



## DEPARTMENT OF CITY PLANNING

### RECOMMENDATION REPORT

#### CITY PLANNING COMMISSION

**Date:** February 23, 2017  
**Time:** After 10:00 a.m.  
**Place:** Van Nuys City Hall  
14410 Sylvan Street, Room 201  
Van Nuys, CA 91401

**Case No.:** CPC-2016-3431-CA  
**CEQA No.:** ENV-2016-3432-ND  
**Location:** Citywide  
**Council District:** All

**Public Hearing:** October 19, 2016

**PROPOSED PROJECT:** An ordinance adding Section 21.18 and amending Section 16.02 of the Los Angeles Municipal Code, as well as adding Section 5.578 of Chapter 172 of the Administrative Code, establishing an Affordable Housing Linkage Fee, and directing Linkage Fees derived from Development Projects to the Housing Impact Trust Fund.

**RECOMMENDED ACTIONS:**

1. **Approve** the proposed ordinance (Exhibit A) and recommend its adoption by City Council;
2. **Adopt** the staff report as its report on the subject;
3. **Adopt** the attached Findings;
4. **Recommend** that the City Council direct the Housing and Community Investment Department to prepare an expenditure plan for allocating the Housing Impact Trust Fund revenues generated as a result of the proposed ordinance, and report to the City Council within six months.
5. **Approve and recommend** that the City Council, based on the whole of the administrative record, determine that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15378(b)(4) and 15061(b)(3) and direct staff to file the Notice of Exemption with the County Clerk's office (See Exhibit B); and, pursuant to CEQA Guidelines Section 15074(b), adopt ENV-2016-3432-ND and find based on the whole of the administrative record, that the Negative Declaration reflects the independent judgment and analysis of the decision-maker, and that there is no substantial evidence that the project will have a significant effect on the environment; and direct staff to file a Notice of Determination with the County Clerk's office.

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## PROJECT ANALYSIS

### SUMMARY

The City of Los Angeles has been facing an escalating housing crisis for the last 40 years and retains an unfortunate distinction as the most unaffordable city in the in the country. However, Los Angeles remains one of only a handful of cities with high housing costs that does not have either a permanent source of local funding for affordable housing or an inclusionary housing policy.

This report recommends the adoption of an Affordable Housing Linkage Fee (AHLF) pursuant to the attached ordinance (Exhibit A). The ordinance was drafted based on the results of the Affordable Housing Linkage Fee Nexus Study that was recently completed by urban economics consultant BAE Economics (Exhibit C). The Nexus Study examines the relationship between new development and the demand for affordable housing and estimates the cost of mitigating the new affordable housing demand attributable to new development. A detailed economic impact analysis in the study indicates that a modest “linkage fee” would not materially affect the prospects for continued development of new residential or commercial buildings.

Staff recommends that the City Planning Commission consider adopting a housing linkage fee policy, with a proposed fee level of \$5.00 per square foot on office, hotel, retail and warehouse/distribution uses and \$12.00 per square foot on residential uses. The goal of the proposed ordinance is to establish such a fee in order to provide a permanent, dedicated source of funding for affordable housing. Several additional provisions have been added to the ordinance, based on input received from stakeholders and members of the public (see Exhibit D).

### BACKGROUND

The need for more affordable housing in Los Angeles is immense and more critical than it has ever been. Gaps between wages and incomes are the highest of any large city in the country. Despite the growing need, funding for affordable housing in Los Angeles, as in most California cities, has declined dramatically in recent years - almost 70% since 2010. Today, the City receives only about \$30 million a year for affordable housing projects, largely from outside funding sources. This means that many potential projects are unable to obtain assistance and move forward expeditiously. With redevelopment and inclusionary zoning also severely curtailed, it is necessary for cities to be creative and employ a range of affordable housing strategies.

A November 2015 report by the City Controller found that the City of Los Angeles collects far fewer development impact fees than other comparable West Coast cities. Many cities have instituted fees on commercial and/or market-rate residential development that are used solely to help build affordable housing for lower-income residents (San Diego, Oakland, San Francisco, Sacramento, Boston, Seattle and others). The fees are justified due to the link, or nexus, between new developments and the demand for affordable housing they create through added low-wage workers.

In October 2015, Mayor Eric Garcetti announced support for an effort to implement an affordable housing impact fee to establish a new dedicated stream of funding for affordable housing activities. This followed several Council motions in recent years requesting reports on options to produce and fund more affordable housing.<sup>1</sup> In response, the Housing and Community Investment Department (HCIDLA) issued a Nov. 17, 2015 report that recommended a linkage fee as the preferred housing funding strategy. In addition, the City Administrative Officer and Chief Legislative Analyst recommended the creation of a linkage fee nexus study as part of the 2015 Comprehensive Homeless Strategy adopted on January 27, 2016. The measure was adopted as a priority strategy by the City Council's Homelessness and Poverty Committee.

### **What is a Linkage Fee?**

Housing linkage fees are a type of development impact fees assessed on new construction of commercial and residential buildings to mitigate the impact of the additional demand for affordable housing caused by such activity. New construction creates new jobs in a given location, some of which will have wage levels that qualify households as low or moderate income. As a result, the demand for affordable housing in the city increases. Due to the gap between development costs and operating income of affordable housing, new affordable housing must otherwise be subsidized by public funding. Based on a nexus study that examines the relationship between affordable housing and new development, a fee is established that requires developers of new buildings to contribute to a dedicated fund to offset a portion of the needed subsidy.

### **Nexus Study**

To assist in the development of this draft ordinance, the City contracted with BAE Urban Economics in April 2016 to prepare the Affordable Housing Linkage Fee Nexus Study. The sub-consultants Placeworks hosted three working group meetings of key leaders in the business, development, and affordable housing communities throughout the development of the study.

The Nexus Study was completed in September 2016. Its primary aim was to determine the relationship that exists between new development and the demand for new affordable housing. It follows a methodology used successfully by other cities and conforms to the California Mitigation Fee Act. The study also includes detailed research on best practices from other cities and analyzed economic feasibility criteria for a variety of development types. Information on similar policies in other cities is summarized in Appendices A and D of the Nexus Study (Exhibit C).

The methodology for establishing the legal nexus between different types of new development and affordable housing differs between residential and nonresidential projects. The nonresidential analysis relies upon establishing the density of low wage workers in different industries in Los Angeles, linking those industries with different commercial land uses and then calculating the financing needed to create affordable housing units for workers expected with the new development. The nexus analysis for residential projects relies on IMPLAN, an econometric tool that allows for estimating the number of low wage jobs created as the result of higher local

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<sup>1</sup> Council Files 15-1138-S1, 14-0600-S34 and 14-0600-S123, 13-1389 and 13-1624

spending by new market-rate households. The new low wage jobs are then translated to the gap cost of providing affordable housing.

The analysis established a legal nexus for a linkage fee in the range of \$42 to \$74 per square foot for residential and \$118 to \$309 for nonresidential, well above what would be economically feasible for many projects to sustain. To establish economically feasible fee levels in a diverse city like Los Angeles, the study divided the city into three market areas - low, medium and high. It also looked at different development types - office, retail, industrial, warehouse/construction, medical, and institutional as well as multifamily rental, condo, single-family attached, and single-family detached. The Nexus Study used market information to “test” the feasibility of different fees for different types of projects across the City. Feasible fee levels were generally found to vary from \$5 to \$35 per square foot for nonresidential and \$19 to \$49 per square foot for residential (depending on the market and type of project). Projects in the low market area were found to not afford any fee, meaning that they were already deemed to be infeasible by the model, prior to any fee. Generally, the Nexus Study found residential development able to support a higher fee than nonresidential.

Because the fees are designed to apply citywide, including weaker market areas, the recommended fees set forth in the proposed ordinance are lower than those supported by the Nexus Study’s feasibility analysis. The lower proposed fee amounts have the additional benefit of being more supportable during all market cycles, and not only during the current environment with relatively high rents and sales prices.

### **PROPOSED ORDINANCE**

The proposed ordinance (Exhibit A) amends Chapter II of the LAMC to establish the Affordable Housing Linkage Fee (Section 21.18), a fee levied on new development to mitigate that development’s impact on affordable housing. It also amends Chapter 172 of the Administrative Code to create a Housing Impact Trust Fund to receive and disburse revenues collected as a result of the Linkage Fee.

The proposed fee schedule is \$5 per square foot for commercial (nonresidential) use, and \$12 per square foot for residential use. The fee would apply to projects creating floor area of resulting in a change of use to residential. Deductions or credits would be subtracted from the total fee amount for certain project types meeting established policy criteria, as described below. The attached draft ordinance proposes that the fee would become effective three months after adoption. An annual adjustment for inflation according to the change in the Consumer Price Index for all Urban Consumers (CPI-U) is also proposed.

### **Exemptions**

The draft ordinance provides for targeted waivers and exemptions to accommodate categories of projects where the fee may have unintended negative consequences or to align with policy priorities of the City. The proposed fee would not apply to any of the following types of development:

- **Small Multifamily Buildings.** Multifamily buildings with 5 or fewer units. These building types are often produced by smaller builders with lower profit margins. When built in lower- and middle-income neighborhoods, they often provide an affordable typology.
- **Thresholds for Single-Family Home Additions or New Construction.** New construction of or addition to a single-family detached home resulting in an increase of less than 2,000 square feet.
- **Small Commercial Projects/Mixed-Use.** Nonresidential development with less than 25,000 square feet of new floor area.
- **Retail Required by City Policy.** Any nonresidential floor area required by the Department of City Planning through a zoning ordinance, Specific Plan, Community Plan, Pedestrian Overlay Zone, or other set of development standards.
- **Affordable Housing.** Residential projects that include a certain percentage of affordable units (40% moderate, 20% low-income or 11% very low-income). Such projects would be subject to a “No Net Loss” provision consistent with State density bonus law).
- **Public/Institutional Projects.** Any project developed by an institutional or government entity.
- **Accessory Dwelling Units (ADUs),** a.k.a. Second Dwelling Units. ADUs are typically small structures that provide a unique housing typology, often reserved for family members, students, elderly and the disabled. They are typically some of the most affordable housing in the neighborhoods they are located.
- **Grocery Stores.** Any grocery store, defined as a Retail Use of which greater than one half of the floor area is devoted to the sale of food items intended for consumption or use off the premises, excluding alcoholic beverages.
- **Historic-Cultural Monuments.** Any adaptive reuse project that is a designated Historic-Cultural Monument, when it is being converted to a residential use.

Three additional exemptions are proposed to ensure that individual projects are not subject to multiple competing policies, all of which aim to accomplish the same objective of providing affordable housing:

- **Central City West Projects.** Any project located within the boundaries of the Central City West Specific Plan Area and is otherwise subject to linkage fee and replacement housing obligations.
- **Coastal Zone Projects.** Any residential portion of a project that is subject to a greater inclusionary affordable housing obligation pursuant to the Mello Act.
- **Other Affordable Housing Obligations.** Any residential or mixed-use project that is subject to greater affordable housing requirements as a result of any superseding land use policy or zoning ordinance.

### **Deductions or Credits**

The draft ordinance also provides targeted deductions or credits to ensure that the fee is in alignment with the City's policy priorities. The proposed fee would be subject to a deduction or fee credit in the following scenarios:

- **Change of Use.** When a development project is a change of use from commercial or industrial to residential, the fee is calculated on the net change based on the pre-existing use and corresponding fee requirements.
- **Affordable Housing Units.** Any restricted affordable units would not be subject to the fee. The total linkage fee obligation would be calculated based on the number of market rate dwelling units or guest rooms.
- **Mixed-Use.** The first 25,000 square feet of nonresidential floor area in a mixed-use building would be excluded from the fee calculation.
- **Land Dedication.** An applicant would be able to, upon approval by HCIDLA, dedicate land for the purpose of building affordable housing and deduct the land value from the project's total linkage fee obligation.

The Department has reviewed exemptions that other cities have included in similar policies, and has found that there is no common benchmark, as most cities design these exemptions and credits to be responsive to particular policy objectives, market conditions, and other issues that are unique to the particular policy context. This strategy is consistent with the one used to identify the appropriate exemptions and deductions as outlined above.

### **Housing Impact Trust Fund**

Fees generated as a result of this ordinance would be directed to a new fund, the Housing Impact Trust Fund, created by the proposed ordinance. The creation of the new fund will ensure that funds generated by the Linkage Fee would be able to be easily tracked and monitored to ensure maximum accountability and transparency as required under the California Mitigation Fee Act. The fund is designed to be a flexible source of funding for affordable housing that can be used to fund the construction of new units, to drive down the rent levels in projects, or to support the rehabilitation and preservation of existing affordable units. Additionally, fees can be used for down payment assistance for affordable homeownership. Administration of the funds and their distribution would be managed by HCIDLA.

### **Expected Annual Revenue**

It is anticipated that the proposed ordinance, as recommended, has the potential to generate an estimated average range of between \$75- \$92 million per year to fund the development of affordable housing in Los Angeles. Estimates of between \$90 -\$130 million were provided with the release of the draft ordinance in September. Given additional policy changes since then, as well as the approval of Measure JJJ, the annual revenue estimates have been decreased. However, the number of restricted affordable housing units built on site is expected to increase as more projects are expected to choose the affordable housing exemption. Estimates are

influenced by market fluctuations and regulatory changes, as well as a number of assumptions, which could affect the accuracy of these figures.

## **KEY ISSUES**

This section addresses the primary issues regarding a linkage fee, including the need and justification for a fee, the appropriate balance between securing adequate funding and not discouraging quality new development, and the trade-offs between various options in structuring a fee.

### **Need for a Linkage Fee**

Numerous reports in recent years have detailed the immense affordability challenge faced in the City of Los Angeles. The City has an estimated shortfall of approximately 200,000 homes that are affordable for low income households - a number that has been fast growing in recent years as affordable homes become increasingly rare. On top of that, the Regional Housing Needs Assessment for the years 2013-2021 projects that the City will require an additional 4,000 units a year that are affordable to low income households in Los Angeles based just on future growth. Unfortunately, the City only created 1,353 units affordable to low income households in 2015 - a growing shortfall of more than 2,600 units each year.

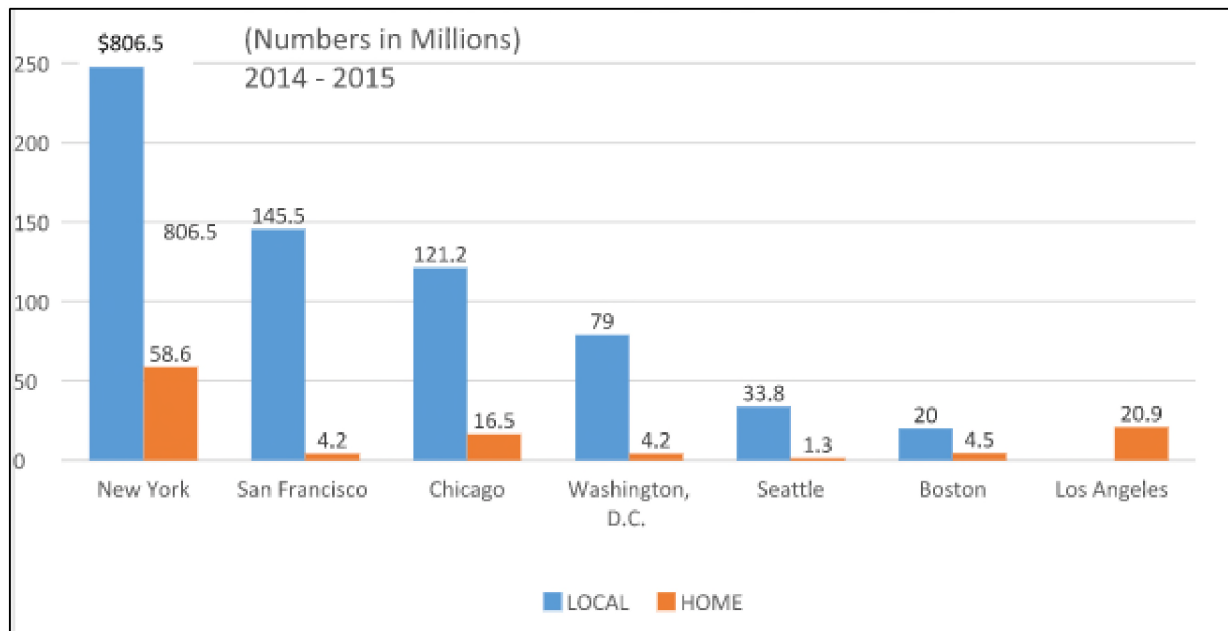
Rapid construction in recent years has not been able to slow the rise of rents and home prices. Zillow.com reports that the estimated December 2016 median monthly rent price in the City of Los Angeles is now \$2,852, an increase of more than \$500 since just 2013. Rents and sale prices in new construction are even higher, requiring household income of about \$120,000 to afford. This is more than twice the median annual household income in Los Angeles.

The Nexus Study analysis shows that as new low-wage jobs are created by new development, those new workers would largely be unable to afford living in the City of Los Angeles. This results in a combination of overcrowding, overpayment and long distance commutes - all areas where Los Angeles has the unfortunate distinction of being at or near first in the country. Housing is generally cheaper further from job-rich central and west Los Angeles. As such, the new development exacerbates important traffic, air quality and greenhouse gas concerns in these areas. Households stretched to the limit with housing costs do not have the money to support local businesses or invest in health, education, or other daily essentials. By contributing to an affordable housing fund, new development would help offset the impact it creates, aiding the region's equity and sustainability goals.

The City of Los Angeles remains one of the few major US cities with a housing crisis that does not have a permanent source of funding for affordable housing. The City has occasionally been able to make one-time allotments of housing resources, but is largely reliant on the federal government. Measure HHH, recently approved by the voters, provides significant funding for affordable housing, but is temporary (10 years) and largely dedicated towards permanent supportive housing for persons experiencing homelessness. See Figure 1 for a comparison of

local affordable housing commitments compared to Federal HOME Funding in Los Angeles versus other major cities with high housing costs.

**Figure 1. Local Affordable Housing Commitments, Compared to Federal HOME Funding**



HCIDLA analyzed various affordable housing funding options available to the City in a November 17, 2015 report to City Council (CF 13-1389). HCIDLA recommended a linkage fee (called an Affordable Housing Benefit Fee in the report) over other potential tools based on an extensive review of other cities throughout the country. It compared one-time versus long-term, sustainable revenue generating methods. Of the various methods reviewed, a linkage fee is the most viable and consistent method of generating a permanent funding source. While other options may generate greater funding, such as a bond measure, these funds are short-term solutions with finite funding.

### Impact on New Development

The largest concern raised by those in the business and development community is the potential impact of the fees on the cost of housing and the ability to continue to produce new housing. The concern is that fees will be passed on to renters and homebuyers in the form of higher-cost housing or that many projects will not be built, resulting in fewer housing units and higher housing costs for everyone.

It is certainly true that the City suffers from an overall lack of housing units, with the third lowest residential vacancy rate of any major city in the country (2.7%). Also, many areas of the City are in need of economic development and the jobs that come with new construction. Therefore, any fee that slows housing development or economic development is a valid concern.

While there remains a lack of consensus in the academic literature, several comprehensive reviews have found little to no influence from impact fees (or similar requirements in inclusionary housing policies) on the amount or eventual price of new development, particularly when accounting for the offsetting benefits of the fee.<sup>2</sup> One reason offered by the studies is that there are larger market and regulatory factors that influence the decision to build housing in a given locale than just the amount of one fee.

Orthodox economic theory indicates that a new fee will be absorbed by the party most able to adjust their price (i.e. the concept of elasticity). Assuming that the cost of housing cannot be increased much more than it already is and that developers already charge the highest price they can for the new housing product, it appears unlikely developers can simply pass the cost of the new fee to the end buyer or renter. Instead, research tends to support the notion that developers either accept lower profit (to a certain level) or that the “cost” of fees gets factored in through lower land sales prices as developers may be unable to pay the same amount for land as they could before the fee. The Nexus Study supports this notion, describing that the impact of the fee is typically experienced through a slowed trend in land value appreciation.

However, there are several studies that do show a positive relationship between new impact fees and increased housing prices or reduced housing production. These studies tend to be focused on smaller suburban cities that face high competition from neighboring jurisdictions with lower impact fees, or on areas with a high amount of vacant land. That is not the case in the City of Los Angeles, which has long had some of the lowest development impact fees in the State according to the CA Housing and Community Development Dept., and is bordered by cities like Pasadena, West Hollywood and Santa Monica that have higher affordable housing requirements.

The Nexus Study does acknowledge that the change of moving from no fee to a fee may be disruptive for some projects in the short run – particularly those that were unable to consider the fee in their project decision making. The three-month grace period (increased since the release of the ordinance) and exemption for projects which are already in the pipeline at the time of ordinance adoption are meant to assist these projects.

The Turner Center for Housing at the University of California, Berkeley recently released a useful *Housing Development Dashboard* that attempts to quantify the precise trade-offs of different housing policies by using up-to-date economic and land use information from actual parcels in a

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<sup>2</sup> Schuetz, Jenny, Rachel Metzler, and Vicki Been. 2009. “Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets.” *Urban Studies*.

Been, Vicki. 2005. “Impact Fees and Housing Affordability.” *Cityscape: A Journal of Policy Development and Research* • Volume 8, Number 1 • 2005

Mayer, Christopher J. and C. Tsuriel Somerville. 2000. “Land Use Regulation and New Construction” *Journal of Urban Economics*, 48 (1), 85-109.

Mukhija, Vinit, Lara Regus, Sara Slovin, and Ashok Das. 2010. “Can inclusionary zoning be an effective and efficient housing policy? Evidence from Los Angeles and Orange Counties.” *Journal of Urban Affairs* 32.2, 229-252.

Rosen, David. 2004. “Inclusionary Housing and its Impacts on Housing and Land Markets.” 2004. *Inclusionary Zoning: The California Experience*. National Housing Conference.

Dresch, Marla and Steven M. Sheffrin. 1997. *Who Pays for Development Fees and Exactions*. San Francisco, California: Public Policy Institute of California.

number of Bay Area cities. The City of Oakland recently adopted a similar housing linkage fee as to the one being proposed here (\$5.44/sq. ft. on commercial and a range of \$8,000 to \$22,000/unit on residential). The Dashboard predicts that between 432 and 608 market rate units a year, at least in the short term, would not be produced as a result of the Oakland linkage fee requirements. However, the model also shows that there is a net increase in 303-377 affordable housing units with a linkage fee in place. This illustrates that, while a fee could impact some small share of new market rate housing, at least in the short-term, at least half of the loss will likely be made up by increased affordable housing production. It is worth highlighting that Oakland's per unit fee, when fully phased in, is about twice that being proposed for the average multifamily project in Los Angeles - and Los Angeles is generally a stronger real estate market. Therefore, potential impacts to market rate housing production in LA would likely be less significant than in Oakland.

Furthermore, rents and home values have increased dramatically in recent years in the City of Los Angeles. Zillow.com reports that the median home value in Los Angeles as of December 2016 is \$610,400. This represents a 65% increase since December 2012 when the median home value was \$369,000. Rents have increased 26% in the same period. Given such gains, a modest fee should easily be absorbed by the continued trend in rising home values and rents.

The Nexus Study was intentionally crafted to deliver a conservative estimate of maximum feasible fees in all development scenarios. Wherever possible, the lower end of the range of revenue-related variables, and the higher end of the range of cost-related variables, was used. Even though a 10-12% return on cost was indicated by several developers to be adequate to green light a project, a 15% return on cost was used for the study to determine feasibility. Even under this conservative approach, the Study suggests the vast majority of development in the city can afford significantly higher fees than are being proposed.

The draft ordinance attempts to limit potential negative impacts by creating exemptions or credits for key development types (including affordable housing, smaller projects, accessory dwelling units, adaptive reuse, and mixed use, among others). The ordinance also includes strategies such as exempting all projects already in the entitlement pipeline (which would have been designed and initiated without knowledge of the fee). Since release of the ordinance, based on feedback from the development community, several exemptions and deductions were adjusted to further reduce negative impacts. Due to the particular concern regarding potential impacts on housing development, and to support the provision of housing amenities, the fee does not apply to any common areas including hallways, stairs or community rooms in residential buildings (residential floor area is calculated per Section 12.22.A.29(c)(1) of the LAMC).

### **Impacts on Low-Market Areas**

The Nexus Study was structured to evaluate fees in high, medium and low market areas of the city. As would be expected, the study shows the biggest potential impacts would be on projects in areas of the city that command lower rents and sales prices. The Department has carefully crafted a proposal to address this legitimate concern.

One option that was studied and is not recommended was to exempt or differentiate “low-market” areas within the fee ordinance using the geographic market areas proposed in the Nexus Study as a basis to offer different fee levels to different market areas. However, this is challenging to implement because market conditions fluctuate rapidly, and the boundaries of the market areas may shift within a few years’ time. Data sources used to establish zones are proprietary and may no longer exist in the future, increasing the potential difficulties associated with having to regularly update the zones. Data which are more readily available, for example rental cost data available through the Census and American Community Survey, are also flawed in the sense that they do not necessarily reflect current rents or sale prices. Furthermore, the Department has received feedback from many in the development community that they value certainty and predictability in making development decisions. A fee structure that relies upon geographic-based market areas could change from the point when a developer buys land to the point of paying an actual fee, resulting in unanticipated changes to the development cost budget.

A second option that was studied and not recommended was to simply exempt low-market areas by using a proxy such as Enterprise Zones or Low Income Census Tracts. These methods are also flawed, however, as incomes, on which Enterprise Zones are largely based, are lagging indicators of current market conditions. Enterprise Zones were created many years or decades ago and their boundaries are not frequently adjusted. For example, Downtown and Hollywood remain largely within Enterprise Zone areas and also continue to show as neighborhoods with low median incomes, despite being located in some of the most heated development markets in the region, areas that the Nexus Study identified as high and medium market areas.

The proposed ordinance includes several key exceptions as to type and scale. An analysis of building permit data in the low-market areas between 2011 and 2015 reveals that 60% of all development occurring in these areas would be otherwise exempt from the AHLF based on the recommended exemptions described above (full analysis is in the attached environmental document provided in Exhibit B). Half of all multifamily projects with five units or fewer are built in this area. These projects, which often provide a more affordable housing typology, would not be subject to the fee. Furthermore, a good deal of development in these areas is affordable housing, which would generally be exempt. This information suggests that any potential impacts to development patterns in these areas may be minimized by the exemptions recommended in the ordinance.

### **Relationship to Other New Fees and Development Requirements**

Two other development impact fees have either been proposed or recently approved. These include an update and expansion to Quimby (parks) Fees citywide, and an update to Transportation Impact Assessment (TIA) Fees currently applicable only to two Westside specific plans (West Los Angeles and the Coastal Transportation Corridor). The Nexus Study incorporated a full analysis of the cumulative impact of these expanded and updated fees when combined with the AHLF. The proposed linkage fee is shown to be feasible when taking into account the per-unit costs imposed by the updated Quimby Fee and TIA Fees.

Some commenters have mentioned that the impact of the recently voter approved Measure JJJ needs to be analyzed in relation to the proposed fee. The proposed fee ordinance anticipated the potential passage of Measure JJJ. If a project is subject to Measure JJJ it will be completely exempt from paying the linkage fee because it will have met the on-site affordable housing alternative under the JJJ provisions (20% low income, 11% very low income).

More generally, Los Angeles is noted to have relatively low development impact fees compared to other large cities in California and across the country. A November 2015 audit released by the City Controller reported that Los Angeles may not be fully exercising its power to charge citywide development impact fees. Los Angeles is currently only charging a fraction of the impact fees charged in other west coast cities such as San Francisco and Portland. Most suburban communities in the Los Angeles region also charge significantly higher development impact fees than the City does for things like schools, sewers, parks or other public services.

Stakeholders from the development community indicated that the main hindrance to development derives from the City's decentralized development approval process, which they believe delays the issuance of a certificate of occupancy. These same opinions were noted by Matrix Consulting during its 2014 study of the City's development services processes. Many improvements have been made to the entitlement and permitting process in recent years and the City continues to prioritize further improvements.

### **Setting Appropriate Fee Levels**

Another key challenge in developing the Affordable Housing Linkage Fee was determining appropriate fee levels that would strike a balance between accumulating meaningful revenue for affordable housing and minimizing potential impacts on new development. The Nexus Study established a framework for understanding the maximum feasible level of fees that are considered supportable by ten different development types across three geographic sub-markets in the City. The recommended fee structure proposed in the draft ordinance simplifies these various feasible fee amounts into a single fee for commercial (\$5 per sq. ft.) and residential (\$12 per sq. ft.) development that would apply citywide. Because the fees would apply citywide, including weaker market areas, the recommended fee levels are generally well below than what is considered to be supportable in medium and stronger market areas. The exceptions are hotels and warehouse space, which were both found to be feasible at \$5 per sq. ft. The recommended fees were also lowered below the levels supported by the study's feasibility analysis because these calculations were made during a period of relatively high rents and sale prices, and the fee should be supportable during all market cycles.

### **Fee Structure**

The basic structure of the proposed fee is meant to be simple to understand and predictable from year to year. It applies one fee to residential projects (\$12 per sq. ft.), regardless of whether it is multiple-family or single-family, and one fee to commercial projects (\$5 per sq. ft.), regardless of whether it is retail, office or industry. The location of the project does not impact the fee.

The Nexus Study evaluated 11 different development types in three different types of markets - low, medium and high (based on a composite of current market rents and prices). As a result, the City has detailed information on the economic feasibility of different fee levels on different categories of development in different areas of the City.

Some have asked why the City did not develop a fee structure that used this information to essentially charge a higher fee to developments that could “afford it,” while lowering fees on less economically strong development typologies. Different iterations of this fee structure were analyzed in the Nexus Study (Fee Options A-C), most of which were based on different fees corresponding to the (high, medium or low) market area in which the project was located.

The City closely evaluated alternative fee structure options and determined they would be difficult to administer and maintain, while also providing less certainty and more complexity to the development community (see Impact on Low Market Areas on pg. A-11 for a discussion of a market area based approach).

Creating multiple fee categories for different development types, such as office, retail, industrial and warehouse, would also introduce more complexity and uncertainty for the development community. Increasingly, new developments also include a mix of uses and many newer commercial or live-work operations blur the traditional boundaries between “development types.” Favoring one type of commercial construction over another could also lead to a skewing of the market away from typologies that may be desired from a policy point of view.

#### Fee Deferral

Different cities have allowed developers to pay the linkage fee at different points in the process - permit application, permit issuance or certificate of occupancy. A few cities go further and try to alleviate the impact of a new fee by allowing for deferral of payment into the building operation period. Boston allows payment installments for up to a maximum of 7 or 12 years. This flexibility has facilitated the progress of development in difficult circumstances. Deferred payments past schedule allow developers to pay linkage fees out of operating revenues from the project rather than from “up front” equity investment, reducing the financing necessary to begin construction. However this also lowers the worth or Net Present Value of the \$5.00 fee to \$3.83 (7 years) and \$2.58 (12 years). There are also obvious concerns about what ability the City has to collect payment once a structure is operational. For these reasons, the Department does not recommend deferring fees beyond the date of permit issuance.

Another option is to allow payment at the time of Certificate of Occupancy issuance. However the Department understands the current Department of Building and Safety permit issuance system is unable to collect fees at this point in the process. Also, there are concerns regarding what the City would do if and when a project is unable or unwilling to pay the required fee at this point as it is more difficult from a practical and legal perspective to disallow a Certificate of Occupancy compared to a building permit. For those reasons, the Department continues to recommend to require payment when a building permit is issued.

### Fee Exemptions

As described above, several exemptions from the fee are provided to minimize the impact on development. In areas where the fee may conflict with other policy objectives, for instance in projects already providing affordable housing or in mixed use buildings, a deduction or exemption may apply. These exemptions are designed so as not to disincentivize these types of projects.

#### *Multi-Family Buildings with 5 Units or Less*

Residential buildings with 5 units or less are a unique type of residential building typology that often provide a source of moderately affordable housing. Such projects frequently provide larger unit sizes, and have lower profit margins than projects with more units. They also are unable to access the density bonus program, unlike larger projects, putting them at an additional disadvantage. Given the importance of providing this type of lower-density multi-family housing at a more affordable level, the Department recommends exempting these projects.

#### *On Site Affordable Housing*

Restricted affordable housing units are exempt from paying under the proposed housing linkage fee, as the provision of affordable housing is the intent of the fee. However, the Department wanted to further encourage additional on-site affordable housing units, particularly where they are already being provided as part of a density bonus or other incentive program. Because density bonus applicants already receive incentives (i.e. additional housing units or height) for providing some affordable units on site, the proposed ordinance sets the thresholds for the mixed-income housing exemption slightly higher than those required through State Density Bonus Law (SB 1818). For example, in order to qualify for an exemption from the Linkage Fee, a residential project would be required to set aside 11% of the *total* units for very low income households. Under the Density Bonus program, a project is only required to set aside 11% of the *base number* of units for very low income households in order to qualify – which is roughly equivalent to 8% of the project's total resulting units. To qualify for the exemption, density bonus projects would need to increase their affordable set-aside by about 38 percent. These projects would also be subject to a “No Net Loss” provision, consistent with State density bonus law to require that any existing affordable units are replaced.

A new transit-based affordable housing incentive program called the Transit Oriented Communities Affordable Housing Incentive Program (TOC Program) was approved as part of Measure JJJ. The Department plans to release the guidelines needed to implement the program in March 2017. The TOC Program should provide significant incentives and development certainty to projects that commit to provide the levels of affordable housing required to obtain the Linkage Fee exemption.

#### *Mixed Use Development*

Mixed use buildings are an important building typology, as they provide pedestrian activation and resident amenities through the inclusion of ground-floor commercial use in addition to

residential uses. Such building types are increasingly prioritized in the City's policy documents. To continue encouraging this development type, the Department has proposed increasing the deduction/exemption threshold for nonresidential uses in a mixed use building from 10,000 square feet to 25,000 square feet. Or, if ground floor nonresidential floor area is required by the Department of City Planning, one hundred percent of the required nonresidential square footage will be exempt from the Fee.

**How Would Funds Be Spent?**

The fees raised by the Linkage Fee would be deposited in the Housing Impact Trust Fund (HITF). The Trust Fund is being established through the proposed ordinance for the purpose of receiving and disbursing monies to address the affordable housing needs of the City of Los Angeles. The Fund would be administered by HCIDLA, with approval of major spending decisions by the City Council. See the Housing Impact Trust Fund discussion on page A-4 above for more detail.

The advantage of having a permanent source of local funding is that it is not encumbered by other regulations that dictate how monies are spent, unlike the majority of state and local funding currently used for housing assistance in Los Angeles. The ordinance requires the funding to be used "for the housing needs of the City, for the development and preservation of affordable housing and such other housing activities as that term shall be defined in" a set of Guidelines created by HCID. This includes any other activity that contributes to an increased supply of decent, safe and sanitary affordable housing in the City of Los Angeles. With a permanent stream of revenue, the City can plan for and create a variety of housing programs, ranging from the construction, preservation, or rehabilitation of rental and/or for-sale housing.

As described in the ordinance, HCID shall prepare for City Council consideration an annual report detailing the amount and source of all Housing Impact Trust Fund revenues generated and funds disbursed as a result of the Affordable Housing Linkage Fee ordinance. The General Manager of HCIDLA shall make recommendations to the City Council for expenditures from the Fund. No expenditure may be made from the Fund without the prior approval of the Mayor and the City Council, unless otherwise authorized.

## FINDINGS

### GENERAL PLAN/CHARTER FINDINGS

#### Charter Findings

Pursuant to City Charter sections 556 and 558, as described below, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan, as well as in conformance with public necessity, convenience, general welfare and good zoning practice. Specifically, the action addresses each of the following goals, objectives and policies of the General Plan as outlined below.

#### General Plan Findings

##### Framework Element

*Goal 4A.* An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.

*Goal 7G.* A range of housing opportunities in the City.

##### Housing Element

*Objective 1.1* Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

*Policy 1.1.1* Expand affordable homeownership opportunities and support current homeowners in retaining their homeowner status.

*Policy 1.1.2* Expand affordable rental housing for all income groups that need assistance.

*Policy 1.1.3* Facilitate new construction and preservation of a range of different housing types that addresses the particular needs of the city's households.

*Policy 1.1.5* Develop financial resources for new construction of affordable housing.

*Policy 1.1.7* Strengthen the capacity of the development community to develop affordable housing.

*Objective 1.2* Preserve quality rental and ownership housing for households of all income levels and special needs.

*Policy 1.2.4* Develop financial resources for the long-term affordability of publicly assisted rental and ownership housing.

*Policy 1.2.7* Strengthen the capacity of the development community to preserve and manage affordable housing.

*Objective 2.2* Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit.

*Policy 2.2.3* Promote and facilitate a jobs/housing balance at a citywide level.

*Objective 2.5* Promote a more equitable distribution of affordable housing opportunities throughout the City.

*Policy 2.5.2* Foster the development of new affordable housing units citywide and within each Community Plan Area.

As made evident by the list of General Plan goals, objectives and policies provided above, the proposed ordinance is in conformance with a range of General Plan goals related to affordable housing production and preservation. The City's General Plan clearly recognizes the need for programs which identify local sources of funding for affordable housing which benefit the public good and further these citywide policy objectives. Establishing a permanent local funding source that could be used for a variety of uses related to the construction or preservation of affordable housing in locations throughout the City will greatly assist the City in meeting its growing affordable housing needs.

The ordinance also directly addresses a specific implementation program in the Housing Element of the General Plan (Program 16 - New Programs to Increase the Production of Affordable Housing). The program called for exploring the development of a local, permanent source of funding to provide funding for new affordable housing construction. Potential strategies outlined in the Program included establishing a fee on new development, which is accomplished in the proposed ordinance.

## **CEQA FINDINGS**

The proposed ordinance is not a "project" under CEQA pursuant to CEQA Guidelines section 15378 (b)(4), which provides that CEQA does not apply to the creation of governmental funding mechanisms that do not involve a commitment to a particular project which may result in a significant impact to the environment. The ordinance does not identify any specific future project or projects which can be singled out as resulting in an environmental impact. Therefore, the Affordable Housing Linkage Fee is not considered a "project", and thus not subject to CEQA.

Further, the proposed ordinance qualifies under the "common sense" CEQA exemption pursuant to CEQA Guidelines Section 15061(b)(3), which provides that, where it can be seen with certainty that there is no possibility that a project may have a significant effect on the environment, the project is not subject to CEQA. CEQA only applies to projects that have the potential to cause a significant effect on the environment – either through a direct impact or reasonably foreseeable indirect impact. The proposed ordinance does not have that possibility.

As further demonstrated in Exhibit B, because the ordinance does not commit funds directly to any specific future development project, it will not cause any direct impact on the environment. At

this point in time it would be speculative to evaluate the impacts of any such project which would be subject to payment of the linkage fee, or which would receive project funding as a result of this ordinance. Further, any potential indirect impact of the ordinance on the environment will be minor as the Linkage Fee is not anticipated to alter existing development patterns. As such, the ordinance is unlikely to create any foreseeable direct or indirect physical impact on the environment. However, in case there is a challenge to this project and a court disagrees, the City has prepared a Negative Declaration for this project (Exhibit B.2).

### **CALIFORNIA MITIGATION FEE ACT FINDINGS**

The California Mitigation Fee Act (California Government Code Section 66000-66025) requires that following findings be made:

- Identify the purpose of the fee.
- Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified.
- Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
- Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

The *Los Angeles Affordable Housing Linkage Fee Nexus Study* (Exhibit C) serves to make these findings, which must be adopted by the Los Angeles City Council.

### **Commercial Fee**

#### ***Purpose of the Fee***

The fee program proposed by draft ordinance and described in the *Nexus Study* will offset the impact of new commercial development on the City of Los Angeles housing market by funding the production, acquisition, rehabilitation and/or preservation of affordable housing in the City of Los Angeles.

The *Nexus Study* outlines the serious affordable housing crisis currently facing the City of Los Angeles, and notes that Los Angeles is the only major California city without a permanent source of affordable housing funding.

#### ***Use of the Fee***

The proposed fee program would impose linkage fees on new commercial development of most types including office, hotel, retail, and industrial uses. Fees would be collected by the City of Los Angeles and deposited into the Housing Impact Trust Fund. This fund is used to finance the production, acquisition, rehabilitation and/or preservation of affordable housing in the City of Los Angeles through grants and loans to qualified projects.

***Relationship between Use of Fee and Type of Development***

The development of commercial space will generate new employment in Los Angeles. A portion of the new employees will live in households that fall below the 120 percent Area Median Income (AMI) income threshold, and will not be able to find housing that is affordable to them. Statistics included in the *Nexus Study* indicated that this is particularly daunting for households earning below 50 percent of AMI.

The Nexus Study contains a detailed 10-step methodology, with Steps 1-8 forming the nexus (relationship) analysis. The Study estimates the likely mix of new commercial development by type of land use, based on a detailed analysis of permitted commercial space by type for the past 10 years. The Study then estimates new employees in the new space by type, combines these new workers into households, and estimates these new worker-based households' incomes based on wages for the jobs forecasted. This distribution of new worker households is then segmented by income band, resulting in the estimated affordable housing need up to 120 percent AMI (or "impact"). Next, the methodology estimates the cost to provide this affordable housing, assuming it is all rental housing, and assuming that the occupants can afford to contribute no more than 30 percent of their household income to rent. The balance is the "affordability gap," which is then converted into a development financing gap, and then converted into the "maximum legal fee" fee per square foot of new commercial development by use type, to generate the funds necessary to fund this development financing gap.

The Nexus Study includes subsequent analysis beyond that required by the Mitigation Fee Act, to test the financial feasibility of charging this maximum fee on several types of new commercial development across three categories of market condition ("low," "medium," and "high" market conditions). The Study concludes that the maximum legal fee levels are not financially feasible and could impinge on new commercial development. The Study then recommends lower fees in all cases than the maximum legal fee, based on the financial feasibility conclusions. These lower-than-legal-maximum fee recommendations would mean that if the fee were imposed at the recommended levels, not all of the funds needed to produce new affordable housing from the impact of new commercial projects would be generated.

## **Residential Fee**

### ***Purpose of the Fee***

The fee program proposed by draft ordinance and described in the *Nexus Study* will offset the impact of new, market-rate housing development on the City of Los Angeles housing market by funding the production, acquisition, rehabilitation and/or preservation of affordable housing in the City of Los Angeles.

The *Nexus Study* outlines the serious affordable housing crisis currently facing the City of Los Angeles, and notes that Los Angeles is the only major California city without a permanent source of affordable housing funding.

### ***Use of the Fee***

The proposed fee program would impose linkage fees on new, market-rate housing development projects as specified in the draft Ordinance, which would be collected by the City of Los Angeles and deposited into the Housing Impact Trust Fund. This fund is used to finance the production, acquisition, rehabilitation and/or preservation of affordable housing in the City of Los Angeles through grants and loans to qualified projects.

### ***Relationship between Use of Fee and Type of Development***

The development of new, market-rate residential projects will accommodate growth in households in the City. These new households will spend their income for goods and services, which will in turn generate new businesses and jobs. A portion of the new employees serving these new market-rate households, will live in households that fall below the 120 percent Area Median Income (AMI) income threshold, and will not be able to find housing that is affordable to them. Statistics included in the *Nexus Study* indicated that this is particularly daunting for households earning below 50 percent of AMI.

The *Nexus Study* contains a detailed 10-step methodology, with Steps 1-8 forming the nexus (relationship) analysis. The Study estimates likely household incomes for new market-rate residential projects in Los Angeles, based on sale prices/rental rates of recently development projects, including a detailed analysis by sub-area. The Study then estimates household spending from these new market-rate units, and projects the mix of jobs to be generated for a 100-unit new residential project. This new employment, in turn is combined into new households, and incomes are estimated based on the new jobs' wages and the number of estimated workers per household. This distribution of new worker households is then segmented by income band, resulting in the estimated affordable housing need up to 120 percent AMI (or "impact"). Next, the methodology estimates the cost to provide this affordable housing, assuming it is all rental housing, and assuming that the occupants can afford to contribute no more than 30 percent of their household income to rent. The balance is the "affordability gap," which is then converted into a development financing gap, and then converted into the "maximum legal fee" fee per square foot of market-rate housing to generate the funds necessary to fund this development financing gap.

The *Nexus Study* includes subsequent analysis beyond that required by the Mitigation Fee Act, to test the financial feasibility of charging this maximum fee on several types of new, market-rate housing development projects across three categories of market condition ("low," "medium," and

“high” market conditions). The Study concludes that the maximum legal fee levels are not financially feasible and could impinge on market-rate housing production. The Study then recommends lower fees in all cases than the maximum legal fee, based on the financial feasibility conclusions. These lower-than-legal-maximum fee recommendations would mean that if the fee were imposed at the recommended levels, not all of the funds needed to produce new affordable housing from the impact of new market-rate projects would be generated.

## PUBLIC HEARING AND COMMUNICATIONS

### SUMMARY OF PUBLIC HEARING TESTIMONY AND COMMUNICATIONS

The following is a summary of the comments received since the draft Ordinance was publicly released on September 21, 2016. Comments are broken out into two groups - those from individuals or organizations which were generally supportive of the fee and would like to see it higher and those with concerns about a fee and wish to see it adjusted or lowered. The main issues raised during the public comment period are addressed individually below, with additional details provided in the Key Issues section of this report.

#### Fee Structure

##### From Those Supportive of a Fee

- *Fees should be raised to the maximum feasible levels, as supported by the Nexus Study in order to maximize revenue for affordable housing funding (\$15 residential / \$18 condominiums / \$7 commercial / \$5 warehouse).*
- *Fees should vary by geographic market and development type.*
- *Should not leave much needed housing funding “on the table” by charging modest fees.*
- *Fee should be charged on the total square footage of a residential development project, and common areas should not be excluded from the fee calculation.*

##### From Those Concerned about a Fee

- *A more complex fee structure should be used that reflects the different ability to accommodate the fee in different markets and by different development types. This will lead to more equity, greater revenues and the ability to lower fees in lower market areas where development will not “pencil” with the new fees.*
- *There should be a maximum fee cap per unit, so as not to dissuade large family units.*
- *Allow for density bonus incentives if paid linkage fee.*
- *There should be more parity between the residential and non-residential fees so as not to create an anti-housing incentive.*
- *Downtown should be treated differently (include 150% AMI and deduct TFAR payment if for AH, exempt Type I construction until 2025).*
- *The fee should be paid at Certificate of Occupancy (COO), or split into multiple payments between the issuance of building permits and obtaining the COO.*

The Department is sensitive to the need to strike a balance with the proposed fee levels, so as not to discourage development while maximizing revenue potential for the Housing Impact Trust Fund. In order to facilitate both of these goals, the Department has explored ways to differentiate the fees by market and development type. However, for reasons described in this report, utilizing the geographic market areas proposed in the Nexus Study or a similar tool is challenging in implementation. To simplify the fee, provide greater certainty to developers, and to minimize the

fee's impact on the housing market, the Department has recommended a uniform fee be applied that is feasible in all market areas citywide.

For further discussion pertaining to the structure of the proposed fees and the comments raised herein, refer to the *Key Issues* section of this report.

## Fee Exemptions

### From Those Supportive of a Fee

- *Concern about mixed-income exemption levels (percent of affordable units required is too low).*
- *Concern about exemption for projects located on government-owned land, as these are not necessarily affordable housing.*
- *Ensure that the application of the fee does not negate or limit application of the Mello Act*
- *Smaller luxury multifamily residential developments are common in some parts of the City, so there should be no exemption for developments with 5 units or less.*
- *The threshold for the nonresidential exemption should be lowered to 5,000 square feet.*
- *Private universities and hospitals should not be exempt from the fee.*
- *Expand exemptions to all areas of the City that place higher affordable housing requirements on development.*
- *Introduce a "No Net Loss" provision to ensure that developments that provide affordable units but fail to replace all existing affordable units do not qualify for the mixed-income exemption.*

The Department crafted the proposed ordinance in order to maximize the number of affordable units provided either through the Housing Impact Trust Fund or through on-site units in mixed-income buildings. The percent of affordable units required for a residential project to be exempt from the requirements of the linkage fee are higher than those required for other land use incentives, such as the density bonus program. As such, a development will not be able to qualify for both the density bonus and an exemption from the linkage fee without providing additional units, as described in the "Setting Appropriate Fee Levels" section under *Key Issues* above.

An update has been made to the proposed ordinance to clarify that the project must be constructed by a governmental or non-profit entity in order to qualify for the exemption in Section 21.18.2(b)(4).

### From Those Concerned about a Fee

- *Exempt ground level retail where required by a Specific Plan or similar regulation.*
- *Exempt hotels.*
- *Ordinance should exempt workforce housing units (up to 150% AMI) as workforce housing has been identified as an important below market rate option for housing.*
- *Projects with less than 25,000 square feet of new or added floor area should be exempt.*
- *The ordinance should include a hardship exemption for projects unable to pay the fee.*

- *Exempt portions of residential projects subject to inclusionary housing requirements under the Mello Act.*
- *The 1,500 sq. ft. threshold for single-family homes should be increased.*
- *The percent of affordable units required for the mixed-income exemption should follow the same methodology as the Density Bonus, and be calculated based on the base number of units rather than the total number of units.*
- *Exempt projects built with an FAR of 1.5 or less, to reflect the challenges of developing at this lower-density scale that oftentimes results in a more affordable housing typology.*

The updates to the proposed ordinance include several of the requested modifications to fee exemptions, including modified exemptions for ground-floor retail, an increase to the square footage threshold for single-family homes, and clarified language regarding Mello Act compliance. Fee exemptions are designed to be responsive to different development types' ability to feasibly pay the fee, as well as land use requirements imposed by other City policies that may be in conflict with the fee. For additional discussion regarding fee exemptions, see the *Key Issues* section of this report.

## **Fee Implementation**

### From Those Concerned about a Fee

- *Fee should be phased in over a few years.*
- *Effective date should be pushed back 180 days.*
- *There should be the ability for Council to temporarily "pause" the Fee during recession.*
- *More time is needed to digest Nexus Study (and allow for elections).*

An update has been made to the proposed ordinance to clarify that the Linkage Fee will become effective three months after ordinance adoption. Additional comments on the proposed ordinance and Nexus Study are encouraged, and may be submitted to the City Planning Commission, Council Committee(s), and the City Council.

## **Use of Funds**

### From Those Supportive of a Fee

- *Fees should support those with the greatest need, i.e. Extremely Low Income and Permanent Supportive Housing.*
- *A minimum of \$20 million should be set aside for permanent supportive housing each year.*
- *Fees should benefit those that will not benefit from Measure HHH.*
- *There should be a mechanism to ensure that funds accrued in a neighborhood are spent in that neighborhood.*
- *The majority of funds should be used for housing at the 60% AMI level and below, and a small portion should be used for affordable homeownership up to 120% AMI.*

### From Those Concerned about a Fee

- *Require Trust Fund to be spent equally on workforce housing.*
- *Require plan for how the money will be spent.*

The staff report has included a recommendation that the City Council direct the Housing and Community Investment Department (HCIDLA) to report back within six months of ordinance adoption with a detailed expenditure plan for Housing Impact Trust Fund revenues generated as a result of the linkage fee. These comments will be considered by HCIDLA in developing this funding program.

### **Impact on Development and Housing Market**

#### From Those Concerned about a Fee

- *New fees could reduce housing production and thereby increase home prices.*
- *New fees will translate into higher for-sale and rental prices.*
- *Higher fees deter new residential construction, thereby further exacerbating the housing crisis.*
- *Other sources for affordable housing funding should be found, including incentives outside of land use.*
- *The current land market is unable to absorb the impacts of the fee, and the Nexus Study's finding that residual land value will be reduced should be reevaluated.*
- *The fee should be paired with other incentives in order to offset the impact on the housing market.*

The Nexus Study provides detailed analysis of the potential effects of the linkage fee. The fee levels were selected so as to minimize the potential impact on the housing market, and are well within the feasible fee range found in the study. For a detailed discussion of the potential impacts of the fee, refer to the *Key Issues* section of this report and the Nexus Study provided in Exhibit C.

### **Multiple Fees and Initiatives Introduced at Once**

#### From Those Concerned about a Fee

- *More consideration needs to be given to address the cumulative impact of stacking multiple fees and land use incentives.*
- *The fee's relation to Measure JJJ, Measure HHH, the Neighborhood Integrity Initiative (NII), Value Capture, and other policy initiatives needs to be better understood before making a decision.*

As described in the *Key Issues* section of this report, the City of Los Angeles has relatively low development impact fees compared to other large cities in California, and currently has no permanent source of funding for affordable housing. While related, the Linkage Fee is distinct from other land use incentives in that it will provide a flexible, permanent, local funding source for the construction and preservation of affordable housing. The City is currently experiencing an

unprecedented housing crisis, and a range of strategies are needed to address the severe need for affordable housing.

### **Public Hearing**

The Department held a staff public hearing on October 19, 2016. The public hearing featured 62 attendees and 35 speakers, including approximately 28 who were generally supportive with some recommended changes to improve the ordinance, and 7 with concerns about the proposed ordinance. Comments raised during the public hearing were generally in line with the comments summarized above. Those in favor of the proposed code amendment were supportive of the principal of a linkage fee, but many felt that the fees could be higher. Several speakers also emphasized the need for funds to be used for a variety of affordable housing types, including permanent supportive housing, workforce housing, senior housing, and housing for extremely low income households. Those who had concerns regarding the fee primarily took issue with the fees being too high. They also raised issue with ensuring that the proposed fee does not conflict with the Mello Act, or other land use incentives or requirements related to affordable housing. In order to better assess the impact of other competing policies and ballot measures, as well as to provide more time to review and make comments on the Nexus Study, several speakers also suggested extending the public comment hearing and delaying City Council action on this matter until after the March 2017 election.

### **WORKING GROUP PARTICIPATION**

Given this issue's importance, the City convened a working group to provide feedback and guidance in informing the Nexus Study methodology and recommendations around housing fees. The group included a cross section of the interested parties on this issue - both for-profit and nonprofit developers, builders of housing and commercial projects, housing advocacy organizations, business groups, etc. Organizations and individuals were identified because of specific expertise, their knowledge of Los Angeles real estate development, the role an organization plays around the issue, and the important perspective an individual could represent. The working group included the following organizations: Related Companies CA, Brookfield Residential, Equity Residential, Building Industry Association (BIA), Trammell Crow, Nancy Lewis Associates, Central City Association of Los Angeles, CIM Group, Mack Urban, Los Angeles Business Council, Southern California Association of Non-Profit Housing (SCANPH), California Community Foundation, Strategic Actions for a Just Economy (SAJE), Abode Communities, Southeast Asian Community Alliance, LA Family Housing, UCLA, Meta Housing, and McCormack Baron Salazar.