1,847	$1,160,000	$628	2018	
1011 Giacomo Ln 2	2017	2	2	1,171	$925,000	$790	2018	
1027 Giacomo Ln 2	2017	2	2	1,171	$873,000	$746	2018	
1011 Giacomo Ln 3	2017	2	2	1,371	$910,000	$664	2018	
1027 Giacomo Ln 4	2017	3	3	1,707	$1,029,000	$603	2018	
1011 Giacomo Ln 5	2017	2	2	1,371	$989,000	$721	2018	
1011 Giacomo Ln 6	2017	2	2	1,171	$945,000	$807	2018	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
North San Jose (incl Berryessa), cont.								3/8
1027 Giacomo Ln 6	2017	2	2	1,171	$839,000	$716	2018	
1011 Giacomo Ln 7	2017	3	3	1,847	$1,175,000	$636	2018	
1027 Giacomo Ln 7	2017	3	3	1,847	$1,210,000	$655	2019	
1657 Murasky Pl	2014	3	3	1,861	$1,200,000	$645	2019	
1601 Murasky Pl	2014	3	3	2,004	$1,200,000	$599	2018	
1360 Neleigh Pl	2014	2	2	1,171	$900,000	$769	2018	
1466 Neleigh Pl	2014	2	2	1,171	$905,100	$773	2018	
1013 Onofrio Ln 1	2017	3	3	1,847	$1,172,000	$635	2019	
1018 Onofrio Ln 1	2017	3	3	1,847	$1,345,000	$728	2018	
1021 Onofrio Ln 1	2017	3	3	1,847	$1,207,500	$654	2018	
1035 Onofrio Ln 1	2017	3	3	1,847	$1,041,500	$564	2018	
1036 Onofrio Ln 1	2017	3	3	1,847	$855,000	$463	2018	
1013 Onofrio Ln 2	2017	2	2	1,171	$850,000	$726	2019	
1018 Onofrio Ln 2	2017	2	2	1,171	$874,000	$746	2019	
1022 Onofrio Ln 2	2017	2	2	1,171	$896,000	$765	2018	
1013 Onofrio Ln 3	2017	2	2	1,371	$880,000	$642	2019	
1018 Onofrio Ln 3	2017	2	2	1,371	$1,048,000	$764	2018	
1021 Onofrio Ln 3	2017	2	2	1,371	$1,121,000	$818	2018	
1022 Onofrio Ln 3	2017	2	2	1,371	$944,000	$689	2018	
1035 Onofrio Ln 3	2017	2	2	1,371	$857,500	$625	2018	
1013 Onofrio Ln 4	2017	3	3	1,707	$1,273,000	$746	2019	
1022 Onofrio Ln 4	2017	3	3	1,707	$1,088,000	$637	2018	
1035 Onofrio Ln 4	2017	3	3	1,707	$999,500	$586	2018	
1036 Onofrio Ln 4	2017	3	3	1,707	$968,500	$567	2018	
1013 Onofrio Ln 5	2017	2	2	1,371	$1,025,500	$748	2019	
1035 Onofrio Ln 5	2017	2	2	1,371	$849,000	$619	2018	
1013 Onofrio Ln 6	2017	2	2	1,171	$830,000	$709	2019	
1022 Onofrio Ln 6	2017	2	2	1,171	$961,000	$821	2018	
1035 Onofrio Ln 6	2017	2	2	1,171	$812,000	$693	2018	
1013 Onofrio Ln 7	2017	3	3	1,847	$1,205,000	$652	2019	
1022 Onofrio Ln 7	2017	3	3	1,847	$1,176,000	$637	2018	
1036 Onofrio Ln 7	2017	3	3	1,847	$1,048,500	$568	2018	
1308 Shore Dr	2014	2	2	1,171	$849,000	$725	2019	
1322 Shore Dr	2014	3	3	1,671	$1,040,000	$622	2018	
1338 Shore Dr	2014	3	3	1,851	$1,168,000	$631	2018	
1073 Sierra Rd	2014	3	3	1,851	$1,220,000	$659	2018	
1618 Solari Pl	2016	2	2	1,372	$865,000	$630	2019	
1610 Vendre Pl	2014	2	3	1,481	$960,000	$648	2018	
1630 Vendre Pl	2014	2	3	1,481	$965,000	$652	2019	
1379 Mercado Way	2014	2	2	1,171	$870,000	$743	2018	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA
Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
North San Jose (incl Berryessa), cont.								4/8
1491 Mercado Way	2014	2	2	1,371	$865,000	$631	2019	
1611 Mercado Way	2014	2	3	1,481	$920,000	$621	2018	
1341 Mercado Way	2014	3	3	1,851	$1,156,000	$625	2019	
992 Arrowleaf Pl	2016	3	4	1,718	$1,221,000	$711	2019	
1052 Bigleaf Pl 107	2015	3	3	1,867	$1,330,000	$712	2018	
1068 Bigleaf Pl 304	2016	4	3	2,147	$1,188,000	$553	2019	
982 Cassia Pl	2016	3	4	1,718	$1,220,000	$710	2018	
1071 Dewberry Pl 102	2014	2	3	1,884	$1,270,000	$674	2018	
1071 Dewberry Pl 104	2014	3	3	1,867	$1,190,000	$637	2018	
1053 Dewberry Pl 404	2014	3	3	2,147	$1,388,000	$646	2018	
1088 Foxglove Pl	2015	3	4	1,718	$1,321,000	$769	2018	
1073 Foxglove Pl 105	2014	4	5	2,243	$1,320,000	$588	2019	
1073 Foxglove Pl 110	2014	4	4	2,001	$1,190,000	$595	2019	
1057 Foxglove Pl 202	2014	3	3	1,850	$1,100,000	$595	2019	
1091 Foxglove Pl 301	2015	2	3	1,661	$1,220,000	$734	2018	
1091 Foxglove Pl 404	2015	4	3	2,147	$1,300,000	$605	2018	
1010 Goldenstar Pl	2014	3	4	1,718	$1,307,000	$761	2018	
1030 Goldenstar Pl	2014	4	4	1,872	$1,370,000	$732	2018	
1081 Harebell Pl	2015	2	3	1,622	$1,180,000	$727	2018	
1087 Harebell Pl	2015	2	3	1,622	$1,200,000	$740	2018	
1031 Harebell Pl	2015	3	4	1,718	$1,190,000	$693	2018	
1093 Harebell Pl	2015	3	4	1,718	$1,160,000	$675	2018	
1036 Foxglove Pl	2015	2	3	1,622	$1,165,000	$718	2018	
1052 Pear Orchard Dr	2015	2	3	1,622	$1,095,000	$675	2019	
1851 Dobbin Dr	2016	2	2	1,299	$678,500	$522	2018	
1859 Dobbin Dr	2016	3	2	1,400	$675,500	$483	2018	
1871 Dobbin Dr	2016	3	2	1,400	$730,000	$521	2018	
1883 Dobbin Dr	2016	3	2	1,400	$675,000	$482	2018	
1895 Dobbin Dr	2016	3	2	1,472	$706,000	$480	2018	
1863 Dobbin Dr	2016	3	3	1,667	$1,040,000	$624	2018	
1875 Dobbin Dr	2016	3	3	1,667	$769,000	$461	2018	
1879 Dobbin Dr	2016	3	3	1,667	$743,000	$446	2018	
1891 Dobbin Dr	2016	3	3	1,733	$790,500	$456	2018	
1867 Dobbin Dr	2016	3	3	1,941	$822,500	$424	2018	
1887 Dobbin Dr	2016	3	3	1,941	$1,100,000	$567	2018	
1899 Dobbin Dr	2016	4	3	2,015	$853,000	$423	2018	
1987 Dobbin Dr 89	2016	2	2	1,130	$985,000	$872	2018	
2011 Mahuron Cir	2017	2	2	1,299	$910,100	$701	2018	
2050 Mahuron Cir	2017	2	2	1,299	$730,500	$562	2018	
2014 Mahuron Cir	2017	3	2	1,400	$742,000	$530	2018	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
North San Jose (incl Berryessa), cont.								5/8
2026 Mahuron Cir	2017	3	2	1,400	$731,000	$522	2018	
2038 Mahuron Cir	2017	3	2	1,400	$736,000	$526	2018	
2070 Mahuron Cir	2017	3	2	1,400	$1,015,000	$725	2018	
2082 Mahuron Cir	2017	3	2	1,400	$736,500	$526	2018	
2046 Mahuron Cir	2017	3	2	1,459	$796,500	$546	2018	
2058 Mahuron Cir	2017	3	2	1,472	$786,000	$534	2018	
2094 Mahuron Cir	2017	3	2	1,472	$774,500	$526	2018	
2018 Mahuron Cir	2017	3	3	1,667	$775,500	$465	2018	
2030 Mahuron Cir	2017	3	3	1,667	$768,000	$461	2018	
2042 Mahuron Cir	2017	3	3	1,667	$788,000	$473	2018	
2067 Mahuron Cir	2017	3	3	1,667	$1,065,000	$639	2018	
2074 Mahuron Cir	2017	3	3	1,667	$801,500	$481	2018	
2086 Mahuron Cir	2017	3	3	1,667	$781,500	$469	2018	
2062 Mahuron Cir	2017	3	3	1,733	$800,500	$462	2018	
2090 Mahuron Cir	2017	3	3	1,733	$830,500	$479	2018	
2010 Mahuron Cir	2017	3	3	1,941	$825,500	$425	2018	
2022 Mahuron Cir	2017	3	3	1,941	$817,500	$421	2018	
2034 Mahuron Cir	2017	3	3	1,941	$853,500	$440	2018	
2066 Mahuron Cir	2017	3	3	1,941	$849,000	$437	2018	
2078 Mahuron Cir	2017	3	3	1,941	$853,000	$439	2018	
2054 Mahuron Cir	2017	4	3	2,015	$920,000	$457	2018	
2098 Mahuron Cir	2017	4	3	2,015	$905,500	$449	2018	
1836 Midnight Cir	2016	2	2	1,391	$922,500	$663	2018	
1859 Midnight Cir Cl	2016	4	4	1,985	$1,160,000	$584	2018	
1892 Newbury Park Dr	2016	3	2	1,459	$1,010,000	$692	2018	
1852 Newbury Park Dr 58	2016	3	2	1,472	$1,000,000	$679	2018	
668 Obsidian Dr	2016	3	2	1,400	$890,000	$636	2019	
692 Obsidian Dr	2016	3	2	1,472	$940,000	$639	2019	
672 Obsidian Dr	2016	3	3	1,667	$883,000	$530	2019	
690 Obsidian Dr	2016	3	3	1,733	$975,000	$563	2019	
696 Obsidian Dr	2016	4	3	2,015	$1,045,000	$519	2019	
1116 Genco Ter	2014	2	3	1,129	$940,000	$833	2018	
1100 Genco Ter	2014	3	3	1,528	$1,150,000	$753	2018	
1098 Mallow Ter	2014	3	3	1,528	$1,085,000	$710	2018	
1124 Mallow Ter	2014	3	4	1,587	$1,160,000	$731	2018	
2063 Vincenzo Walkway Ww	2014	3	3	1,489	$1,054,000	$708	2018	
1133 White Peach Way	2014	3	4	1,587	$1,085,000	$684	2018	
1058 Bruzzone Way	2014	3	3	1,851	$1,165,000	$629	2019	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA

Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
East San Jose - all very close to Berryessa								6/8
1321 Havenwood Dr 1	2014	3	4	1,714	$1,255,000	$732	2018	
1318 N Capitol Ave 1	2014	3	3	1,605	$1,075,000	$670	2018	
1302 N Capitol Ave 6	2014	2	2	1,464	$892,000	$609	2018	
1315 Venturi Dr 2	2014	2	3	1,450	$1,065,000	$734	2018	
1315 Venturi Dr 5	2014	4	4	1,986	$1,252,000	$630	2018	
2409 Venturi Pl 6	2014	2	2	1,464	$925,000	$632	2018	
South SJ								
531 Autumn Meadow Dr	2015	3	4	1,712	$915,000	$534	2018	
509 Autumn Meadow Dr	2015	3	4	2,093	$1,010,000	$483	2018	
519 Autumn Meadow Dr	2015	4	4	2,205	$1,020,000	$463	2018	
716 Autumn Meadow Dr	2016	3	4	1,712	$965,000	$564	2018	
643 Avenue One	2016	3	4	1,712	$900,000	$526	2018	
706 Avenue One	2016	3	4	1,712	$906,000	$529	2018	
635 Avenue One	2016	3	4	2,093	$1,030,000	$492	2018	
623 Avenue One	2016	4	4	2,205	$1,020,000	$463	2018	
702 Avenue One	2016	4	4	2,205	$1,065,000	$483	2018	
610 Avenue One	2017	4	4	2,258	$1,025,000	$454	2018	
442 Baltimore Pl	2016	3	3	2,112	$949,000	$449	2019	
5815 Brandon Ct	2015	3	4	1,712	$870,000	$508	2019	
5819 Brandon Ct	2015	3	4	1,712	$835,000	$488	2018	
5809 Brandon Ct	2015	3	4	2,093	$950,000	$454	2019	
5806 Brandon Ct	2015	4	4	2,205	$1,030,000	$467	2018	
2736 Cannara Ln 1	2016	3	4	1,452	$822,000	$566	2018	
5930 Charlotte Dr	2014	3	4	1,712	$950,000	$555	2018	
6015 Charlotte Dr	2014	4	4	2,258	$990,000	$438	2019	
6102 Charlotte Dr	2016	3	4	1,901	$899,000	$473	2019	
5950 Charlotte Dr	2016	3	4	2,093	$1,075,000	$514	2018	
5998 Charlotte Dr	2016	3	4	2,093	$1,005,000	$480	2019	
159 Ellicott Loop	2017	3	3	1,356	$688,500	$508	2018	
183 Ellicott Loop	2017	3	3	1,356	$699,000	$515	2018	
189 Ellicott Loop	2017	3	3	1,822	$809,500	$444	2018	
171 Ellicott Loop	2017	3	4	1,531	$877,000	$573	2018	
153 Ellicott Loop	2017	3	4	1,644	$766,000	$466	2018	
319 Ellicott Loop	2017	4	4	2,370	$925,000	$390	2019	
3088 Empoli Ln 4	2017	4	4	1,995	$985,000	$494	2018	
3098 Empoli St 1	2017	3	3	1,813	$945,000	$521	2019	
156 Esfahan Dr 1	2016	3	4	1,452	$769,000	$530	2018	
198 Esfahan Dr 1	2016	3	4	1,452	$960,000	$661	2018	
3 Esfahan Dr 4	2016	3	4	1,838	$821,000	$447	2018	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA
Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
South SJ, continued								7/8
2730 Ferrara Cir	2015	3	4	1,856	$873,000	$470	2019	
2757 Ferrara Cir	2015	3	4	1,856	$930,000	$501	2018	
2773 Ferrara Cir	2015	3	4	1,856	$870,000	$469	2019	
2797 Ferrara Cir	2015	3	4	1,856	$865,000	$466	2018	
2750 Ferrara Cir	2015	4	4	2,042	$961,000	$471	2018	
301 Flinder Pl	2017	3	4	1,644	$800,000	$487	2019	
2722 Forino Ln 1	2016	3	4	1,452	$980,000	$675	2018	
2722 Forino Ln 2	2016	2	3	1,303	$899,000	$690	2018	
2722 Forino Ln 3	2016	3	4	1,953	$1,082,500	$554	2018	
5977 Gemwood Loop	2016	3	4	2,093	$1,000,000	$478	2018	
2728 Ginoso Ct 5	2016	3	4	1,848	$796,000	$431	2018	
2738 Goble Ln 3	2016	3	4	1,848	$842,500	$456	2019	
2756 Goble Ln 3	2016	3	4	1,848	$860,000	$465	2019	
5970 Golden Vista Dr	2016	3	4	1,793	$875,000	$488	2019	
6140 Golden Vista Dr	2016	3	4	1,793	$930,000	$519	2018	
6132 Golden Vista Dr	2016	3	4	1,901	$890,000	$468	2018	
5505 Great Oaks Pkwy	2017	3	3	1,356	$855,000	$631	2018	
5525 Great Oaks Pkwy	2017	3	4	1,531	$820,000	$536	2019	
5537 Great Oaks Pkwy	2017	3	4	1,592	$775,000	$487	2019	
145 Hudson Pl	2017	3	3	1,557	$714,500	$459	2018	
151 Hudson Pl	2017	3	3	1,557	$696,500	$447	2018	
169 Hudson Pl	2017	3	3	1,557	$730,000	$469	2018	
187 Hudson Pl	2017	3	3	1,822	$801,000	$440	2018	
191 Hudson Pl	2017	3	3	2,256	$880,500	$390	2018	
195 Hudson Pl	2017	3	3	2,256	$852,000	$378	2018	
157 Hudson Pl	2017	3	4	1,739	$783,500	$451	2018	
163 Hudson Pl	2017	3	4	1,739	$798,000	$459	2018	
181 Hudson Pl	2017	3	4	1,739	$812,500	$467	2018	
139 Hudson Pl	2017	3	4	1,847	$808,000	$437	2018	
3099 Lina Ln 1	2017	3	3	1,813	$1,030,000	$568	2018	
3099 Lina Ln 4	2017	4	4	2,002	$1,110,000	$554	2018	
3093 Lina Ln 6	2017	3	3	1,813	$1,446,000	$798	2018	
3097 Lina St 2	2017	2	2	1,668	$975,000	$585	2018	
3097 Lina St 6	2017	3	3	1,818	$975,000	$536	2019	
823 Lotus Flower Loop	2014	3	4	1,793	$874,000	$487	2019	
827 Lotus Flower Loop	2014	3	4	1,901	$980,000	$516	2018	
839 Lotus Flower Loop	2014	4	4	2,258	$1,037,000	$459	2018	
3092 Manuel St 1	2017	3	3	1,818	$1,060,000	$583	2018	
3092 Manuel St 2	2017	2	2	1,905	$979,500	$514	2018	
3092 Manuel St 3	2017	4	4	2,002	$1,125,500	$562	2018	

Table A-11
Reported Sale Prices - Townhomes (Built Since 2014, Sold Since 2018)
Cost of Development Study
San Jose, CA
Source: RealQuest

	Yr Built	# Bed	# Bath	SF	Sale Price	$/SF	Sale Yr	
South SJ, continued								8/8
3092 Manuel St 5	2017	2	2	1,668	$1,003,500	$602	2018	
3092 Manuel St 6	2017	3	3	1,818	$1,076,000	$592	2018	
201 Montalcino Cir	2015	3	4	1,856	$935,000	$504	2018	
248 Montalcino Cir	2015	3	4	1,856	$950,000	$512	2018	
255 Montalcino Cir	2015	4	4	2,042	$900,100	$441	2018	
207 Montalcino Cir	2015	4	4	2,053	$950,000	$463	2018	
85 Montecito Vista Dr 1	2016	3	4	1,452	$749,000	$516	2018	
97 Montecito Vista Dr 8	2016	3	4	1,452	$746,500	$514	2018	
642 Night Jasmine Ct	2016	3	4	1,793	$875,500	$488	2019	
648 Night Jasmine Ct	2016	4	4	2,258	$1,045,500	$463	2019	
375 Reading Pl 109	2017	3	3	2,209	$1,020,000	$462	2018	
5972 Reddick Loop	2017	3	4	1,901	$880,000	$463	2018	
217 Rosarno Ct	2015	2	3	1,457	$765,000	$525	2019	
215 Siderno Ct	2015	2	3	1,457	$780,000	$535	2019	
236 Siderno Ct	2015	2	3	1,457	$935,000	$642	2018	
209 Siderno Ct	2015	3	4	1,856	$888,000	$478	2019	
2733 Sorano Ct 1	2016	3	4	1,452	$808,500	$557	2018	
2732 Sorano Ct 8	2016	3	4	1,452	$764,000	$526	2018	
6041 Sunstone Dr	2014	4	4	2,258	$915,000	$405	2019	
6215 Sunstone Dr	2015	3	4	1,901	$925,000	$487	2018	
6227 Sunstone Dr	2015	4	4	2,258	$1,020,000	$452	2018	
2727 Terni Ct 5	2016	3	4	1,848	$905,000	$490	2019	
683 Tigerseye Loop	2014	3	4	2,093	$1,002,000	$479	2018	
703 Tigerseye Loop	2014	4	4	2,205	$985,000	$447	2019	
2731 Viterbo Ct 1	2016	3	4	1,452	$782,000	$539	2018	
862 White Moonstone Loop	2014	3	4	1,793	$918,000	$512	2018	
859 White Moonstone Loop	2014	3	4	1,901	$960,000	$505	2018	
860 White Moonstone Loop	2014	3	4	1,901	$940,000	$494	2018	
872 White Moonstone Loop	2014	3	4	1,901	$920,000	$484	2018	
880 White Moonstone Loop	2015	3	4	1,793	$910,000	$508	2018	
876 White Moonstone Loop	2015	4	4	2,258	$1,033,000	$457	2018	
187 William Manly St 1	2017	3	3	1,813	$888,000	$490	2018	
193 William Manly St 1	2017	3	3	1,813	$881,500	$486	2018	
199 William Manly St 1	2017	3	3	1,813	$943,000	$520	2018	
223 William Manly St 1	2017	3	3	1,813	$972,000	$536	2018	
286 William Manly St 1	2017	3	3	1,813	$970,000	$535	2019	
West San Jose- all on South border								
955 Almaden Ln	2017	3	3	1,484	$759,000	$511	2018	
2480 Almaden Rd	2017	4	4	1,947	$823,500	$423	2018	

APPENDIX B

Cost of Development Findings for Apartments Expressed as a Return on Cost

Table B-1
Cost of Development Findings for Apartments Expressed as a Return on Cost
Inclusionary Housing Analysis
City of San Jose

Source: CoreLogic

A. COD Study Rental Findings Expressed as a Return On Cost (ROC)		
	Existing IHO	**Proposed IHO Update**
Low-Rise: South and East	4.38%	4.46%
Low-Rise: Central	4.83%	4.90%
Mid-Rise: Central	4.78%	4.85%
Mid-Rise: West	5.25%	5.27%
Mid-Rise: North	4.73%	4.80%
High-Rise: Downtown	4.19%	4.25%

B. Conversion of Profit Thresholds Used in COD Study to Equivalent Return on Cost Thresholds			
	Central, West, & North	**South & East**	**Downtown**
10% Profit	5.0% ROC	5.2% ROC	4.7% ROC
15% Profit	5.2% ROC	5.5% ROC	4.9% ROC

Source: KMA COD Study

Return on Cost (ROC) is an annual return metric equal to the projected net operating income (NOI) of the project divided by its total development cost. ROC is also referred to as a return on investment (ROI).