



SOUTHERN CALIFORNIA  
ASSOCIATION OF GOVERNMENTS  
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## SPECIAL MEETING

# REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) APPEALS BOARD PUBLIC HEARING

**Remote Participation Only**  
**Friday, January 22, 2021**  
**9:00 a.m. – 3:00 p.m.**

**To Participate on Your Computer:**  
**<https://scag.zoom.us/j/91702781766>**

**To Participate by Phone:**  
**Call-in Number: 1-669-900-6833**  
**Meeting ID: 917 0278 1766**

***Please see next page for detailed  
instructions on how to participate in the meeting.***

### **PUBLIC ADVISORY**

Given recent public health directives limiting public gatherings due to the threat of COVID-19 and in compliance with the Governor's recent Executive Order N-29-20, the meeting will be held telephonically and electronically.

If members of the public wish to review the attachments or have any questions on any of the agenda items related to RHNA, please send an email to [housing@scag.ca.gov](mailto:housing@scag.ca.gov). Agendas and Minutes are also available at: [www.scag.ca.gov/committees](http://www.scag.ca.gov/committees).

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. SCAG is also committed to helping people with limited proficiency in the English language access the agency's essential public information and services. You can request such assistance by calling (213) 236-1959. We request at least 72 hours (three days) notice to provide reasonable accommodations and will make every effort to arrange for assistance as soon as possible.



## Instructions for Public Comments

*You may submit public comments in two (2) ways:*

1. **Submit written comments via email to: [housing@scag.ca.gov](mailto:housing@scag.ca.gov) by 5pm on Thursday, January 21, 2021.**

All written comments received after 5pm on Thursday, January 21, 2021 will be announced and included as part of the official record of the meeting.

2. **If participating via Zoom or phone, during the Public Comment Period, use the “raise hand” function on your computer or \*9 by phone and wait for SCAG staff to announce your name/phone number. SCAG staff will unmute your line when it is your turn to speak. Limit oral comments to 3 minutes, or as otherwise directed by the presiding officer.**

If unable to connect by Zoom or phone and you wish to make a comment, you may submit written comments via email to: [housing@scag.ca.gov](mailto:housing@scag.ca.gov).

***In accordance with SCAG’s Regional Council Policy, Article VI, Section H and California Government Code Section 54957.9, if a SCAG meeting is “willfully interrupted” and the “orderly conduct of the meeting” becomes unfeasible, the presiding officer or the Chair of the legislative body may order the removal of the individuals who are disrupting the meeting.***



## Instructions for Participating in the Meeting

SCAG is providing multiple options to view or participate in the meeting:

### To Participate and Provide Verbal Comments on Your Computer

1. Click the following link: <https://scag.zoom.us/j/91702781766>
2. If Zoom is not already installed on your computer, click “Download & Run Zoom” on the launch page and press “Run” when prompted by your browser. If Zoom has previously been installed on your computer, please allow a few moments for the application to launch automatically.
3. Select “Join Audio via Computer.”
4. The virtual conference room will open. If you receive a message reading, “Please wait for the host to start this meeting,” simply remain in the room until the meeting begins.
5. During the Public Comment Period, use the “raise hand” function located in the participants’ window and wait for SCAG staff to announce your name. SCAG staff will unmute your line when it is your turn to speak. Limit oral comments to 3 minutes, or as otherwise directed by the presiding officer.

### To Listen and Provide Verbal Comments by Phone

1. Call **(669) 900-6833** to access the conference room. Given high call volumes recently experienced by Zoom, please continue dialing until you connect successfully.
2. Enter the **Meeting ID: 917 0278 1766**, followed by #.
3. Indicate that you are a participant by pressing # to continue.
4. You will hear audio of the meeting in progress. Remain on the line if the meeting has not yet started.
6. During the Public Comment Period, press \*9 to add yourself to the queue and wait for SCAG staff to announce your name/phone number. SCAG staff will unmute your line when it is your turn to speak. Limit oral comments to 3 minutes, or as otherwise directed by the presiding officer.



# REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) APPEALS BOARD PUBLIC HEARING SPECIAL MEETING AGENDA

## RHNA APPEALS BOARD MEMBERS – RHNA 6<sup>TH</sup> CYCLE

### VOTING MEMBERS

#### **Representing Imperial County**

Primary: Hon. Cheryl Viegas-Walker, El Centro  
Alternate: Sup. Luis Plancarte, Imperial County

#### **Representing Los Angeles County**

Primary: **VICE CHAIR** Margaret Finlay, Duarte  
Alternate: Hon. Rex Richardson, Long Beach

#### **Representing Orange County**

Primary: Hon. Wendy Bucknum, Mission Viejo  
Alternate: **CHAIR** Peggy Huang, Yorba Linda, TCA

#### **Representing Riverside County**

Primary: Hon. Russell Betts, Desert Hot Springs  
Alternate: Hon. Rey SJ Santos, Beaumont

#### **Representing San Bernardino County**

Primary: Hon. Deborah Robertson, Rialto  
Alternate: Hon. Larry McCallon, Highland

#### **Representing Ventura County**

Primary: Hon. Carmen Ramirez, Ventura County  
Alternate: Hon. Mike Judge, Simi Valley, VCTC



# REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) APPEALS BOARD

## PUBLIC HEARING – SPECIAL MEETING AGENDA

Southern California Association of Governments  
Remote Participation Only  
**Friday, January 22, 2021**  
**9:00 AM – 3:00 PM**

### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE** *(The Honorable Peggy Huang, Chair)*

### **PUBLIC COMMENT PERIOD**

Members of the public are encouraged to submit written comments by sending an email to: [housing@scag.ca.gov](mailto:housing@scag.ca.gov) by 5pm on Thursday, January 21, 2021. Such comments will be transmitted to members of the legislative body and posted on SCAG's website prior to the meeting. Written comments received after 5pm on January 21, 2021 will be announced and included as part of the official record of the meeting. Members of the public wishing to verbally address the RHNA Appeals Board will be allowed up to 3 minutes to speak, with the presiding officer retaining discretion to adjust time limits as necessary to ensure efficient and orderly conduct of the meeting. The presiding officer has the discretion to reduce the time limit based upon the number of comments received and may limit the total time for all public comments to twenty (20) minutes.

Click [here](#) to access the list of written Public Comments received as of 1/14/2021, or see the attachment.

All comments submitted are posted online at <https://scag.ca.gov/rhna-comments>.

### **ACTION ITEM/S**

1. Public Hearings to Consider Appeals Submitted by Jurisdictions Related to the 6th Cycle Draft RHNA Allocations  
*(Kome Ajise, Executive Director)*

### **RECOMMENDED ACTION:**

Review the appeals submitted by six (6) jurisdictions regarding their respective 6th cycle Draft RHNA Allocations; review corresponding staff recommendations as reflected in the staff reports; receive public comments; hear arguments by appellants and staff responses; and take action to grant, partially grant, or deny each appeal.

The Chair has the discretion to determine the order of appeals heard.

### Schedule

- 1.1 County of Orange (unincorporated areas)\*
  - 1.2 City of Westminster\*
  - 1.3 City of Costa Mesa\*
  - 1.4 City of Laguna Beach\*
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- 1.5 City of Los Alamitos\*
- 1.6 City of Mission Viejo\*
- 1.7 City of Pico Rivera\* (continued from January 8, 2021)
- 1.8 City of Irvine\* (continued from January 15, 2021)
- 1.9 City of Garden Grove\* (continued from January 15, 2021)

**\* For each appeal, the general time allocation is as the following with Chair's discretion to grant extension as needed:**

- **Initial Arguments (5 min)**
- **Staff Response (5 min)**
- **Rebuttal (3 min)**

**For more information, please see Appeals Hearing Procedures in the Attachment.**

**ADJOURNMENT**

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## ATTACHMENT - Appeals Hearing Procedures

### (Per Adopted 6<sup>th</sup> Cycle RHNA Appeals Procedures Section G)

The hearing(s) shall be conducted to provide applicants and jurisdictions that did not file appeals but are the subject of an appeal, with the opportunity to make their case regarding a change in their draft regional housing need allocation or another 7 jurisdiction's allocation, with the burden on the applicants to prove their case. The appeals hearings will be organized by the specific jurisdiction subject to an appeal or appeals and will adhere to the following procedures:

#### 1. Initial Arguments

Applicants who have filed an appeal for a particular jurisdiction will have an opportunity to present their request and reasons to grant the appeal. In the event of multiple appeals filed for a single jurisdiction, the subject jurisdiction will present their argument first if it has filed an appeal on its own draft RHNA allocation. Applicants may present their case either on their own, or in coordination with other applicants, but each applicant shall be allotted five (5) minutes each. If the subject jurisdiction did not file an appeal on its own draft RHNA allocation, it will be given an opportunity to present after all applicants have provided initial arguments on their filed appeals. Any presentation from the jurisdiction who did not appeal but is the subject of the appeal is limited to five (5) minutes unless it is responding to more than one appeal, in which case the jurisdiction is limited to eight (8) minutes.

#### 2. Staff Response

After initial arguments are presented, SCAG staff will present their recommendation to approve or deny the appeals filed for the subject jurisdiction. The staff response is limited to five (5) minutes.

#### 3. Rebuttal

Applicants and the jurisdiction who did not file an appeal but is the subject of the appeal may elect to provide a rebuttal but are limited to the arguments and evidence presented in the staff response. Each applicant and the subject jurisdiction that did not file an appeal on its own draft RHNA allocation will be allotted three (3) minutes each for a rebuttal.

#### 4. Extension of Time Allotment

The Chair of the Appeals Board may elect to grant additional time for any presentation, staff response, or rebuttal in the interest of due process and equity.

#### 5. Appeal Board Discussion and Determination

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After arguments and rebuttals are presented, the RHNA Appeals Board may ask questions of applicants, the subject jurisdiction (if present), and SCAG staff. The Chair of the Appeals Board may request that questions from the Appeals Board be asked prior to a discussion among Appeals Board members. Any voting Board member may make a motion regarding the appeal(s) for the subject jurisdiction.

The Appeals Board is encouraged to make a single determination on the subject jurisdiction after hearing all arguments and presentations on each subject jurisdiction. The RHNA Appeals Board need not adhere to formal evidentiary rules and procedures in conducting the hearing. An appealing jurisdiction may choose to have technical staff present its case at the hearing. At a minimum, technical staff should be available at the hearing to answer any questions of the RHNA Appeals Board.



Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
10/11/2018	City of Beverly Hills	Hon. John Mirisch	Subcommittee membership
12/2/2018	City of Mission Viejo	Gail Shiomoto-Lohr	Subcommittee charter, subregional delegation, growth forecast
1/17/2019	City of Beverly Hills	Hon. John Mirisch	Urban sprawl
2/4/2019	City of Beverly Hills	Hon. John Mirisch	Role of housing supply, single family homes, subcommittee membership
3/11/2019	City of Beverly Hills	Hon. John Mirisch	Subcommittee membership, upzoning, single family homes
3/30/2019	City of Beverly Hills	Hon. John Mirisch	Upzoning, urbanism, density
5/2/2019	Central Cities Association of Los Angeles	Jessica Lall	Regional Determination
5/6/2019	City of Irvine	Marika Poynter	Regional determination, existing need distribution, social equity adjustment
5/20/2019	City of Redondo Beach	Sean Scully	Existing housing need and zoning
5/23/2019	UCLA Luskin School of Public Affairs	Paavo Monkkonen	Zoning, housing prices, and regulation
5/28/2019	Orange County Council of Governments (OCCOG)	Hon. Stacy Berry	Regional determination consultation package
5/29/2019	City of Anaheim	Chris Zapata	Regional determination consultation package
5/31/2019	City of Yorba Linda	David Brantley	Regional determination consultation package
6/1/2019	City of Mission Viejo		Regional determination consultation package; distribution methodology
6/3/2019	City of Newport Beach	Seimone Jurjis	Regional determination consultation package
6/3/2019	UCLA	Paavo Monkkonen	Regional determination consultation package
6/4/2019	City of Tustin	Elizabeth Binsack	Regional determination consultation package
6/4/2019		Henry Fung	Public outreach and engagement; regional determination consultation package
6/5/2019		Hunter Owens	Regional determination consultation package
6/5/2019	City of Santa Ana	Kristine Ridge	Regional determination consultation package
6/5/2019	City of Newport Beach	Seimone Jurjis	Regional determination consultation package
6/5/2019	City of Calabasas	Mayor David Shapiro	RHNA methodology
6/5/2019		Vyki Englert	Regional determination consultation package
6/5/2019		Juan Lopez	Regional determination consultation package
6/5/2019		Louis Mirante	Regional determination consultation package
6/5/2019		Carter Rubin	Regional determination consultation package
6/6/2019		Hon. Meghan Sahli-Wells, City of Culver City	Regional determination consultation package
6/5/2019		Andy Freeland	Regional determination consultation package
6/5/2019		Eve Bachrach	Regional determination consultation package
6/6/2019		Emily Groendyke	Regional determination consultation package
6/6/2019		Timothy Hayes	Regional determination consultation package
6/6/2019		Carter Moon	Regional determination consultation package
6/6/2019		Jesse Lerner-Kinglake	Regional determination consultation package
6/6/2019		Alex Fisch	Regional determination consultation package
6/6/2019		Jed Lowenthal	Regional determination consultation package
6/6/2019	City of Moorpark	Karen Vaughn	Proposed RHNA Methodology
6/6/2019	City of La Habra	Jim Gomez	Regional determination package
6/6/2019	County of Orange	Supervisor Donald Wagner	Regional determination package
6/18/2019		Thomas Glaz	Proposed RHNA methodology
6/18/2019		Brendan Regulinski	Proposed RHNA methodology
6/18/2019		Chris Palencia	Proposed RHNA methodology
6/19/2019		Henry Fung	Action on regional determination; proposed RHNA methodology; public hearing and outreach process
6/21/2019		Glenn Egelko	Subcommittee member remarks
6/22/2019		Donna Smith	Proposed RHNA methodology
6/24/2019		Fred Zimmerman	Regional determination package
6/24/2019		Antoine Wakim	Regional determination package
6/24/2019		Darrell Clarke	Regional determination package
6/24/2019		Marcos Rodriguez Maciel	Regional determination package

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
6/24/2019		Taylor Hallam	Regional determination package
6/24/2019		Phil Lord	Regional determination package
6/24/2019		Edwin Woll	Regional determination package
6/24/2019		Steven Guerry	Regional determination package
6/24/2019		Prabhu Reddy	Regional determination package
6/24/2019		Judd Schoenholtz	Regional determination package
6/24/2019		Bret Contreras	Regional determination package
6/24/2019		Mark Montiel	Regional determination package
6/24/2019		Hardy Wronske	Regional determination package
6/24/2019		William Wright	Regional determination package
6/24/2019		Nicholas Burns III	Regional determination package
6/24/2019		Brendan Regulinski	Regional determination package
6/24/2019		Gabe Rose	Regional determination package
6/24/2019		Sean McKenna	Regional determination package
6/24/2019		Lolita Nurmamade	Regional determination package
6/24/2019		Paul Moorman	Regional determination package
6/24/2019		Ryan Welch	Regional determination package
6/24/2019		Gerald Lam	Regional determination package
6/24/2019		Carol Gordon	Regional determination package
6/24/2019		Anthony Dedousis	Regional determination package
6/24/2019		Christopher Cooper	Regional determination package
6/24/2019		Colin Frederick	Regional determination package
6/24/2019		Joe Goldman	Regional determination package
6/24/2019		David Douglass-Jaimes	Regional determination package
6/24/2019		Liz Barillas	Regional determination package
6/24/2019		Andy Freeland	Regional determination package
6/24/2019		Grayson Peters	Regional determination package
6/24/2019		Andrew Oliver	Regional determination package
6/24/2019		Kyle Jenkins	Regional determination package
6/24/2019		Matthew Ruscigno	Regional determination package
6/24/2019		Amar Billoo	Regional determination package
6/24/2019		Joshua Blumenkopf	Regional determination package
6/24/2019		Leonora Camner	Regional determination package
6/24/2019		Ryan Tanaka	Regional determination package
6/24/2019		Partho Kalyani	Regional determination package
6/24/2019		Victoria Englert	Regional determination package
6/24/2019		Josh Albrekton	Regional determination package
6/24/2019		Matt Stauffer	Regional determination package
6/24/2019		Brooks Dunn	Regional determination package
6/24/2019		Nancy Barba	Regional determination package
6/24/2019		Sandra Madera	Regional determination package
6/25/2019		Gregory Dina	Regional determination package
6/25/2019		Brent Gaisford	Regional determination package
6/25/2019		Andrew Kerr	Regional determination package
6/25/2019		Hunter Owens	Regional determination package
6/25/2019		Alexander Murray	Regional determination package
6/25/2019		Eric Hayes	Regional determination package
6/25/2019		Brent Stoll	Regional determination package
6/25/2019		Matthew Dixon	Regional determination package
6/25/2019		Mark Yetter	Regional determination package
6/25/2019		Chase Engelhardt	Regional determination package

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
6/25/2019		Hugh Martinez	Regional determination package
6/25/2019		Christopher Palencia	Regional determination package
6/25/2019		Nathan Pope	Regional determination package
6/25/2019		Lauren Borchard	Regional determination package
6/25/2019		Shane Philips	Regional determination package
6/25/2019		Alexander Naylor	Regional determination package
6/25/2019		Andy May	Regional determination package
6/25/2019		Jon Dearing	Regional determination package
6/25/2019		David Barboza	Regional determination package
6/26/2019		Sofia Tablada	Regional determination package
6/26/2019		Amanda Wilson	Regional determination package
6/26/2019		Mike Bettinardi	Regional determination package
6/26/2019		Emily Skehan	Regional determination package
6/26/2019	City of Long Beach	Patrick West	Proposed RHNA methodology
6/27/2019		Jesse Silva	Regional determination package
6/27/2019		Ryan Rubin	Regional determination package
6/27/2019	City of Garden Grove	Mayor Steve Jones	Regional determination package; proposed RHNA methodology
6/27/2019	County of Los Angeles	Amy Bodek	Proposed RHNA methodology
6/28/2019		Maggie Rattay	Regional determination package
6/28/2019		Brittney Hojo	Regional determination package
6/28/2019		Thomas Irwin	Regional determination package
6/28/2019		Steph Pavon	Regional determination package
7/3/2019		Tyler Lindberg	Regional determination package
7/3/2019		Ji Son	Regional determination package
7/3/2019		David Kitani	Regional determination package
7/3/2019		Chase Andre	Regional determination package
7/3/2019		Taily Pulido	Regional determination package
7/5/2019		Stephanie Palencia	Regional determination package
7/6/2019		Charlie Stigler	Regional determination package
7/8/2019		Chris Rattay	Regional determination package
7/9/2019		Holly Osborne	Proposed RHNA Methodology
7/9/2019	City of Ojai	James Vega	Proposed RHNA Methodology
7/10/2019	City of South Gate	Joe Perez	Proposed RHNA Methodology
7/11/2019	City of Malibu	Reva Feldman	Proposed RHNA Methodology
7/16/2019	City of Los Angeles, 15 <sup>th</sup> District	Aksel Palacios	Affordable Housing Solutions
7/17/2019	City of Culver City	Mayor Meghan Sahli-Wells	Regional Determination
7/18/2019	League of Women Voters of Los Angeles	Sandra Trutt	Zoning and Homelessness
7/18/2019	County of Riverside	Juan Perez	Proposed RHNA allocation
7/19/2019	League of Women Voters of Los Angeles County	Marge Nichols	Regional Determination
7/20/2019		Therese Mufic Neustaedter	Regional Determination
7/23/2019	County of Ventura – Board of Supervisors	Supervisor Steve Bennett	Proposed RHNA Methodology
7/25/2019		Jose Palencia	Regional Determination
7/27/2019		Henry Fung	Proposed RHNA Methodology
7/29/2019		Paavo Monkkonen	Proposed RHNA Methodology
7/29/2019		Paavo Monkkonen	Proposed RHNA Methodology
7/29/2019	Endangered Habitats League	Dan Silver	Proposed RHNA methodology
7/31/2019	League of Women Voters Los Angeles County	Marge Nichols	Regional Determination; Proposed RHNA Methodology
7/31/2019	City of Beverly Hills	Mayor John Mirisch	Proposed RHNA Methodology
7/31/2019	City of Beverly Hills	Mayor John Mirisch	Proposed RHNA Methodology
7/31/2019		Assm. Richard Bloom	Proposed RHNA Methodology
8/1/2019	League of Women Voters Santa Monica	Natalya Zernitskaya	Proposed RHNA Methodology

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
8/1/2019	City of Malibu	Bonnie Blue	Proposed RHNA Methodology; SB 182
8/1/2019	People for Housing OC	Elizabeth Hansburg	Regional Determination
8/1/2019	City of Big Bear Lake	Jeff Matthieu	Proposed RHNA Methodology
8/2/2019		Donna Smith	?
8/4/2019		Gary Drucker	Proposed RHNA Methodology
8/5/2019		Valerie Fontaine	Proposed RHNA Methodology
8/5/2019		Jay Ross	Proposed RHNA Methodology
8/7/2019		Miriam Cantor	Proposed RHNA Methodology
8/8/2019		Jonathan Baty	Population growth
8/12/2019		City of Yucaipa	Proposed RHNA methodology
8/12/2019		Paul Lundquist	?
8/12/2019		Leonora Camner	Proposed RHNA Methodology
8/12/2019		Ryan Tanaka	Proposed RHNA Methodology
8/12/2019		Jesse Silva	Proposed RHNA Methodology
8/12/2019		Joshua Gray-Emmer	Proposed RHNA Methodology
8/12/2019		Chase Engelhardt	Proposed RHNA Methodology
8/12/2019		Drew Heckathorn	Proposed RHNA Methodology
8/12/2019		Liz Barillas	Proposed RHNA Methodology
8/12/2019		Jonah Bliss	Proposed RHNA Methodology
8/12/2019		Angus Beverly	Proposed RHNA Methodology
8/12/2019		Gregory Dina	Proposed RHNA Methodology
8/12/2019		Eduardo Mendoza	Proposed RHNA Methodology
8/12/2019		Carol Gordon	Proposed RHNA Methodology
8/12/2019		Joanne Leavitt	Proposed RHNA Methodology
8/12/2019		Mark Yetter	Proposed RHNA Methodology
8/12/2019		Meredith Jung	Proposed RHNA Methodology
8/12/2019		Nicholas Burns III	Proposed RHNA Methodology
8/12/2019		Judd Scoenholtz	Proposed RHNA Methodology
8/12/2019		Lee Benson	Proposed RHNA Methodology
8/12/2019		Kate Poisson	Proposed RHNA Methodology
8/12/2019		Joshua Blumenkopf	Proposed RHNA Methodology
8/12/2019		Anthony Dedousis	Proposed RHNA Methodology
8/12/2019		Christopher Tausanovitch	Proposed RHNA Methodology
8/12/2019		Emerson Dameron	Proposed RHNA Methodology
8/12/2019		Grayson Peters	Proposed RHNA Methodology
8/12/2019		Tami Kagan-Abrams	Proposed RHNA Methodology
8/12/2019		Lauren Borchard	Proposed RHNA Methodology
8/12/2019		Alec Mitchell	Proposed RHNA Methodology
8/12/2019		Andy Freeland	Proposed RHNA Methodology
8/12/2019		Michelle Castelletto	Proposed RHNA Methodology
8/12/2019		Brent Gaisford	Proposed RHNA Methodology
8/12/2019		Rebecca Muli	Proposed RHNA Methodology
8/12/2019		Ryan Welch	Proposed RHNA Methodology
8/12/2019		Prabhu Reddy	Proposed RHNA Methodology
8/12/2019		Matthew Dixon	Proposed RHNA Methodology
8/12/2019		Richard Hofmeister	Proposed RHNA Methodology
8/12/2019		David Barboza	Proposed RHNA Methodology
8/12/2019		Michael Drowsky	Proposed RHNA Methodology
8/12/2019		Allison Wong	Proposed RHNA Methodology
8/13/2019		Justin Jones	Proposed RHNA Methodology

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
8/13/2019		Yurhe Lim	Proposed RHNA Methodology
8/13/2019		Ryan Koyanagi	Proposed RHNA Methodology
8/13/2019		William Wright	Proposed RHNA Methodology
8/13/2019		Norma Guzman	Proposed RHNA Methodology
8/13/2019		Mary Vaiden	Proposed RHNA Methodology
8/13/2019		Andy May	Proposed RHNA Methodology
8/13/2019		Gerald Lam	Proposed RHNA Methodology
8/13/2019		Kelly Koldus	Proposed RHNA Methodology
8/13/2019		Thomas Irwin	Proposed RHNA Methodology
8/14/2019		Susan Decker	Proposed RHNA Methodology
8/14/2019		Michael Busse	Proposed RHNA Methodology
8/14/2019		Rosa Flores	Proposed RHNA Methodology
8/14/2019		Pedro Juarez	Proposed RHNA Methodology
8/14/2019		Zennon Ulyate-Crow	Proposed RHNA Methodology
8/16/2019		Ron Javorsky	
8/16/2019	County of Riverside	Robert Flores	RHNA Public Outreach
8/17/2019		Marianne Buchanan	
8/17/2019		Carolyn Byrnes	Other
8/17/2019		Sharon Willkins	
8/17/2019		Natalya Zernitskaya	Proposed RHNA Methodology
8/19/2019		Kawauna Reed	
8/19/2019		Hon. Manuel Chavez (Costa Mesa Councilmember, District 4)	Proposed RHNA Methodology
		Cassius Rutherford (Parks Commissioner, Costa Mesa)	
		Chris Gaarder (Planning Commission Chair, Fullerton)	
		Brandon Whalen-Castellanos (Transportation Commission Chair, Fullerton)	
		Luis Aleman (Parks Commission, Santa Ana)	
8/19/2019		Theopilis Hester	Proposed RHNA Methodology
8/20/2019	City of Santa Monica	Rick Cole	Proposed RHNA Methodology
8/20/2019	City of Rancho Palos Verdes	Octavio Silva	Proposed RHNA Methodology
8/20/2019	City of Yorba Linda	Mayor Tara Campbell	Proposed RHNA Methodology
8/22/2019	City of Redondo Beach	Mayor William Brand	Proposed RHNA Methodology
8/22/2019	Orange County Council of Governments (OCCOG)	Marnie O. Primmer	Proposed RHNA Methodology
8/23/2019		Bruce Szekes	Public Outreach
8/23/2019	Center for Demographic Research		Proposed RHNA Methodology
8/23/2019		Laura Smith	Housing Distribution
8/23/2019	City of Beverly Hills	Mayor John Mirisch	Proposed RHNA Methodology
8/24/2019		Sharon Commins	Proposed RHNA Methodology
8/26/2019	City of El Segundo		Proposed RHNA Methodology
8/26/2019		Sean McKenna	Proposed RHNA Methodology
8/26/2019		Mark Chenevey	Proposed RHNA Methodology
8/26/2019		Derek Ryder	Proposed RHNA Methodology
8/26/2019	City of Long Beach	Patrick West	Proposed RHNA Methodology
8/27/2019	City of Mission Viejo	Elaine Lister	Proposed RHNA Methodology data correction
8/27/2019		Shawn Danino	Proposed RHNA Methodology
8/27/2019		Jeffery Alvarez	Proposed RHNA Methodology
8/27/2019		Claudia Vu	Proposed RHNA Methodology
8/27/2019		Laila Delgado	Proposed RHNA Methodology
8/27/2019		Madeline Swim	Proposed RHNA Methodology
8/27/2019		Nicholas Paganini	Proposed RHNA Methodology
8/27/2019		David Aldama	Proposed RHNA Methodology

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Date of Letter	Organization	Name	Topic(s)
8/27/2019		Hannah Winnie	Proposed RHNA Methodology
8/27/2019		Akif Khan	Proposed RHNA Methodology
8/27/2019		Gianna Lum	Proposed RHNA Methodology
8/27/2019		Bradley Ewing	Proposed RHNA Methodology
8/27/2019		Anne Martin	Proposed RHNA Methodology
8/27/2019		Mysten Walker	Proposed RHNA Methodology
8/27/2019		Verity Freebern	Proposed RHNA Methodology
8/27/2019		Ryan Oillataguerre	Proposed RHNA Methodology
8/27/2019		Emma Desopo	Proposed RHNA Methodology
8/27/2019		Elyssa Medina	Proposed RHNA Methodology
8/27/2019		Judith Trujillo	Proposed RHNA Methodology
8/27/2019		Kenia Agaton	Proposed RHNA Methodology
8/27/2019	OC Business Council	Alicia Berhow	Proposed RHNA Methodology
8/27/2019	Palms Neighborhood Council	Eryn Block	Proposed RHNA Methodology
8/27/2019	County of Riverside	Juan Perez	Proposed RHNA Methodology
8/28/2019		Sophia Parmisano	Proposed RHNA Methodology
8/28/2019		Anthony Castelletto	Proposed RHNA Methodology
8/28/2019		Minh Le	Proposed RHNA Methodology
8/28/2019		Carol Luong	Proposed RHNA Methodology
8/28/2019		Chitra Patel	Proposed RHNA Methodology
8/28/2019		Misha Ponnuraju	Proposed RHNA Methodology
8/27/2019		Griffin McDaniel	Proposed RHNA Methodology
8/28/2019		Lauren Walker	Proposed RHNA Methodology
8/28/2019		Robert Flores	Proposed RHNA Methodology
8/28/2019		Hailey Maxwell	Proposed RHNA Methodology
8/28/2019		Carey Kayser	Proposed RHNA Methodology
8/28/2019		Annie Bickerton	Proposed RHNA Methodology
8/29/2019	City of Fullerton	Matt Foulkes	Proposed RHNA Methodology
8/29/2019	City of Norco	Steve King	Proposed RHNA Methodology
8/29/2019	City of Signal Hill	Mayor Lori Wood	Proposed RHNA Methodology
8/29/2019	SCANPH	Francisco Martinez	Proposed RHNA Methodology
8/29/2019		Ross Heckmann	Proposed RHNA Methodology
8/30/2019		Dottie Alexanian	Proposed RHNA Methodology
8/30/2019		Judith Deutsch	Proposed RHNA Methodology
8/30/2019	City of Tustin	Elizabeth Binsack	Proposed RHNA Methodology
8/30/2019	City of Menifee	Cheryl Kitzerow	Proposed RHNA Methodology
8/31/2019		Paavo Monkkonen	Proposed RHNA Methodology
8/31/2019		Paavo Monkkonen and 27 professors	Proposed RHNA Methodology
8/31/2019		Ryan Kelly	Proposed RHNA Methodology
8/31/2019		Hydee Feldstein	Proposed RHNA Methodology
8/31/2019		Alex Ivina	Proposed RHNA Methodology
8/31/2019		Steve Rogers	Proposed RHNA Methodology
8/31/2019		Phil Davis	Proposed RHNA Methodology
8/31/2019		Kathy Hersh	Proposed RHNA Methodology
9/1/2019		Jane Demian	Proposed RHNA Methodology
9/1/2019		Diana Stiller	Proposed RHNA Methodology
9/1/2019		Paula Bourges	Proposed RHNA Methodology
9/1/2019		Raymond Goldstone	Proposed RHNA Methodology
9/1/2019		Christopher Palencia	Proposed RHNA Methodology
9/2/2019		Doris Roach	Proposed RHNA Methodology
9/3/2019		Judy Saunders	Proposed RHNA Methodology

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Date of Letter	Organization	Name	Topic(s)
9/3/2019		Susan Ashbrook	Proposed RHNA Methodology
9/3/2019		Marcelo & Irene Olavarria	Proposed RHNA Methodology
9/3/2019		Margret Healy	Proposed RHNA Methodology
9/3/2019		Genie Saffren	Proposed RHNA Methodology
9/3/2019	City of Rancho Santa Margarita	Cheryl Kuta	Proposed RHNA Methodology
9/3/2019	City of Corona	Joanne Coletta	Proposed RHNA Methodology
9/3/2019	City of Desert Hot Springs	Rebecca Deming	Proposed RHNA Methodology
9/3/2019		Karen Boyarsky	Regional Determination
9/3/2019		Nancee L.	Proposed RHNA Methodology
9/3/2019		Tracy St. Claire	Regional Determination
9/4/2019		Shelly Carlo	Housing Distribution
9/4/2019		Bill Zimmerman	Proposed RHNA Methodology
9/4/2019		Mark Vallianatos	Proposed RHNA Methodology
9/4/2019		Marilyn Frost	Housing Distribution
9/4/2019		Matthew Stevens	Proposed RHNA Methodology
9/4/2019		Georgianne Cowan	Regional Determination
9/4/2019		Lisa Schecter	Regional Determination
9/4/2019		Carol Watkins	Regional Determination
9/4/2019		Mark Robbins	Regional Determination
9/4/2019		Susan Horn	Regional Determination
9/4/2019		Barbara Broide	Regional Determination
9/4/2019		Joseph Sherwood	Regional Determination
9/4/2019		Linda Sherwood	Regional Determination
9/4/2019		Darren Swimmer	Regional Determination
9/4/2019		Lee Zeldin	Regional Determination
9/4/2019		Nancy Rae Stone	Regional Determination
9/4/2019		Rachael Gordon	Regional Determination
9/4/2019		Martha Singer	Regional Determination
9/4/2019		Laurie Balustein	Regional Determination
9/4/2019		Henry Fung	Regional Determination
9/4/2019		Brad Pennington	Regional Determination
9/4/2019		Mike Javadi	Regional Determination
9/4/2019		Lauren Thomas	Regional Determination
9/4/2019		Keith Solomon	Regional Determination
9/4/2019		Linda Blank	Regional Determination
9/4/2019		Valerie Brucker	Regional Determination
9/4/2019		Craig Rich	Regional Determination
9/4/2019		Wansun Song	Regional Determination
9/4/2019		Robert Seligman	Regional Determination
9/4/2019	City of Newport Beach	Seimone Jurjis	Regional Determination
9/4/2019	City of Calabasas	Mayor David Shapiro	Regional Determination
9/4/2019		Paul Soroudi	Regional Determination
9/4/2019		Terrence Gomes	Regional Determination
9/4/2019		Kimberly Fox	Regional Determination
9/4/2019		Mra Tun	Regional Determination
9/4/2019		Laura Levine Lacter	Regional Determination
9/4/2019		Stephen Resnick	Regional Determination
9/4/2019		Kimberly Christensen	Regional Determination
9/4/2019		Rita Villa	Regional Determination
9/4/2019	City of San Clemente	James Makshanoff	Proposed RHNA Methodology
9/4/2019	City of Beaumont	Julio Martinez	Proposed RHNA Methodology

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Date of Letter	Organization	Name	Topic(s)
9/4/2019	City of Hawthorne	Arnold Shadbehr	Proposed RHNA Methodology
9/5/2019	City of Murrieta	Mayor Kelly Seyarto	Proposed RHNA Methodology
9/5/2019	City of Canyon Lake	Jim Morrissey	Proposed RHNA Methodology
9/5/2019		Hunter Owens	Proposed RHNA Methodology
9/5/2019		Stephen Twining	Regional Determination
9/5/2019		Paul Callinan	Regional Determination
9/5/2019		C. McAlpin	Regional Determination
9/5/2019		Isabel Janken	Regional Determination
9/5/2019		Ann Hayman	Regional Determination
9/5/2019		Meg Sullivan	Housing Production
9/5/2019	City of Moreno Valley	Patty Nevins	Proposed RHNA Methodology
9/5/2019		Massy Mortazavi	Regional Determination
9/5/2019		Fred Golan	Regional Determination
9/5/2019		Debbie & Howard Nussbaum	Regional Determination
9/5/2019		Devony Hastings	Regional Determination
9/5/2019	League of Women Voters of Los Angeles County	Marge Nichols	RHNA Methodology
9/5/2019		Larry Blugrind	Housing Distribution
9/5/2019		Terry Tegnazian	Regional Determination
9/5/2019	Gateway Cities Council of Governments (GCCOG)	M. Diane DuBois	RHNA Methodology
9/5/2019		Denson Fujikawa	Other
9/5/2019		Tracy Fitzgerald	Regional Determination
9/5/2019	City of Pomona	Anita Gutierrez	Proposed RHNA Methodology
9/5/2019		Minhlinh Nguyen	Regional Determination
9/5/2019		Anita Gutierrez	Proposed RHNA Methodology
9/5/2019	City of Fountain Valley	Steve Nagel	Proposed RHNA Methodology
9/5/2019	City of Camarillo	Kevin Kildee	Proposed RHNA Methodology
9/5/2019		Denson Fujikawa	Other
9/6/2019	City of Sierra Madre	Gabriel Engeland	Proposed RHNA Methodology
9/6/2019	City of Laguna Hills	Donald White	Proposed RHNA Methodology
9/6/2019		David Oliver	Regional Determination
9/6/2019	City of Chino Hills	Joann Lombardo	Proposed RHNA Methodology
9/7/2019		David Ting	Regional Determination
9/9/2019	City of Azusa	Sergio Gonzalez	Proposed RHNA Methodology
9/9/2019	City of Alhambra	Jessica Binnquist	Proposed RHNA Methodology
9/9/2019	Los Angeles Chamber of Commerce	Maria Salinas	RHNA Methodology
9/9/2019	City of Ranchos Palos Verdes	Octavio Silva	Proposed RHNA Methodology
9/9/2019		Kathy Whooley	Regional Determination
	San Gabriel Valley Council of Governments		
9/9/2019	(SGVCOG)	Cynthia Sternquist	Proposed RHNA Methodology
9/9/2019		Matthew Hinsley	Regional Determination
9/9/2019	City of Agoura Hills	Greg Ramirez	Proposed RHNA Methodology
9/10/2019	City of Redondo Beach	Laura Emdee	Regional Determination
9/10/2019		Jessica Sandoval	Proposed RHNA Methodology
9/10/2019	City of Redondo Beach	Bill Brand	Proposed RHNA Methodology
9/10/2019		Yesenia Medina	Regional Determination
9/10/2019		Jeannette Mazul	Regional Determination
9/10/2019		Jocelyne Irineo	Proposed RHNA Methodology
9/10/2019		Cristina Resendez	Proposed RHNA Methodology
9/10/2019		Carla Bucio	Proposed RHNA Methodology
9/10/2019	City of Redondo Beach	Bill Brand	Proposed RHNA Methodology
9/10/2019	City of Redondo Beach	Laura Emdee	Proposed RHNA Methodology



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Date of Letter	Organization	Name	Topic(s)
9/10/2019	City of Garden Grove	Steve Jones	Proposed RHNA Methodology
9/10/2019		Henry Fung	Overall RHNA Process
9/10/2019	City of San Marino	Aldo Cervantes	Proposed RHNA Methodology
9/10/2019	City of South Gate	Jorge Morales	Proposed RHNA Methodology
9/10/2019	City of Torrance	Patrick Furey	Proposed RHNA Methodology
9/10/2019	City of Rancho Cucamonga	John Gillison	Proposed RHNA Methodology
9/10/2019		Jeannette Mazul	Affordable Housing
9/10/2019		Tina Kim	Proposed RHNA Methodology
9/11/2019	City of South Pasadena	Stephanie DeWolfe	Proposed RHNA Methodology
9/11/2019	City of Glendora	Jeff Kugel	Proposed RHNA Methodology
9/11/2019	City of Ojai	John F. Johnson	Proposed RHNA Methodology
9/11/2019	City of Oxnard	Tim Flynn	Proposed RHNA Methodology
9/11/2019	City of Westlake Village	Ned E. Davis	Proposed RHNA Methodology
9/11/2019	City of Cerritos	Art Gallucci	Proposed RHNA Methodology
9/11/2019	City of Hemet	Christopher Lopez	Proposed RHNA Methodology
9/11/2019	City of La Palma	Laurie Murray	Proposed RHNA Methodology
9/11/2019	City of Bell	Ali Saleh	Proposed RHNA Methodology
9/11/2019		Karen Rivera	Regional Determination
9/11/2019		David Coffin	Regional Determination
9/12/2019	City of Lomita	Alicia Velasco	Proposed RHNA Methodology
9/12/2019	City of Wildomar	Matthew Bassi	Proposed RHNA Methodology
9/12/2019	City of Aliso Viejo	David Doyle	Proposed RHNA Methodology
9/12/2019	City of Commerce	Vilko Domic	Proposed RHNA Methodology
9/12/2019	City of El Monte	Betty Donovanik	Proposed RHNA Methodology
9/12/2019	South Bay Cities Council of Governments (SBCCOG)	Christian Horvath	Proposed RHNA Methodology
9/12/2019	City of Huntington Beach	Dave Kiff	Proposed RHNA Methodology
9/12/2019	City of Rosemead	Gloria Molleda	Proposed RHNA Methodology
9/12/2019	City of Dana Point	Matt Schneider	Proposed RHNA Methodology
9/12/2019	City of Placentia	Rhonda Shader	Proposed RHNA Methodology
9/12/2019	City of Palos Verdes Estates	Carolynn Petru	Proposed RHNA Methodology
9/12/2019	City of Palmdale	Mark Oyler	Proposed RHNA Methodology
9/12/2019	City of Hawthorne	Alejandro Vargas	Proposed RHNA Methodology
9/12/2019	City of Irvine	Mayor Christina L. Shea	Proposed RHNA Methodology
9/12/2019	City of Walnut	Rob Wishner	Proposed RHNA Methodology
9/12/2019	City of Maywood	Jennifer Vasquez	Proposed RHNA Methodology
9/12/2019	City of Culver City	Meghan Sahli-Wells	Proposed RHNA Methodology
9/12/2019	City of Buena Park	Joel Rosen	Proposed RHNA Methodology
9/12/2019	City of Santa Clarita	Thomas Cole	Proposed RHNA Methodology
9/12/2019	City of Temecula	Luke Watson	Proposed RHNA Methodology
9/12/2019	City of Lake Elsinore	Richard MacHott	Proposed RHNA Methodology
9/12/2019	City of San Dimas	Ken Duran	Proposed RHNA Methodology
9/12/2019	City of Irwindale	William Tam	Proposed RHNA Methodology
9/12/2019	City of Santa Ana	Kristine Ridge	Proposed RHNA Methodology
9/12/2019	City of La Mirada	Jeff Boynton	Proposed RHNA Methodology
9/12/2019	City of Anaheim	Chris Zapata	Proposed RHNA Methodology
9/12/2019	City of Costa Mesa	Lori Ann Farrell Harrison	Proposed RHNA Methodology
9/12/2019	City of Huntington Park	Sergio Infanzon	Proposed RHNA Methodology
9/12/2019	Westside Neighborhood Council	Terri Tippit	Proposed RHNA Methodology
9/12/2019	City of Eastvale	Bryan Jones	Proposed RHNA Methodology
9/12/2019		John Birkett	Regional Determination

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Date of Letter	Organization	Name	Topic(s)
9/12/2019		Lourdes Petersen	Regional Determination
9/12/2019		Jesse Silva	Proposed RHNA Methodology
9/12/2019		Anne Hilborn	Proposed RHNA Methodology
9/12/2019		Henry Fung	Proposed RHNA Methodology
9/13/2019		Holly Osborne	Proposed RHNA Methodology
9/13/2019		Niall Huffman	Proposed RHNA Methodology
9/13/2019		Michael Hoskinson	Proposed RHNA Methodology
San Bernardino County Transportation			
9/13/2019	Authority/Council of Governments (SBCTA/SBCOG)	Darcy McNaboe	Proposed RHNA Methodology
9/13/2019	City of Downey	Aldo Schindler	Proposed RHNA Methodology
9/13/2019	City of Bellflower	Elizabeth Corpuz	Proposed RHNA Methodology
9/13/2019	City of Lakewood	Abel Avalos	Proposed RHNA Methodology
9/13/2019	City of Orange	Rick Otto	Proposed RHNA Methodology
9/13/2019	City of Paramount	John Carver	Proposed RHNA Methodology
9/13/2019	City of Rolling Hills	Jeff Pieper	Proposed RHNA Methodology
9/13/2019	City of San Fernando	Nick Kimball	Proposed RHNA Methodology
9/13/2019	City of Mission Viejo	Dennis Wilberg	Proposed RHNA Methodology
9/13/2019	City of Moorpark	Karen Vaughn	Proposed RHNA Methodology
9/13/2019	American Planning Association (CA Chapter)	Eric Phillips	Proposed RHNA Methodology
9/13/2019	County of Ventura	David Ward	Proposed RHNA Methodology
9/13/2019	City of Chino	Nicholas Liguori	Proposed RHNA Methodology
9/13/2019	One Step A La Vez	Kate English	Housing Development
American Planning Association (Los Angeles Section)			
9/13/2019	City of Laguna Beach	Ryan Kurtzman	Proposed RHNA Methodology
9/13/2019	Santa Monicans for Renters' Rights	Scott Drapkin	Proposed RHNA Methodology
9/13/2019	Western Riverside Council of Governments	Patricia Hoffman and Denny Zane	Proposed RHNA Methodology
Western Riverside Council of Governments (WRCOG)			
9/13/2019	City of Los Angeles	Rick Bishop	Proposed RHNA Methodology
9/13/2019	City of West Hollywood	Mayor Eric Garcetti	Proposed RHNA Methodology
9/13/2019	City of San Juan Capistrano	Mayor John D'Amico	Proposed RHNA Methodology
9/13/2019	City of Thousand Oaks	Joel Rojas	Proposed RHNA Methodology
9/13/2019	City of Newport Beach	Mark Towne	Proposed RHNA Methodology
9/13/2019	City of Laguna Niguel	Seimone Jurjis	Proposed RHNA Methodology
9/13/2019	City of Laguna Niguel	Jonathan Orduna	Proposed RHNA Methodology
9/13/2019	County of San Bernardino	Terri Rahhal	Proposed RHNA Methodology
9/13/2019	City of Indio	Kevin Snyder	Proposed RHNA Methodology
9/13/2019	City of Avalon	Anni Marshall	Proposed RHNA Methodology
9/13/2019	City of Burbank	Patrick Prescott	Proposed RHNA Methodology
9/13/2019	City of Santa Monica Housing Commission	Michael Soloff	Proposed RHNA Methodology
9/13/2019	City of Riverside	Jay Eastman	Proposed RHNA Methodology
9/13/2019	City of Whittier	Conal McNamara	Proposed RHNA Methodology
9/13/2019	City of San Gabriel	Arminé Chaparyan	Proposed RHNA Methodology
9/13/2019	City of San Buenaventura (Ventura)	Peter Gilli	Proposed RHNA Methodology
9/13/2019	City of Temple City	Scott Reimers	Proposed RHNA Methodology
9/13/2019	City of Palm Desert	Ryan Stendell	Proposed RHNA Methodology
9/13/2019	City of Monterey Park	Ron Bow	Proposed RHNA Methodology
9/13/2019	LA Thrives Et Al. (19 total organizations)	LA Thrives Et Al. (19 total organizations)	Proposed RHNA Methodology
Leadership Council for Justice and Accountability Et Al. (7 total organizations)			
9/13/2019	Al. (7 total organizations)	Leadership Council for Justice and Accountability Et Al. (7 total organizations)	Proposed RHNA Methodology

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Date of Letter	Organization	Name	Topic(s)
	Southern California Business Coalition (7 total organizations)		
9/13/2019		Southern California Business Coalition (7 total organizations)	Proposed RHNA Methodology
9/15/2019		Michelle Schumacher	Other
9/30/2019	Homeowners of Encino	Eliot Cohen	Proposed RHNA Methodology
9/30/2019		Trudy Sokol	Other
10/1/2019	City of Barstow	Michael Massimini	Proposed RHNA Methodology
10/2/2019	County of Orange	Supervisor Donald Wagner	Draft RHNA Methodology
10/3/2019	County of Riverside	Charissa Leach	Draft RHNA Methodology
10/4/2019	City of Irvine	Mayor Christina L. Shea	Draft RHNA Methodology
10/6/2019	UCLA Luskin School of Public Affairs	Paavo Monkkonen	Draft RHNA Methodology
10/7/2019	City of Costa Mesa	Lori Ann Farrell Harrison	Draft RHNA Methodology
10/8/2019	South Bay Cities Council of Governments (SBCCOG)	Christian Horvath	Draft RHNA Methodology
10/9/2019	Del Rey Residents Association	Tara Walden	Other
10/10/2019		Karen Davis Ferlauto	Other
10/11/2019	Abundant Housing LA	David Bonaccorsi	Draft RHNA Methodology
10/11/2019	City of Oxnard	Mayor Tim Flynn	Draft RHNA Methodology
10/16/2019	County of Riverside	Charissa Leach	Draft RHNA Methodology
10/21/2019	City of Newport Beach	Seimone Jurjis	Draft RHNA Methodology
	San Bernardino County Transportation Authority/Council of Governments (SBCTA/SBCOG)		
10/21/2019		Ray Wolfe	Draft RHNA Methodology
10/23/2019		Barbara Broide	Draft RHNA Methodology
10/23/2019	County of Riverside	Supervisor Kevin Jeffries	Draft RHNA Methodology
10/25/2019		Robert Flores	Draft RHNA Methodology
10/25/2019		Reed Bernet	Draft RHNA Methodology
10/29/2019	Rancho Palos Verdes	Ana Mihranian	Draft RHNA Methodology
10/28/2019		Warren Hogg	Draft RHNA Methodology
10/29/2019	City of Coachella	Luis Lopez	Draft RHNA Methodology
10/31/2019		Marilyn Brown	Purpose of RHNA
		Mayor Rusty Bailey (City of Riverside)	
		Supervisor Karen Spiegel (County of Riverside)	
		Mayor Frank Navarro (City of Colton)	
11/1/2019		Hon. Toni Momberger (City of Redlands)	Draft RHNA Methodology
11/1/2019	City of Los Angeles, 4th District	Hon. David Ryu	Draft RHNA Methodology
11/4/2019	Central Cities Association of Los Angeles	Jessica Lall	Draft RHNA Methodology
11/5/2019	Orange County Council of Governments (OCCOG)	Marnie O. Primmer	Draft RHNA Methodology
11/5/2019	City of Gardena	Mayor Tasha Cerda	Draft RHNA Methodology
11/5/2019	City of Los Angeles	Vincent P. Bertoni and Kevin J. Keller	Draft RHNA Methodology
11/5/2019	City of Huntington Beach	Oliver Chi	Draft RHNA Methodology
11/6/2019	City of Hemet	Christopher Lopez	Draft RHNA Methodology
11/6/2019	City of Chino	Nicholas S. Liguori	Draft RHNA Methodology
11/6/2019	City of Menifee	Cheryl Kitzerow	Draft RHNA Methodology
11/6/2019	County of Los Angeles	Sachi A. Hamai	Draft RHNA Methodology
11/6/2019	City of Newport Beach	Seimone Jurjis	Draft RHNA Methodology
11/6/2019	City of Fontana	Michael Milhiser	Draft RHNA Methodology
11/6/2019	City of Chino Hills	Joann Lombardo	Draft RHNA Methodology
11/6/2019		Henry Fung	Regional Determination
11/6/2019	City of Costa Mesa	Barry Curtis	Draft RHNA Methodology
11/7/2019	City of Temple City	Scott Reimers	Draft RHNA Methodology

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Date of Letter	Organization	Name	Topic(s)
11/8/2019	Gateway Cities Council of Governments (GCCOG)	Nancy Pfeffer	Draft RHNA Methodology
11/20/2019	City of Huntington Beach	Michael Gates, Mayor Erik Peterson, and Mayor Pro Tem Lyn Semeta	Draft RHNA Methodology
12/12/2019		Holly Osborne	Draft RHNA Methodology
12/12/2019	City of Tustin	Allan Bernstein	Draft RHNA Methodology
12/19/2019	City of Fountain Valley	Mayor Cheryl Brothers	Draft RHNA Methodology
12/16/2019	City of Chino Hills	Joann Lombardo	Draft RHNA Methodology
12/20/2019	City of Cerritos	Naresh Solanki	Draft RHNA Methodology
1/23/2020		Karen Farley	Draft RHNA Methodology
1/23/2020		Steve Stowell	Draft RHNA Methodology
1/27/2020		Janet Chang	Draft RHNA Methodology
1/29/2020	City of Downey	Mayor Blanca Pacheco	Draft RHNA Methodology
2/4/2020	City of Cerritos	Mayor Naresh Solanki	Draft RHNA Methodology
2/6/2020		Steve Davey	Draft RHNA Methodology
2/6/2020		Connie Bryant	Draft RHNA Methodology
2/6/2020		Tom Wright	Draft RHNA Methodology
2/10/2020	City of Irvine	Marika Poynter	Draft Appeals Procedures
2/10/2020	City of Laguna Hills	David Chantarangsu	Draft Appeals Procedures
2/10/2020	City of Mission Viejo	Gail Shiomoto-Lohr	Draft Appeals Procedures
2/10/2020	City of Santa Ana	Melanie McCann	Draft Appeals Procedures
2/10/2020	City of Oxnard (amended)	Elyssa Vasquez	Draft Appeals Procedures
2/10/2020		Jennifer Denmark	Draft Appeals Procedures
2/12/2020		Janice and Ricardo Lim	Draft RHNA Methodology
2/18/2020	City of Lakewood	Thaddeus McCormack	Draft RHNA Methodology
2/18/2020	OCCOG	Marnie O. Primmer	Regional Determination Objection
2/18/2020		Nancy Norman	Draft RHNA Methodology
2/18/2020		Sepeedeh Ahadiat	Draft RHNA Methodology
2/18/2020		Nas Ahadiat	Draft RHNA Methodology
2/19/2020		Dave Latter	Draft RHNA Methodology
2/19/2020		Vikki Bujold-Peterson	Draft RHNA Methodology
2/19/2020	City of Yorba Linda	David Brantley	Draft RHNA Methodology
2/21/2020	City of Newport Beach	Will O'Neill	Draft RHNA Methodology
2/20/2020	City of Rancho Santa Margarita	Cheryl Kuta	Draft RHNA Methodology
2/20/2020	City of Huntington Beach	Oliver Chi	Draft RHNA Methodology
2/20/2020	City of South Gate	Joe Perez	Draft RHNA Methodology
2/20/2020	City of West Hollywood	John Leonard	Draft RHNA Methodology
2/20/2020	City of Cerritos	Art Gallucci	Draft RHNA Methodology
2/22/2020		Colleen Johnson	Draft RHNA Methodology
2/23/2020		Nancy Pleskot	Other
2/23/2020		Susan Decker	Draft RHNA Methodology
2/23/2020		Scott Nathan	Housing Development
2/20/2020	City of Irvine	Pete Carmichael	Draft RHNA Methodology
2/20/2020	City of Anaheim	Ted White	Draft RHNA Methodology
2/24/2020	City of Anaheim	Trevor O'Neil	Draft RHNA Methodology
2/25/2020		Vito Mancini	Draft RHNA Methodology
2/25/2020		Henry Fung	CEHD Meeting Agenda
2/25/2020	City of Rosemead	Margaret Clark and Gloria Molleda	Draft RHNA Methodology
2/26/2020	City of Fullerton	Kenneth Domer	Draft RHNA Methodology
2/26/2020		Henry Fung	Draft RHNA Methodology
2/26/2020	City of Alhambra	Jessica Binnquist	Draft RHNA Methodology
2/26/2020		Holly Osborne	Draft RHNA Methodology

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
2/26/2020	City of La Mirada	Jeff Boynton	Draft RHNA Methodology
2/26/2020	City of Garden Grove	Steven Jones	Draft RHNA Methodology
2/26/2020		Mehta Sunil	Draft RHNA Methodology
2/26/2020	City of Gardena	Tasha Cerda	Draft RHNA Methodology
2/27/2020		Jaimee Suh	Draft RHNA Methodology
2/27/2020	City of South Pasadena	Robert S. Joe	Draft RHNA Methodology
2/27/2020	City of South Gate	Michael Flad	Draft RHNA Methodology
2/27/2020	City of Walnut	Rob Wishner	Draft RHNA Methodology
2/27/2020	City of La Verne	Eric Scherer	Draft RHNA Methodology
2/28/2020		Kari Geosano	Draft RHNA Methodology
2/28/2020	City of Torrance	Danny E. Santana	Draft RHNA Methodology
2/28/2020	City of Laguna Hills	Janine Heft	Draft RHNA Methodology
3/1/2020		Scott Pisano	Draft RHNA Methodology
3/2/2020	City of Bradbury	Richard T. Hale, Jr.	Draft RHNA Methodology
3/2/2020	City of La Mirada	Jeff Boynton	Draft RHNA Methodology
3/2/2020	City of Norco	Steve King	Draft RHNA Methodology
3/2/2020	City of Seal Beach	Les Johnson	Draft RHNA Methodology
3/3/2020	City of Torrance	Danny E. Santana	Draft RHNA Methodology
3/3/2020	City of Cerritos	Art Gallucci	Draft RHNA Methodology
3/3/2020	City of San Dimas	Ken Duran	Draft RHNA Methodology
3/3/2020	City of La Palma	Peter Kim	Draft RHNA Methodology
3/3/2020	City of Newport Beach	Will O'Neill	Draft RHNA Methodology
3/3/2020	City of Rancho Palos Verdes	Terry Rodrigue	Draft RHNA Methodology
3/4/2020		Brian Johnson	Draft RHNA Methodology
3/4/2020	City of Riverside	William R. "Rusty" Bailey (City of Riverside), Frank Navarro (City of Colton), Larry K. McCallon (City of Highland), Deborah Robertson (City of Rialto), Carmen Ramirez (City of Oxnard), Steve Manos (City of Lake Elsinore), Karen S. Spiegel (County of Riverside)	Draft RHNA Methodology
3/4/2020	City of Monterey Park	Ron Bow	Draft RHNA Methodology
3/4/2020		Holly Osborne	Draft RHNA Methodology
3/4/2020	City of La Puente	Bob Lindsey	Draft RHNA Methodology
3/4/2020	City of Huntington Beach	Oliver Chi	Draft RHNA Methodology
3/4/2020	City of Eastvale	Bryan Jones	Draft RHNA Methodology
3/4/2020	City of Lake Forest	Neeki Moatazedi	Draft RHNA Methodology
3/4/2020	City of Chino Hills	Ray Marquez	Draft RHNA Methodology
3/4/2020	City of La Puente	Bob Lindsey	Draft RHNA Methodology
3/5/2020	City of Costa Mesa	Barry Curtis	Draft RHNA Methodology
3/12/2020	City of Fountain Valley	(unsigned)	Proposed Housing Legislative Amendments
3/14/2020		Amy Wasson	RHNA Methodology
4/27/2020	OCCOG	Hon. Trevor O'Neil	RHNA Methodology
5/5/2020		Holly Osborne	RHNA Methodology
5/5/2020		Holly Osborne	RHNA Methodology (2nd letter received)
11/4/2020	City of Beverly Hills	Lester J. Friedman	RHNA Litigation Committee
11/9/2020	City of Lakewood	Todd Rogers	RHNA Litigation Committee
11/10/2020	City of Rosemead	Sandra Armenta	RHNA Litigation Committee
11/10/2020	City of Gardena	Tasha Cerda	RHNA Litigation Committee
11/11/2020	City of Cypress	Rob Johnson	Comment from Jurisdiction on filed appeal: City of Santa Ana
11/11/2020	City of Cypress	Rob Johnson	RHNA Litigation Committee
11/12/2020	City of Torrance	Patrick J. Furey	RHNA Litigation Committee
11/13/2020	City of Whittier	Joe Vinatieri	RHNA Litigation Committee
11/16/2020	City of Rancho Santa Margarita	Bradley J. McGirr	RHNA Litigation Committee

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
11/16/2020	City of Pico Rivera	Gustavo Camacho	RHNA Litigation Committee
11/16/2020	City of Pico Rivera	Steve Carmona	RHNA Litigation Committee
11/16/2020	City of Glendora	Michael Allawos	RHNA Litigation Committee
11/17/2020	City of Beverly Hills	George Chavez	RHNA Litigation Committee
11/17/2020	City of Lawndale	Robert Pullen-Miles	RHNA Litigation Committee
11/17/2020	City of Norwalk	Jennifer Perez	RHNA Litigation Committee
11/17/2020	City of Redondo Beach	William Brand	RHNA Litigation Committee
11/17/2020	City of San Fernando	Joel Fajardo	RHNA Litigation Committee
11/17/2020	City of Fountain Valley	Cheryl Brothers	RHNA Litigation Committee
11/17/2020	City of Laguna Beach	Bob Whalen	RHNA Litigation Committee
11/18/2020	City of Cerritos	Frank Aurelio Yokoyama	RHNA Litigation Committee
11/18/2020	City of Rancho Palos Verdes	Ara Michael Mhranian	RHNA Litigation Committee
11/18/2020	City of Pasadena	Steve Mermell	RHNA Litigation Committee
11/18/2020	City of Lomita	James Gazeley	RHNA Litigation Committee
11/18/2020	City of Westminster	Sherry Johnson	RHNA Litigation Committee
11/18/2020	City of Temple City	Bryan Cook	RHNA Litigation Committee
11/20/2020	South Bay Cities Council of Governments	Olivia Valentine	RHNA Litigation Committee
11/24/2020	City of Calipatria	Jim Spellins	RHNA Litigation Committee
11/24/2020	City of Chino	Nicholas S. Liguori	RHNA Litigation Committee
11/30/2020	City of Irvine	Christina Shea	RHNA Litigation Committee
11/30/2020	City of Signal Hill	Robert Copeland	RHNA Litigation Committee
12/1/2020	City of Yorba Linda	Mark Pulone	Comment from Jurisdiction on filed appeal: City of Yorba Linda
12/1/2020	Orange County Mayors	21 Orange County mayors	RHNA Litigation Committee
12/2/2020	City of Rancho Santa Margarita	Bradley J. McGirr	Comment from Jurisdiction on filed appeal: City of Santa Ana
12/3/2020	City of Long Beach	Christopher Koontz	Comment from Jurisdiction on filed appeal: All appeals
12/4/2020		Kevin Yang	Public comment on filed appeal: City of Yorba Linda
12/9/2020	City of Yorba Linda	Mark Pulone	Comment from Jurisdiction on filed appeal: City of Yorba Linda
12/10/2020	City of Whittier	Jeffrey S. Adams	Comment from Jurisdiction on filed appeal: All appeals
12/10/2020	California Department of Housing and Community Development (HCD)	Megan Kirkeby	Comment from California Department of Housing & Community Development on filed appeal: All appeals
12/10/2020	City of Corona	Joanne Coletta	Comment from Jurisdiction on filed appeal: City of Hemet and County of Riverside
12/10/2020	City of Santa Ana	Kristine Ridge	Comment from Jurisdiction on filed appeal: City of Santa Ana
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Costa Mesa
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: County of Orange
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Fountain Valley
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Fullerton
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Garden Grove
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Irvine
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: La Palma
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Laguna Beach
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Laguna Hills
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Los Alamitos
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Mission Viejo
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Newport Beach
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Rancho Santa Margarita
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Tustin
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Westminster
12/10/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Yorba Linda
12/18/2020	Public Law Center	Alexis Mondares and Richard Walker	Public comment on filed appeal: Orange County jurisdictions
12/21/2020	City of Yorba Linda	Mark Pulone	Response to comment from Public Law Center (12/10/20)

Written Comments Received on the 6th Cycle RHNA (as of 1/14/21)

Date of Letter	Organization	Name	Topic(s)
12/24/2020		Holly Osborne	RHNA Methodology
1/4/2021		Henry Fung	RHNA Litigation Committee
1/5/2021	City of Yorba Linda	Nate Farnsworth	Public comment on filed appeal: Fontana; Pico Rivera; San Dimas; Yorba Linda
1/5/2021	City of Chino Hills	Joann Lombardo	Public comment on filed appeal: Chino Hills
1/6/2021		Henry Fung	RHNA Litigation Committee
1/7/2021	City of Pico Rivera	Luis Rodriguez	Public comment on filed appeal: Pico Rivera
1/8/2021	Eastlake Village Community Association	Susan Janowicz	Public comment on filed appeal: Yorba Linda
1/8/2021		Anonymous	Public comment on filed appeal: Yorba Linda
1/11/2021	City of Pico Rivera	Luis Rodriguez Jr.	Comment from Jurisdiction on filed appeal: Pico Rivera
1/12/2021	People for Housing Orange County; The Kennedy Commission; Orange County United Way; Providence; Welcoming Neighbors Home; Tapestry; Habitat for Humanity of Orange County	Elizabeth Hansburg; Cesar Covarrubias; Susan Parks; Barry Ross; Rona Henry; Rev. Kent Doss; Sharon Ellis	Public comment on filed appeals: Orange County Cities
1/12/2021		Katherine Kim	Public comment on filed appeal: Yorba Linda
1/12/2021		Mark Lee	Public comment on filed appeal: Yorba Linda
1/12/2021		Jackie Girgis	Public comment on filed appeal: Yorba Linda
1/12/2021		Denelle Voegtly	Public comment on filed appeal: Yorba Linda
1/12/2021		Arivinder Mann	Public comment on filed appeal: Yorba Linda
1/13/2021	Hollywood Riviera Homeowners Association	Amy Josefek	Public comment on filed appeal: Torrance
1/13/2021	City of Newport Beach	Brad Avery	Response to comment from Public Law Center (12/10/20)
1/13/2021		Chris Dreike	RHNA Methodology
1/13/2021		Russell Khouri	Public comment on filed appeal: Rancho Santa Margarita
1/14/2021		Don Bernstein	Public comment on filed appeal: Yorba Linda
1/14/2021		Rhonda Lundberg	Public comment on filed appeal: Rancho Santa Margarita
1/14/2021	Orange County Business Council	Jennifer Ward	Public comment on filed appeals: Orange County Cities
1/14/2021	City of Yorba Linda	Todd O. Litfin	Comment from Jurisdiction on filed appeal: Yorba Linda
1/14/2021	City of Irvine	Pete Carmichael	Comment from Jurisdiction on filed appeal: City of Irvine

All comments are posted online at <https://scag.ca.gov/rhna-comments>.

Comments can be submitted to: [housing@scag.ca.gov](mailto:housing@scag.ca.gov)

1/11/2021	City of Pico Rivera	Luis Rodriguez Jr.	Comment from Jurisdiction on filed appeal: Pico Rivera
1/12/2021		Denelle Voegtly	Public comment on filed appeal: Yorba Linda
1/12/2021		Arivinder Mann	Public comment on filed appeal: Yorba Linda
1/13/2021	Hollywood Riviera Homeowners Association	Amy Josefek	Public comment on filed appeal: Torrance
1/13/2021	City of Newport Beach	Brad Avery	Response to comment from Public Law Center (12/10/20)
1/13/2021		Chris Dreike	RHNA Methodology
1/13/2021		Russell Khouri	Public comment on filed appeal: Rancho Santa Margarita
1/14/2021		Don Bernstein	Public comment on filed appeal: Yorba Linda
1/14/2021		Rhonda Lundberg	Public comment on filed appeal: Rancho Santa Margarita
1/14/2021	Orange County Business Council	Jennifer Ward	Public comment on filed appeals: Orange County Cities
1/14/2021	City of Yorba Linda	Todd O. Litfin	Comment from Jurisdiction on filed appeal: Yorba Linda
1/14/2021	City of Irvine	Pete Carmichael	Comment from Jurisdiction on filed appeal: City of Irvine



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist,  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the County of Orange  
(Unincorporated Areas)

**RECOMMENDED ACTION:**

Deny the appeal filed by the County of Orange to reduce the draft RHNA allocation for the County of Orange (unincorporated areas) by 4,922 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The County of Orange (unincorporated areas) requests a reduction of its RHNA allocation 4,922 units (from 10,381 units to 5,459 units) based on the following issues:

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)
- 2) Availability of land suitable for urban development or for conversion to residential use
- 3) Sewer or water infrastructure constraints for additional development
- 4) Lands protected from urban development under existing federal or state programs
- 5) Changed circumstances

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal(s) and recommend no change to the County of Orange's RHNA allocation. Regarding Issue 1, the City's assertion on the incorrect application of methodology does not take into account that RHNA need represents both projected need and existing need. Regarding Issue 2, the availability of land was not demonstrated to be an impediment to meeting the County of Orange's RHNA allocation since it does not consider the possibility of allowing housing on other areas in the jurisdiction. Regarding Issue 3, sewer capacity, no evidence was provided that the City could not accommodate its need in areas that did not have constraints. Regarding Issue 5, change in circumstance, the County's assertions regarding past, current, and future annexations does not

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*



warrant a reduction due to the application of Government Code 65584.07.

**BACKGROUND:**

**Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the County of Orange: 10,381 units  
    Very Low Income: 3,131 units  
    Low Income: 1,862 units  
    Moderate Income: 2,035 units  
    Above Moderate Income: 3,353 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

**Summary of Comments Received during 45-day Comment Period**

One comment was received from a local jurisdiction during the 45-day public comment period described in Government Code section 65584.05(c):

- The City of Yorba Linda submitted a comment on December 9, 2020, specifically related to the development of residential units on land it has annexed from the County of Orange and the request that if an appeal is granted to the County based on this, that the units be redistributed back to the region or at least limited to above moderate income levels if allocated to the City.

In addition, three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.

- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

**ANALYSIS:*****Issue 1: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029) [Government Code section 65584.05 (b)(2)].***

*The County indicates in its appeal allocation several factors relating to the application of the RHNA Methodology to determine its Draft RHNA Allocation. These include the assertions that the methodology fails to consider growth projections consistent with the Connect SoCal Plan and that the methodology incorrectly uses national averages as a benchmark. The County asserts that neither SCAG's Growth Forecast nor its Connect SoCal Plan was applied to generate the Regional Housing Needs Determination, implying that the resulting RHNA allocation for the County of Orange is inconsistent with the Growth Forecast used in Connect SoCal. It suggests that the 8-year Growth Forecast projection for the County is consistent with the allocation they are requesting.*

**SCAG Staff Response:** As described above and in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally-reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the RHNA methodology was found by HCD to further the five statutory objectives<sup>1</sup> in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another. An example of an improper application of the adopted methodology might be a data error which was identified by a local jurisdiction.

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)

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SCAG's final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make changes to the regional determination.

While the RHNA statute prescribes specific requirements for HCD in determining the regional housing need (e.g., the determination shall be based on population projects produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans), it allows HCD to accept or reject information provided by SCAG with respect to the data assumptions from SCAG's growth forecast or to modify its own assumptions or methodology based on this information. HCD did not materially change the regional determination following SCAG's formal objection filed on September 18, 2019, and there are no further mechanisms provided for in statute to contest their decision. Nevertheless, SCAG has a statutory obligation to complete the remaining steps required in the RHNA process—namely the adoption of a Final RHNA Methodology, conducting an appeals process, and issuing final RHNA allocations.

Additionally, the RHNA allocation is a representation of a jurisdiction's projected and *existing* housing need. SCAG's Growth Forecast was used as the basis for determining a jurisdiction's projected housing need, but it does not represent existing housing need. While the County asserts that its requested reduction is aligned with projected need, it does not take into account existing need that the RHNA allocation is required to encompass.

Because this appeal factor is limited to the application of the RHNA Methodology, not the regional determination process, and a jurisdiction's RHNA Allocation is not solely a representation of projected need, SCAG staff does not recommend a reduction of the Draft RHNA Allocation based on this factor.

**Issue 2: Availability of land suitable for urban development or for conversion to residential use [Government Code section 65584.04(e)(2)(B)].**

*The County of Orange indicates in its appeal that 23% of its land is open space and is protected from development. Based on this assertion, it requests a 23% reduction, or 2,388 units, from its draft RHNA allocation.*

*In addition, the County indicates that it has an entitlement controlled by development agreements, namely the Ranch Plan Planned Community. The development agreement is dated from 2004 and cannot be amended for additional housing units by the county since the settlement agreement limits the number of development units. The settlement agreement also dedicates 8.6% of unincorporated County of Orange land as open space, which cannot be used for residential uses. Due to this reason, the County requests an additional 8.6% reduction, or 892 units, from its draft RHNA allocation.*

**SCAG Staff Response:** Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG “may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality” (which includes the land use policies in its General Plan). “Available land suitable for urban development or conversion to residential use,” as expressed in 65584.04(e)(2)(B), is not restricted to vacant sites; rather, it specifically indicates that underutilized land, opportunities for infill development, and increased residential densities are a component of “available” land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

“In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.” (HCD Letter at p. 2).

Furthermore, on June 10, 2020, HCD released extensive guidelines for housing element site inventories.<sup>2</sup> A wide range of adequate sites are detailed including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).<sup>3</sup> Specifically, the guidelines indicate that (page 32):

“In consultation with HCD, other alternatives may be considered such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.”

As such, the County can and must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the County’s projected growth.

The County has only provided information on certain areas of its jurisdiction and does not demonstrate that it cannot accommodate its assigned need elsewhere in the County. Again, SCAG is prohibited from limiting the consideration of suitable sites due to the County’s land use restrictions and is required to review alternative methods to meet housing need, neither of which is provided in the appeal application. For this reason, SCAG staff does not recommend a reduction to the County of Orange’s Draft RHNA Allocation based on this factor.

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<sup>2</sup> See [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf)

<sup>3</sup> See also Accessory Dwelling Unit Handbook, HCD, September 2020 at <https://www.hcd.ca.gov/policy-research/docs/adu-ta-handbook-final.pdf>

**Issue 3: Sewer or water infrastructure constraints for additional development [Government Code section 65584.04(e)(2)(A)].**

*The County of Orange indicates in its appeal that SCAG did not take into consideration septic capacity within certain areas. Based on the California State Water Resources Control Board Policy Guidelines Onsite Wastewater Treatment Systems (OWTS) policy guidelines, the County is restricted to an allowable density of no more than 1 dwelling unit per 2 acres in areas that are more than 200 feet from a public sewer line. The application states that there are 459 residential parcels with this density limitation and thus the County is requesting that 459 units be deducted from its draft RHNA allocation.*

**SCAG Staff Response:** SCAG staff does not dispute the density restrictions described by the County in its appeal. However, the submitted appeal does not indicate that these parcels have collectively reached a 459 unit capacity and their current availability, nor does it explain why the extension of the sewer system is infeasible. In addition, there is no explanation as to why the reduction request is a 1:1 ratio for its capacity on these particular parcels. The fact that there is a density cap on certain parcels does not negate housing need nor its amount, and the County has not demonstrated that it cannot accommodate this need elsewhere in its jurisdiction.

For these reasons, SCAG staff does not recommendation a reduction to the County's Draft RHNA Allocation based on this factor.

**Issue 4: Changed circumstances [Government Code section 65584.05(b)].**

*The County indicates in its appeal that due to prior, ongoing, and future annexations, it requests a reduction in its RHNA allocation. It argues that because "recent annexations and mutually agreed upon transfer agreement were not addressed by SCAG in the 6<sup>th</sup> Cycle Final RHNA Methodology", there was a "violation" in determining its Draft RHNA Allocation.*

*First, the County asserts that since 2014 it has had a decrease in 9.5% of acreage within its jurisdiction. To account for any future annexations, it requests a reduction of 9.5% to its Draft RHNA Allocation.*

*Second, the County writes that October 2019, the City of Yorba Linda and the County entered into a cooperative agreement that allows for the County to complete planning approvals for development after annexation of an 80-unit residential subdivision. The County is requesting an 80 unit reduction since it is currently reviewing the grading permits for the development.*

*Lastly, the County states that in November 2019, the City of Santa Ana completed a 25-acre annexation with the County. In its 5<sup>th</sup> housing element update, the County indicated that the*

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*annexed parcels had a development potential of 117 residential units. For this reason, they are requesting a reduction of 117 units.*

**SCAG Staff Response:** While an annexation may change a boundary of two jurisdictions, it does not automatically translate into a change in RHNA allocation. Government Code Section 65584.07(d)(1) prescribes a process that a County and annexing city must follow when an annexation occurs. During an annexation, a county and city may reach a mutually acceptable agreement to transfer RHNA units from the county to the city. This agreement is effective immediately upon receipt by SCAG. If the two parties cannot reach an agreement, one of them may request that SCAG consider data and other information presented by both parties and make a determination for the transfer from county to city. In either case, within 90 days of annexation the transfer of units or request for a determination must be submitted to SCAG. The transfer must also follow the adopted RHNA Methodology.

The first request of a pre-emptive 9.5% reduction does not constitute a significant and unforeseen change in circumstance because not only are annexations not unforeseen, they are also covered under a specific statute. Any future transfer agreements between the County and a city will be governed by the process outlined in State law and the County can receive a reduction during that particular annexation process. A pre-emptive reduction could potentially result in a redundant reduction for the County and is thus not recommended.

In regard to the Cielo Vista agreement with Yorba Linda, SCAG has not received a mutually acceptable agreement to transfer units from the County to City and there has not been any evidence provided in the appeal that indicates this is a finalized annexation. A pre-annexation agreement from October 2019 is included with the appeal, but it indicates that the agreement will not become effective until all parties have approved the agreement (page 259) and no documentation has been provided to support this. Additionally, the County explicitly states in its appeal that it is still allowed to complete planning approvals for development and is currently reviewing grading permits, which implies that the County still has permitting authority for this area. Because no change in circumstance has occurred, SCAG staff does not recommend a reduction based on this future annexation.

In regard to the annexation of land by the City of Santa Ana, the County has provided evidence that this annexation occurred in November 2019. However, there is no evidence of a mutually agreed upon transfer of RHNA units. While the County asserts that its 5<sup>th</sup> housing element listed a potential 117 units for this area, there is no evidence that this calculation was agreed to by the annexing city then or now. Currently the permitting authority for this area is the City of Santa Ana, but no documentation has been provided in this application that the City supports this calculation. Because no agreement of RHNA transfer was submitted as a result of this annexation, nor is there evidence

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to support this calculation from the current permitting authority, SCAG staff does not recommend a reduction based on this factor.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (County of Orange)
2. Appeal Form and Supporting Documentation (County of Orange)
3. Comments Received During the Comment Period (General)
4. Comment Received During the Comment Period (City of Yorba Linda)

## Attachment 1: Local Input and Development of the Draft RHNA Allocation

This attachment sets forth the nature and timing of the opportunities which the County of Orange had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the County of Orange's Draft RHNA Allocation.

### 1. Local input

#### *a. Bottom-Up Local Input and Envisioning Process*

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the County of Orange, the anticipated number of households in 2020 was 42,659 and in 2030 was 49,018 (growth of 6,359 households). In March 2018, SCAG staff and CDR staff met with staff from the County of Orange to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>.



**b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions’ Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The County of Orange submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

**c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG’s Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California’s GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://scag.ca.gov/sites/main/files/file-attachments/growth-vision-methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council’s decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG’s Scenario Planning Model Data Management Site (SPM-DM) at <http://spmDM.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG received additional technical corrections from the County of Orange and incorporated them into the

Growth Vision in December 2019. The County of Orange’s TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

**2. Development of the Final RHNA Methodology**

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG’s 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG’s Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes.*

*In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQT) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### **3. Draft RHNA Allocation for the County of Orange**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the County of Orange received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the County of Orange as summarized in the data and calculations in the tables below.

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<b>Unincorporated Orange Co. statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	5246
Percent of households who are renting:	22%
Housing unit loss from demolition (2009-18):	42
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	14,452
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	9.02%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	906,000
Share of region's job accessibility (population weighted):	0.60%
Jurisdiction's HQTAs population (2045):	19,755
Share of region's HQTAs population (2045):	0.19%
Share of population in low/very low-resource tracts:	8.69%
Share of population in very high-resource tracts:	48.26%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Unincorporated Orange Co.	
Forecasted household (HH) growth, RHNA period:	5246
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	119
Replacement Need	42
<b>TOTAL PROJECTED NEED:</b>	<b>5407</b>
Existing need due to job accessibility (50%)	2506
Existing need due to HQTAs pop. share (50%)	808
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	1660
<b>TOTAL EXISTING NEED</b>	<b>4974</b>
<b>TOTAL RHNA FOR UNINCORPORATED ORANGE CO.</b>	<b>10381</b>
Very-low income (<50% of AMI)	3131
Low income (50-80% of AMI)	1862
Moderate income (80-120% of AMI)	2035
Above moderate income (>120% of AMI)	3353

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 19,755 living within HQTAs, the County of Orange represents 0.19% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific

jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the County of Orange's median TAZ, it will be possible to reach 9.02% of the region's jobs in 2045 within a 30-minute automobile commute (906,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 1,660 units assigned to the County of Orange.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: 10/26/20 Jurisdiction Subject to This Appeal Filing: County of Orange  
*(to file another appeal, please use another form)*

Filing Party (Jurisdiction or HCD)  
County of Orange

Filing Party Contact Name  
Donald Wagner

Filing Party Email:  
Donald.Wagner@ocgov.com

**APPEAL AUTHORIZED BY:**

Name: Donald Wagner

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: County of Orange / Board of Supervisor

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). This appeal is based on the following grounds:

1. Methodology: SCAG failed to determine the share of regional housing needs in accordance with information described herein and within Government Code Section 65584.04, and in a manner that furthers and does not undermine the objectives listed in Government Code Section 665584(d);
2. Local Factors: SCAG failed to adequately consider information previously submitted by the County of Orange that specifically identified several local factors, which would directly impact housing production in the County; and
3. Changed Circumstances: Significant, unforeseen changes in circumstances has occurred in the County that strongly supports revisions to the information submitted pursuant to Government Code Section 65584 04(d).

Please see attached for additional details.

**Brief Description of Appeal Request and Desired Outcome:**

Based on all of the factors mentioned in the attachments, the County of Orange is requesting a reduction of 4,922 housing units from the 6th Cycle RHNA. This reduction considers SCAG’s failure to correctly apply the RHNA Methodology in accordance with State law. SCAG also did not take into consideration local factors and changes in circumstances, which are beyond the County’s land use control.

Please see attached for additional details.

**Number of units requested to be reduced or added to the jurisdiction’s draft RHNA allocation (circle one):**

Reduced 4,922 \_\_\_\_\_ Added

**List of Supporting Documentation, by Title and Number of Pages**

**(Numbers may be continued to accommodate additional supporting documentation):**

1. Comment Letter from OCCOG to SCAG dated February 18, 2020 (3 pgs)
2. Comment Letter from State HCD to SCAG dated October 15, 2019 (7 pgs)
3. Comment Letter from County of Orange to SCAG dated June 6, 2019 (2 pgs)

Please see attached for a complete list of supporting documentation, by title and number of pages.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_



**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584.**

In accordance with Government Code Section 65584.05(b), the County of Orange submits this appeal to the regional housing need proposed to be allocated to the County of Orange under the Regional Housing Needs Assessment (RHNA) methodology adopted for the 6<sup>th</sup> cycle. As of September 3, 2020, the County of Orange draft RHNA allocation is 10,381 units.

**A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d).** In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable sustainable communities strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following grounds:

1. **Methodology:** SCAG failed to determine the share of regional housing needs in accordance with information described herein and within Government Code Section 65584.04, and in a manner that furthers and does not undermine the objectives listed in Government Code Section 665584(d);
2. **Local Factors:** SCAG failed to adequately consider information previously submitted by the County of Orange that specifically identified several local factors, which would directly impact housing production in the County; and
3. **Changed Circumstances:** Significant, unforeseen changes in circumstances has occurred in the County that strongly supports revisions to the information submitted pursuant to Government Code Section 65584 04(d).

Based on the items listed above, the County is requesting a reduction of 4,922 units from the County's draft RHNA allocation (10,381 units), for a newly proposed RHNA allocation of 5,459 units.

## A. GROUNDS FOR COUNTY OF ORANGE APPEAL

### 1. Methodology

*SCAG failed to accurately determine the share of the regional housing need in accordance with the information established and approved by SCAG, and in a manner that furthers, and does not undermine the objectives listed in Government Code Section 65584(d). The State Department of Housing and Community Development (State HCD) provided a regional housing need determination of 1,341,827 housing units for the SCAG region, which is based on faulty methodology.*

State HCD's final Regional Housing Needs Determination (RHND) of 1,341,827 housing units for the SCAG region is not a realistic or feasible number of units to be constructed during the 6th Cycle. In comparison, SCAG received a RHNA of 412,137 units for the previous 5th Cycle. This equates to a 226% increase in housing unit production for the SCAG region. This increase is unprecedented. Based upon the draft RHNA allocations currently available, the potential increase in 2021-2029 RHNA obligations indicates up to a 96.91% increase in growth need for the County while the County's available resources to accommodate future growth is hindered by the continued reduction in sites available to accommodate future development.

(a) SCAG's Methodology fails to consider growth projections consistent with the Connect SoCal Plan.

The comment letter sent by Orange County Council of Governments (OCCOG) to SCAG dated February 18, 2020 (see Attachment 1) outlines the various reasons for the flawed RHNA methodology. In particular, pursuant to Government Code 65584.01(a), State HCD is required by law to use the growth forecast created by SCAG for its' Connect SoCal Plan when it is within a range of 1.5% of the total regional population forecast projected by the Department of Finance (DOF). SCAG's Connect SoCal Plan projected the total regional population to grow to 20,725,878 by October 2029, which differs from the DOF projection of 20,689,591 issued by DOF in May 2018, by 0.18%. The total population provided in State HCD's determination is 20,455,355, which reflects an updated DOF projection and differs from SCAG's projection by 1.32%. Though SCAG's total projection is within the statutory tolerance of 1.5% for State HCD to use SCAG's forecast, SCAG's Growth Forecast was still not applied. This is a clear violation of State law. Since the SCAG Connect SoCal Plan should be consistent with the forecasts described in RHNA, as the planning areas are identical, SCAG population data should be utilized to ensure consistent application of future growth projections.

(b) SCAG's Methodology incorrectly uses national averages as a benchmark.

The Regional Housing Needs Determination is based on national averages of household overcrowding and cost-burden rates in the SCAG region, as mentioned in the State HCD letter sent to SCAG dated October 15, 2019 (Attachment 2). Government Code Section 65584.01(c)(2)(B) requires that this comparison be based on similar regions, not national averages as the benchmark. Since State HCD's Determination used national averages (rather than the regional forecast) as the comparison benchmark, the methodology is flawed.

RHNA is required to allocate housing units within the region consistent with the development pattern included in SCAG's Connect SoCal and in accordance with Government Code Section 65584.01; however, SCAG's Connect SoCal was not applied to generate the Regional Housing Needs Determination.

However, if SCAG’s Connect SoCal figures were utilized, the County of Orange would be expecting an average growth rate of 587 units per year for a total of 4,696 total units over an 8-year period. See Table 1.

**Table 1: Connect SoCal Forecast for County of Orange**

<b>2045 Household Projection</b>	<b>Connect SoCal Forecast Year</b>	<b>Average per year growth rate (2016-2045)</b>	<b>8-Year Growth Rate</b>
56,600	2045	587 units	587 units per year x 8 years = 4,696 units

Moreover, if SCAG’s Connect SoCal figures were properly utilized, the County’s proposed RHNA for this upcoming 8-year period is consistent with the assumptions and figures within the Connect SoCal Growth Forecast. As illustrated in Table 2, the County of Orange’s average annual growth rate of 4,696 total units over an 8-year period is consistent with the proposed County total of 5,459 units.

**Table 2: Connect SoCal Data**

<b>Source</b>	<b>County of Orange RHNA</b>
Connect SoCal Forecast	587 units per year x 8 years = 4,696 units
Proposed RHNA for County of Orange	5,459 units
Difference	The County of Orange is proposing 763 more units than the SoCal Connect Forecast would have allowed

**2. Local Factors**

*SCAG failed to adequately consider the information submitted by the County of Orange related to certain local factors outlined in Government Code Section 65584.04(e).*

In particular, SCAG disregarded factors pertaining to preserved/protected areas, an active development agreement, and sewer capacity, which is unique to the County. Local input is a valuable and integral part of SCAG’s RHNA planning process. It provides the necessary local perspectives to help determine the local capacities, limitations and challenges inherent in each jurisdiction within the SCAG region.

As mentioned in previous comment letters from the County of Orange to SCAG dated June 6, 2019 and October 2, 2019 (see Attachments 3 and 4), responses provided in the Local Input Surveys that were submitted to SCAG (see Attachment 5) and attributes that were clearly identified in SCAG’s Scenario Planning Model (SPM) Mapping Tool, the County is faced with unique challenges that are not encountered by cities. A one-size-fits-all approach is not a practical or feasible approach to achieve local and regional housing goals. Responsible and effective planning for housing must be done within the context of each jurisdiction’s constraints, neighborhood character, and with the perspectives of the communities themselves.

**(a) Local Factor: Lack of Available Land**

*As referenced in Government Code Section 65584.04, “lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources” is listed as an eligible basis to be considered for an appeal.*

As illustrated in Map 1 and Table 3 below, unincorporated Orange County currently contains 176,385 acres of canyons, planned communities, national forests, as well as, coastal and densely populated areas. Approximately 40,949 acres of open space (or 23% of unincorporated Orange County), which is hashed in light green on the map

below, is preserved or protected from development under existing state or federal programs, thus is undevelopable. Open space was clearly identified in SCAG's SPM mapping tool and transferred to SCAG's Connect SoCal maps; however, land use constraints, are not a factor in the RHNA methodology that SCAG used to determine Orange County's allocation. Since a large portion of the County is preserved or protected from development, thus undevelopable, we are requesting a reduction of 23% or 2,388 units of the County's draft RHNA (10,381 units). This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

**Map 1: Preserved and Protected Areas within Unincorporated Orange County**



Source: OC Public Works/Survey September 2020

**Table 3: Preserved or Protected Land within Unincorporated Orange County**

<b>Name</b>	<b>Total Acres of Open Space</b>	<b>Acres in Unincorporated Orange County</b>
Aliso & Wood Canyons Wilderness Park	3,972.0	2,217.2
Arden: Helena Modjeska Historic House & Gardens	19.2	19.2
Black Star Canyon Wilderness Park	2,752.4	2,752.4
Carbon Canyon Regional Park	124.6	33.5
Crawford Canyon	2.6	2.6
Fremont Canyon Nature Preserve	7,826.5	7,438.3
Gypsum Canyon Nature Preserve	2,562.9	840.6
Harriett M. Wieder Regional Park	113.7	69.7
Historic Yorba Cemetery	0.9	0.9
Irvine Regional Park	493.4	482.6
Laguna Coast Wilderness Park	5,762.6	4,145.4
Limestone Canyon & Whiting Ranch Wilderness Park	26.1	25.9
Limestone Canyon Nature Preserve	7,976.4	7,969.2
Loma Ridge Nature Preserve	619.8	619.8
Modjeska Canyon Nature Preserve	650.5	650.5
Newport Parcel	21.7	21.7
O'Neill Regional Park	3,115.9	1,934.8
Peters Canyon Regional Park	339.5	4.9
Ronald W. Caspers Wilderness Park	7,848.3	7,407.3
Santa Ana River Greenbelt	2,017.2	387.8
Santiago Oaks Regional Park	986.3	574.0
Skyline Parcel	2.6	2.6
Talbert Regional Park	104.7	0.2
Thomas F. Riley Wilderness Park	544.4	544.4
Upper Newport Bay Nature Preserve	78.7	0.7
Weir Canyon Nature Preserve	3,116.5	2,799.5
Whiting Ranch Wilderness Park	1,544.2	0.8
Woodgate CSA	2.5	2.5
<b>Total</b>	<b>52,626.0</b>	<b>40,949.0</b>

Source: OC Public Works/Survey September 2020

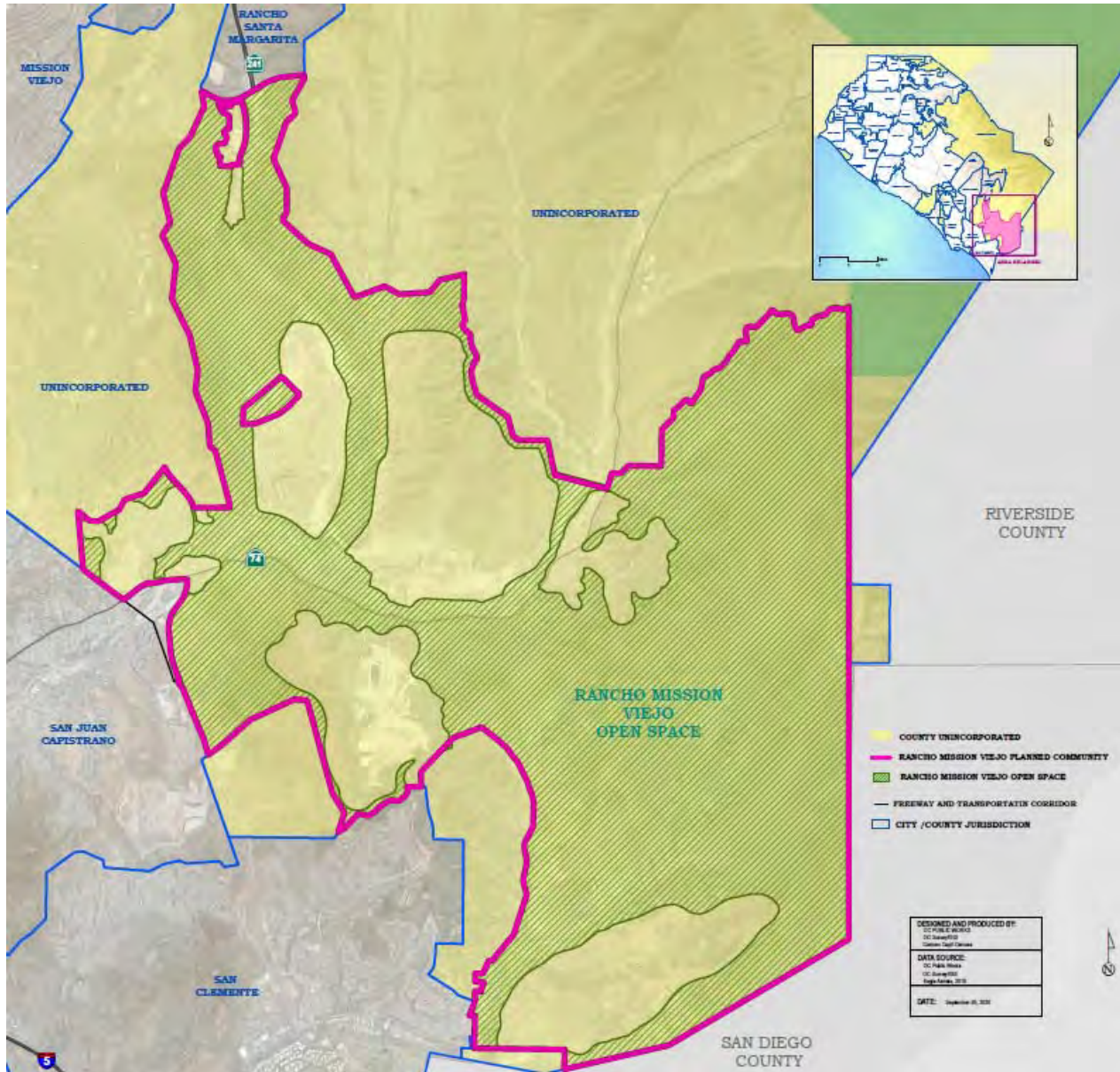
**(b) Local Factor: Active Development Agreement**

*Government Code Section 65584.04 indicates that “the availability of land suitable for urban development” is listed as an eligible basis to be considered for appeal.*

The County’s comment letters to SCAG and the attributes identified in SCAG’s SPM mapping tool further emphasize the entitlements controlled by development agreements, specifically within the Ranch Plan Planned Community. Though the duration and terms of the development agreements within the other planning communities in unincorporated Orange County have already been completed and fulfilled, the development agreement for the Ranch Plan Planned Community dated 2004 cannot be amended for additional housing units by the County of Orange, since the Ranch Plan Planned Community is still underway

with plans to start construction in Planning Area 3 in 2021 (see Attachment 6) and due to a settlement agreement limiting the number of development units. In particular, the active Ranch Plan Planned Community Development Agreement references a maximum of 14,000 units and 15,121 acres of dedicated open space (see Map 2). As part of a settlement agreement, the Rancho Mission Viejo landowner dedicated open space in an amount that is approximately 8.6% of unincorporated Orange County. Since this open space land cannot be used for residential uses (compared to County parcels zoned A1 General Agricultural/Open Space Districts that permit residential in other unincorporated County areas), we are requesting a reduction of 8.6% or 892 units of the County's draft RHNA (10,381 units). This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

**Map 2: Ranch Plan Planned Community - Open Space**



Source: OC Public Works/Survey September 2020

**(c) Local Factor: Lack of Sewer Capacity**

*As referenced in Government Code Sec. 65584.04, the “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions” is listed as an eligible basis to be considered for appeal.*

SCAG also did not take into consideration local planning factors related to septic capacity within the unincorporated areas of Orange County. Septic capacity is regulated by the California State Water Resources Control Board and prevents the County from further developing upon parcels predominately within rural areas. In particular, the Onsite Wastewater Treatment Systems (OWTS) State Water Resources Control Board Policy Guidelines Section 7.8 (see Exhibit 1) regulates septic capacity by indicating the allowable density. The County of Orange utilizes the allowable default density of 2 acres per single-family dwelling unit.

**Exhibit 1: Excerpt from State Water Resources Control Board Policy Guidelines**

7.8 The average density for any subdivision of property made by Tentative Approval pursuant to the Subdivision Map Act occurring after the effective date of this Policy and implemented under Tier 1 shall not exceed the allowable density values in Table 1 for a single-family dwelling unit, or its equivalent, for those units that rely on OWTS.

Table 1: Allowable Average Densities per Subdivision under Tier 1.	
Average Annual Rainfall (in/yr)	Allowable Density (acres/single family dwelling unit)
0 - 15	2.5
>15 - 20	2
>20 - 25	1.5
>25 - 35	1
>35 - 40	0.75
>40	0.5

Moreover, the 2019 California Building Standards Code Section 713.4 (see Exhibit 2) indicates that the maximum distance between a public sewer line and a proposed project is 200 feet.

**Exhibit 2: Excerpt from 2019 California Building Standards Code**

**713.4 Public Sewer Availability**

The public sewer shall be permitted to be considered as not being available where such public sewer or a building or an exterior drainage facility connected thereto is located more than 200 feet (60960 mm) from a proposed building or exterior drainage facility on a lot or premises that abuts and is served by such public sewer.

*[HCD 1] For residential occupancies, the public sewer may be considered as not being available by the Authority Having Jurisdiction.*

Consequently, these State requirements related to sewer capacity preclude unincorporated Orange County areas that are a) smaller than 2 acres and b) not within 200 feet from the nearest public sewer line from additional increases in residential units.

The rural areas within unincorporated County of Orange are mostly located within Foothill-Trabuco and Silverado-Modjeska canyons, thus further from public sewer lines. The closest public sewer lines are in neighboring cities. The zoning districts within the area have a wide range of base densities, and State regulations on septic tanks prohibit growth on sites that are a) less than 2 acres in size and b) further than 200 feet to the nearest public sewer line. As illustrated in Map 3, there are 459 residential parcels (see pink areas) that must be on a conventional septic system and cannot exceed their current septic capacities to

accommodate any additional units until they are within closer proximity (i.e. less than 200 feet) from a public sewer line via annexation; thus, we are requesting a reduction of 459 residential units from the County's draft RHNA of 10,381 units, to address those areas that cannot support additional units. This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

**Map 3: Residential Parcels that Lack Sewer Capacity**



Source: OC Public Works/Survey September 2020



## SUMMARY OF LOCAL FACTORS

As illustrated in Table 4, SCAG did not consider local constraints and planning factors when allocating each jurisdiction their regional share of housing units. SCAG did not consider County areas that are preserved or protected, have an active development agreement, or have limitations due to sewer capacity. Thus, we are requesting a reduction of 3,739 total units from the County's draft RHNA (10,381 units) under the local factors category. This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

**Table 4: Summary of Local Factors**

A	Lack of Available Land due to State and Federal Open Space Designations	2,388 units	Reduction of 23% (or 2,388 units) of County's draft RHNA to address lack of available land.
B	Rancho Mission Viejo Development Agreement that limits the maximum number of housing units	892 units	Reduction of 8.6% (or 892 units) of the County's draft RHNA for area dedicated to open space that does not permit residential units.
C	Lack of Sewer Capacity that limits the density on residential parcels, primarily within the Canyons	459 units	Reduction of 459 units of the County's draft RHNA, since unincorporated County of Orange has 459 parcels that cannot support additional units due to lack of sewer capacity.

### 3. Changed Circumstances

*Significant and unforeseen change in circumstances has occurred in the County after April 30, 2019 and merits a revision of the information previously submitted, as indicated in Government Code Section 65584.05(b)(3).*

The County of Orange is faced with such challenges that are not encountered by cities, including the loss of developable land due to annexations throughout the 8-year housing element cycles. As unincorporated areas develop a stronger sense of community and an economic base, cities are more likely to annex these unincorporated areas. Counties will eventually lose areas of land that are ideal for infill development to cities over time, thus putting counties at an inherent disadvantage when considering the number of units to plan in the future.

**(a) Changed Circumstances: Ongoing and future annexations:** As illustrated in Map 4, the County of Orange has lost 168 acres (see red areas in the map below) due to annexations since 2014. In particular, there has been a 9.5% decrease in acres from 176,553 acres in 2014 to the currently existing 176,385 acres within the unincorporated County areas. Therefore, staff is requesting a reduction of 9.5% (or 986 units) from the County's draft RHNA (10,381 units) to address any future annexations based on actuals from the previous 8-year cycle. This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

**Map 4: County Annexations (2014-2020)**



Source: OC Public Works/Survey September 2020

Annexations will continue to occur in the County in the near and distant future. In the meantime, we will notify SCAG and request RHNA modifications. In particular, recent annexations and mutually agreed upon transfer agreements were not addressed by SCAG in the 6<sup>th</sup> Cycle Final RHNA Methodology, thus a violation of Government Code Section 65584.05(b)(3). Also, as stated in the response for question 5 of SCAG’s RHNA Appeals FAQ, “annexations are a permissible basis for an appeal, and this would likely be considered a change in circumstance”. Thus, we are requesting that the following annexations be addressed resulting in a reduction of additional RHNA units for the County.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

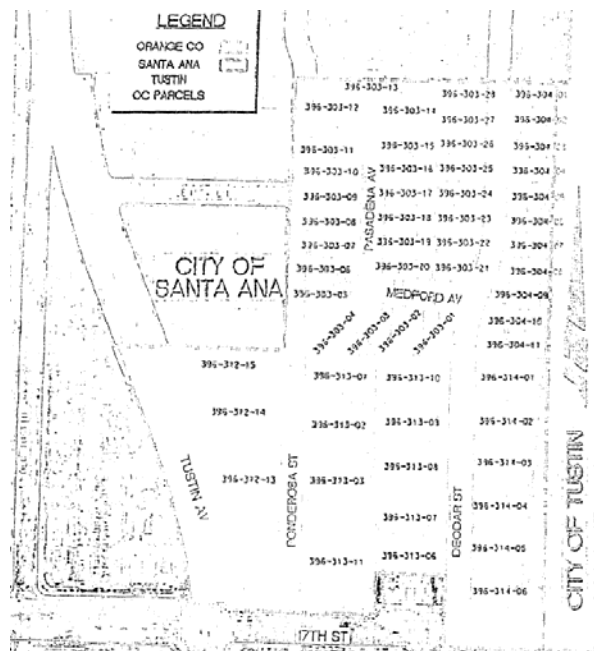
**(b) Changed Circumstances: Yorba Linda Annexation:** On December 13, 2016, the County of Orange Board of Supervisors approved the entitlements for the Cielo Vista development, an 80-unit residential subdivision, which at the time was located within uninhabited County territory and substantially surrounded by the City of Yorba Linda. On October 22, 2019, the City of Yorba Linda and the County of Orange entered into a cooperative agreement that allows the County to complete the planning approvals for development after annexation (see Attachment 7). Since the County of Orange is currently reviewing the grading permits for the 80-unit development, staff is requesting that the County of Orange be given credit for these 80 units through a reduction of 80 units from the County’s draft RHNA (10,381 units). This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

**(c) Changed Circumstances: Santa Ana Annexation:** In November 2019, the City of Santa Ana completed an annexation that includes approximately 25 acres (see Attachment 8). Exhibit 3 and 4 include excerpts from the Santa Ana Cooperative Agreement, which list and illustrate the parcels that have been annexed. More specifically, the annexed parcels in Table 5 and Exhibit 5 were also identified in the County’s 5th Cycle Housing Element site inventory to be used for the development of 117 potential units. Thus, we are requesting a reduction of 117 total units from the County’s draft RHNA(10,381 units) due to the recent annexation to the City of Santa Ana. This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

**Exhibit 3: Excerpt from Santa Ana Cooperative Agreement**

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission’s (“OC LAFCO”) policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana’s sphere of influence with Assessor’s Parcel Numbers (“APNs”) 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 (“Island Parcels”) as shown on Exhibit A.

**Exhibit 4: Map from Santa Ana Cooperative Agreement**



**Table 5: Orange County Housing Element Sites (5<sup>th</sup> Cycle)**

APN	Address	Zoning	General Plan	Parcel Size (Acres)	Potential Units <sup>1</sup>
<b>Site 1</b>					
396-313-03	13912 Ponderosa	C1	1B	0.69	17
396-313-11	17061 E. 17 <sup>th</sup> St	C1	1B	0.9	22
<b>Subtotal</b>					<b>39</b>
<b>Site 2<sup>2</sup></b>					
396-312-13	No street address	C1	1B	0.75	16
396-312-14	No street address	C1	1B	1.20	30
396-312-15	No street address	C1	1B	1.35	32
<b>Subtotal</b>					<b>78</b>
<b>Totals</b>					<b>117</b>

1 Based on density of 25 units per acre

2 New APNs were created due to a lot consolidation of the annexed sites. These were previously noted in the Housing Element as 396-312-01 to 08 and 396-312-11.

**Exhibit 5: Excerpt from Orange County Housing Element (5<sup>th</sup> Cycle)**



**SUMMARY OF CHANGED CIRCUMSTANCES**

SCAG did not consider a change in circumstances, which is defined as a significant and unforeseen change in circumstance that has occurred in the jurisdiction after April 30, 2019. As illustrated in Table 6, we are requesting a reduction of 1,225 total units from the County’s draft RHNA (10,381 units) under the change of circumstances category. The County of Orange is expected to face ongoing annexations over this upcoming 6<sup>th</sup> cycle, and 197 total units were annexed into the cities of Yorba Linda and Santa Ana.

**Table 6: Change of Circumstances Summary**

	<b>Annexation</b>	<b>Total</b>
<b>A</b>	Ongoing and future annexations (2020-2029) (Reduction of 9.8% of County’s draft RHNA to address future annexations, based on actuals from previous 5 <sup>th</sup> Cycle)	986 units
<b>B</b>	Yorba Linda Cielo Vista Development	80 units
<b>C</b>	Santa Ana Islands	117 units
<b>Total</b>		1,183 units

**B. CONCLUSION**

Based on all of the factors mentioned herein, the County of Orange is requesting a reduction of 4,922 housing units from the 6<sup>th</sup> Cycle RHNA, as illustrated in Table 7. This reduction considers SCAG’s failure to correctly apply the RHNA Methodology in accordance with State law. SCAG also did not take into consideration local factors and changes in circumstances, which are beyond the County’s land use control.

**Table 7: Summary of RHNA Reductions**

<b>1. Methodology (Govt Code Section 65584.04 and 65584(d))</b>		
Methodology for Regional Housing Needs Determination	N/A	SCAG’s Connect SoCal Growth Forecast (if applied) estimates 4,696 units for the County of Orange over this upcoming 8-year period.
<b>2. Local Factors (Govt Code Section 65574.04(b))</b>		
A. Lack of Available Land	-2,388 units	Reduction of 23% (or 2,388 units) of County’s draft RHNA to address land that is precluded from development under existing federal, state and local programs.
B. Development Agreement	-892 units	Reduction of 8.6% (or 892 units) of the County’s draft RHNA for area dedicated to open space that does not permit residential units. The Ranch Plan Planned Community Development Agreement is legally binding and cannot be amended by the County.
C. Lack of Sewer Capacity	-459 units	Reduction of 459 units of the County’s draft RHNA, since unincorporated Orange County has 459 parcels that cannot support any additional changes in density due to lack of sewer capacity.

<b>3. Change in Circumstances (Govt Code Section 65584.04(b))</b>		
A. Ongoing Annexations	-986 units	Reduction of 9.5% of County's draft RHNA to address any future annexations (based on actuals from the previous RHNA cycle).
B. Yorba Linda annexation (October 2019)	-80 units	Reduction of 80 units of the County's draft RHNA due to Yorba Linda annexation. Permits are currently in review with the County.
C. Santa Ana Island annexation (November 2019)	-117 units	Reduction of 117 units of the County's draft RHNA due to Santa Ana Island annexation.
<b>Total Draft RHNA Allocation (September 3, 2020)</b>	<b>10,381</b>	
Total County Request	-4,922	Reduction of 4,922 total RHNA units for County of Orange.
Proposed RHNA for County of Orange	A maximum of 5,459 units	This number furthers the intent of RHNA by ensuring that density is properly guided towards jurisdictions with the capacity to service a growing population.

Table 8 summarizes the County of Orange's recommended RHNA Allocation by income category, which utilizes the same income category breakdown proposed by SCAG.

**Table 8: Summary of Recommended RHNA Allocations for County of Orange**

<b>Income Category</b>	<b>September 3, 2020 Final Draft SCAG RHNA Allocation</b>	<b>County of Orange Recommended RHNA Allocation</b>
Very Low	3,131 Units	1,646 Units
Low	1,862 Units	980 Units
Moderate	2,035 Units	1,070 Units
Above Moderate	3,353 Units	1,763 Units
<b>TOTAL</b>	<b>10,381 Units</b>	<b>5,459 Units</b>

**List of Supporting Documentation**

Attachment 1	Comment letter from Orange County Council of Governments (OCCOG) to SCAG dated February 18, 2020	3 pages
Attachment 2	Comment letter from State HCD to SCAG dated October 15, 2019	7 pages
Attachment 3	Comment letter from County of Orange to SCAG dated June 6, 2019	2 Pages
Attachment 4	Comment letter from County of Orange to SCAG dated October 2, 2019	3 Pages
Attachment 5	County of Orange – Local Input Survey	29 Pages
Attachment 6	Rancho Mission Viejo Development Agreement (2004)	163 Pages
Attachment 7	Yorba Linda Certificate of Completion	223 Pages
Attachment 8	Santa Ana Certificate of Completion	58 Pages

**Attachment 1 -  
Comment letter from Orange County Council of  
Governments (OCCOG) to SCAG dated  
February 18, 2020**





Orange County Council of Governments

Orange County Council of Governments (OCCOG)  
3972 Barranca Parkway, Ste. J127  
Irvine, CA 92606

info@occog.com

February 18, 2020

Mr. Bill Jahn  
President, Southern California Association of Governments (SCAG)  
900 Wilshire Blvd. Suite 1700  
Los Angeles, CA 90017

***Subject: Regional Determination Objection to HCD***

Dear Mr. Jahn,

I am writing today on behalf of the Orange County Council of Governments (OCCOG) to express our disappointment that SCAG has not continued to forcefully oppose the regional determination provided by the Department of Housing and Community Development (HCD), despite having sound legal standing to do so. Part of SCAG's purview is to represent the local governments and agencies within its jurisdiction during the RHNA process. This process is long, complex, and has lasting effects on the future character and development of cities throughout California. SCAG plays an important role as the broker between the many local governments and agencies within its jurisdiction and the decision making body in HCD. SCAG represents these local governments and agencies during the RHNA process, and advocates for their best interests. We urge you to continue in this advocacy by re-asserting SCAG's objections to HCD's Regional Housing Need Determination.

After receiving an original Regional Determination that was 1.37M units, SCAG determined that HCD had not followed RHNA statute in calculating that number. On September 18, 2019, SCAG sent a letter to HCD asserting objections to the Regional Housing Need Determination ("Determination") calculated by HCD for the SCAG region. The letter specifically stated that its purpose was to "ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible." The letter went on to outline SCAG's specific objections to the Determination, including, but not limited, to the following:

- HCD did not base the Determination on SCAG's Growth Forecast. Pursuant to Government Code 54484.01(a), HCD is required to use SCAG's Growth Forecast when it is within a range



of 1.5% of the **total** regional population forecast projected by the Department of Finance (“DOF”). SCAG’s Growth Forecast was within 1.5% of the total DOF projection, but HCD still did not use SCAG’s Growth Forecast.

- The Determination was based on a comparison of household overcrowding and cost-burden rates in the SCAG region to national averages, rather than rates in comparable regions. Government Code 65584.01(c)(2)(B) requires that this comparison be based on similar regions, not national averages. HCD’s Determination used national averages as the comparison benchmark.

In both cases, SCAG’s objections were firmly grounded in clear interpretations of the applicable state statutes. SCAG’s letter contained several additional objections not listed here but equally well grounded in state housing law.

On October 15, 2019, HCD responded to SCAG’s September 17 objection letter. HCD’s letter stated that the Determination was correct, and HCD was rejecting each of SCAG’s objections. Specifically, HCD explained as follows:

- HCD chose not to use SCAG’s Growth Forecast because HCD based the comparison between the SCAG and DOF projections on a difference found in certain age cohorts, rather than on the total population forecast. This allowed HCD to utilize the DOF projections with certain as yet to be disclosed modifications.
- While HCD acknowledged that SCAG was correctly following state statute by utilizing comparable regions for household overcrowding and cost-burden rates, HCD determined that this comparison was not an effective benchmark, and decided to reject SCAG’s input.

This pattern continues across the entirety of SCAG’s objections. SCAG attempted to urge HCD to follow state statutes in order to ensure the establishment of “the most technically and legally credible basis for a regional determination.” HCD chose not to, in favor of HCD’s own, previously-approved Determination.

The precedent set by HCD in ignoring RHNA statute in developing the regional determination, is extremely concerning to OCCOG, and the impact on our region is significant enough to warrant continued pressure on HCD to resolve the issue. Therefore, OCCOG strongly urges SCAG to continue to insist that HCD follow state statutes in calculating the Determination.



Orange County Council of Governments

info@occog.com

As this letter demonstrates, a significant portion of the local governments and agencies within SCAG's jurisdiction feel HCD's casual disregard a transparent and credible Determination directly affects them. As such, it is SCAG's responsibility to act as their representative, and continue to present the objections to the best of SCAG's ability.

Thank you for your attention to this matter and please feel free to contact me with any questions or if you wish to discuss further.

Sincerely,

Marnie O'Brien Primmer  
Executive Director  
Orange County Council of Governments

**Attachment 2 -  
Comment letter from State HCD to SCAG dated  
October 15, 2019**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

#### Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

#### Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

#### Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

#### Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

#### Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

#### Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

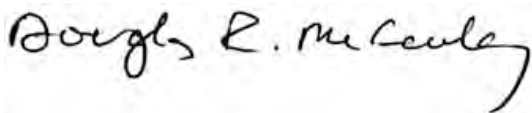
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Douglas R. McCauley  
Acting Director

Enclosures



## ATTACHMENT 1

## HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

Methodology

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need				
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>			20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029			-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>			20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>
		20,079,930		6,801,760
	under 15 years	3,292,955	n/a	n/a
	15 – 24 years	2,735,490	6.45%	176,500
	25 – 34 years	2,526,620	32.54%	822,045
	35 – 44 years	2,460,805	44.23%	1,088,305
	45 – 54 years	2,502,190	47.16%	1,180,075
	55 – 64 years	2,399,180	50.82%	1,219,180
	65 – 74 years	2,238,605	52.54%	1,176,130
	75 – 84 years	1,379,335	57.96%	799,455
	85+	544,750	62.43%	340,070
4.	<b>Projected Households (Occupied Unit Stock)</b>			6,801,760
5.	+ Vacancy Adjustment (2.63%)			178,896
6.	+ Overcrowding Adjustment (6.76%)			459,917
7.	+ Replacement Adjustment (.50%)			34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)			-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>				<b>1,341,827</b>

Explanation and Data Sources

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).

**Attachment 3 -  
Comment letter from County of Orange to SCAG dated  
June 6, 2019**



## DONALD P. WAGNER

ORANGE COUNTY BOARD OF SUPERVISORS  
SUPERVISOR, THIRD DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION  
333 W. SANTA ANA BLVD.  
SANTA ANA, CALIFORNIA 92701  
PHONE (714) 834-3220 FAX (714) 834-6190  
<http://bos.ocgov.com/third/>

June 6, 2019

Honorable Peggy Huang, Chair  
Community, Economic and Human Development Policy Committee  
Regional Housing Needs Assessment Subcommittee  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017

**Subject:** Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and Proposed RHNA Methodology Components

Honorable Chair Huang and Honorable Committee Members:

Thank you for the opportunity to provide comments on the Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and proposed RHNA methodology components.

In the RHNA subcommittee meetings held on May 6 and June 3, 2019, the Southern California Association of Governments (SCAG) discussed the use of a RHNA methodology that will take into consideration newly-applied factors, such as overcrowding and existing need. Based on SCAG's proposed methodology to determine the RHNA allocation for the next planning period, it could result in a RHNA allocation of approximately 659,144 units (430,289 of projected need plus 228,855 units of existing need), which is a 60% increase from the 5<sup>th</sup> cycle RHNA allocation of 412,137 units for the entire SCAG region. Consequently, if jurisdictions are unable to accommodate these units, certification of the next Housing Element may not be attainable, especially given new housing legislation, which provides additional restrictions on site selection. As an example, AB 1397 restricts jurisdictions from carrying over vacant sites as housing sites if they have been included in two or more previous housing elements.

In 2014, SCAG allocated a RHNA of 5,272 units to the County of Orange (County) for the 5<sup>th</sup> cycle's 2014-2021 planning period. The County relies on private developers to build housing and cannot fully control how a property is built, such as whether a developer chooses to build at a lower density than allowed. As of December 2018, the County issued permits to construct a total of 4,292 units, which is 81.4% of the County's total RHNA allocation. Due to Orange County's market conditions and demand, 90% of the total permits requested by developers and issued were assigned to above-moderate units. In particular, the County of Orange is faced with

limitations in providing housing, such as the lack of available vacant land for high density housing, lack of funding due to the dissolution of redevelopment agencies, and previously approved and unknown future annexations. Also, entitlements controlled by development agreements for the Ranch Plan Planned Community and Ladera Ranch Planned Community cannot be altered for rezoning by the County.

In particular, the County of Orange is respectfully requesting that SCAG propose a total RHNA allocation of 430,000 for the SCAG region for the 6<sup>th</sup> RHNA cycle to State HCD, which reflects the eight-year regional projection from local jurisdictions that already incorporates both existing need and future projected need. The proposed original determination of 430,000 is consistent with the draft 2020 Regional Transportation Plan / Sustainable Community Strategy and involved a comprehensive local input process where the County reviewed data on growth approved and planned, and submitted to SCAG. Including a separate allocation for existing need will lead to double-counting. Therefore, all numbers, tables, and discussions regarding existing need as a separate calculation should be discarded from the State HCD consultation package.

In the meantime, the County is requesting preliminary draft RHNA allocations and the proposed RHNA counts for the individual variables, such as overcrowding and the share of the region's population within the high-quality transit areas, along with any supporting information for any proposed methodology so that the County can adequately analyze any potential impacts and provide feedback prior to SCAG submitting the consultation package to State HCD.

We appreciate your consideration.

Sincerely,



Donald P. Wagner  
Supervisor, Third District  
Orange County Board of Supervisors

CC: CEHD Committee  
RHNA Subcommittee  
Kome Ajise, Executive Director, SCAG

**Attachment 4 -  
Comment letter from County of Orange to SCAG dated  
October 2, 2019**



**DONALD P. WAGNER**  
 ORANGE COUNTY BOARD OF SUPERVISORS  
 SUPERVISOR, THIRD DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION  
 333 W. SANTA ANA BLVD.  
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<http://bos.ocgov.com/third/>

October 2, 2019

Honorable Peggy Huang, Chair  
 Community, Economic and Human Development Policy Committee  
 Regional Housing Needs Assessment Subcommittee  
 Southern California Association of Governments  
 900 Wilshire Boulevard, Suite 1700  
 Los Angeles, California 90017

Subject: Regional Housing Needs Assessment (RHNA) Methodology

Honorable Chair Huang and Committee Members:

The County of Orange expresses thanks to the RHNA Subcommittee, CEHD Policy Committee, Regional Council, and SCAG staff for the ongoing discussion to establish a feasible RHNA that complies with new state housing law and furthers the state housing goals. The County of Orange remains committed to addressing housing in the County's unincorporated areas, but is faced with unique challenges due to the 6<sup>th</sup> Cycle RHNA and the implications of recently enacted state housing laws.

California State Housing Law requires each jurisdiction to plan for existing and future housing needs to accommodate the unit allocation identified in the Regional Housing Needs Assessment (RHNA) process. The County supports the concept of using data, such as population growth rates, housing unit growth projections, and existing local land use policies as components of the RHNA methodology as these contribute to a collaborative local input process, which is also the foundation to SCAG's Regional Transportation Plan/Sustainable Communities Strategy, also known as Connect SoCal. Local input has always been a valuable and integral part of SCAG's RHNA planning process. It provides the necessary local perspectives to help determine the local capacities, limitations and challenges inherent in each jurisdiction within the SCAG region. A one-size-fits-all approach as currently being considered is not a practical or feasible approach to achieve local and regional housing goals. Responsible and effective planning for housing must be done within the context of each jurisdiction's surrounding constraints, neighborhood character, and with the perspectives of the communities themselves. As an example, entitlements controlled by development



agreements, such as for the Ranch Plan Planned Community (Rancho Mission Viejo) cannot be amended for rezoning by the County.

The County has already built much of the region's share of housing need. Since 2010, the County has successfully issued over 6,300 permits, thus making the County of Orange one of the leaders in the issuance of residential permits in Orange County.

State HCD recently released the final Regional Housing Needs Determination (RHND) of 1,344,740 housing units for the SCAG region. The County contends that this is not a realistic or feasible number of units to be constructed during the 6<sup>th</sup> Cycle. In comparison, SCAG received a 5<sup>th</sup> Cycle RHND of 412,137 units. This equates to a 226% increase in housing unit production for the SCAG region. This increase is unprecedented. Based upon the draft RHNA allocations currently available, the potential increase in 2021-2029 RHNA obligations indicates up to a 279% increase in growth need while the County's available resources to accommodate future growth is hindered by the continued reduction in sites available to accommodate future development.

For the 5<sup>th</sup> Cycle, 5,272 units were allocated to the County of Orange. As of December 2019, the County issued permits to construct a total of 4,292 units, which is 81.4% of the County's total RHNA allocation. Due to Orange County's market conditions and demand, 90% of the total permits issued were assigned to above moderate units. Removing the above moderate housing category as proposed would remove much of the County's contributions to creating market-rate housing, one of the most sought-after housing types. Also, the development of income-restricted units is scarce given the lack of available funding sources for affordable housing. Therefore, the County of Orange opposes the elimination or redistribution of the Above Moderate Category as described in Option 1 of the proposed RHNA methodologies.

The County is faced with unique challenges that are not encountered by cities, such as the potential loss of developable land due to annexations throughout the planning period. As unincorporated areas develop a stronger sense of community and economic base, cities are more likely to annex these unincorporated areas within city boundaries. In addition, the County, as a regional leader of affordable housing developments, provides funding to cities and does not receive RHNA credit. Therefore, the County is also requesting a clearly-defined and streamlined process for the transfer of RHNA credit from a city to the County, in instances where the County is financing the development in a city and both parties mutually agree on the arrangement.

The County supports the technical comments provided by the Center for Demographic Research (CDR) that are intended to ensure a reasonable RHNA methodology and allocation process.

Given the significant increases that are anticipated in RHNA unit allocations for all SCAG jurisdictions, the County encourages SCAG to host public forums for elected officials to discuss

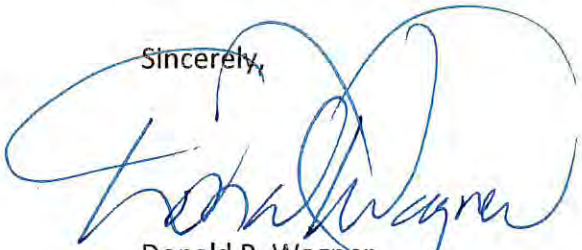
how recent and pending legislation may impact each jurisdiction's Housing Element and the consequences of not achieving certification. It is imperative that elected officials are provided with information on how new state laws, State HCD guidance, and the relationship to statutes have to the feasibility of a jurisdiction's ability to provide available sites to accommodate the RHNA obligation.

The County is also requesting more information and details on the appeals and redistribution process.

SCAG has indicated that the final methodology that could be utilized may either be a new methodology or some hybrid of the three currently proposed methodologies. If so, the County is requesting that SCAG provide a sufficient amount of time and robust opportunity for public comment and review prior to any future SCAG Board action beyond the current standard three days for posting an agenda for a public meeting.

The County recognizes and appreciates the effort provided by everyone on this important and complex issue and for your consideration of these items.

Sincerely,



Donald P. Wagner  
Supervisor, Third District  
Orange County Board of Supervisors

CC: CEHD Committee  
RHNA Subcommittee  
Kome Ajise, Executive Director, SCAG  
housing@scag.ca.gov

**Attachment 5 -  
County of Orange – Local Input Survey**

**SCAG Local Input Survey**

The Southern California Association of Governments (SCAG) is currently seeking input from local jurisdictions across the six-county area to begin a new long-range plan for the region, the 2020- 2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The 2020 RTP/SCS is a long-range visioning plan containing transportation projects and land use development strategies, that balances future mobility and housing needs with economic, environmental and public health goals. Additionally, per SB 375, land use strategies developed within the SCS will help the region achieve state greenhouse gas emission reduction goals.

SCAG is collecting information from local jurisdictions related to the implementation of the 2012 and 2016 RTP/SCS, as well as to inform development of the 2020 RTP/SCS. A copy of the 2016 RTP/SCS Local Input Survey from your jurisdiction has also been provided to facilitate the response process. Please respond to each question as it pertains to your jurisdiction. Due to the multidisciplinary nature of the questions, we encourage an interdepartmental collaboration to answer questions within the survey. Responses are due by **October 1, 2018**. ✓  
 A web version of the survey is available at: <https://www.surveymonkey.com/r/FB6QFTT>

**PART I – LAND USE**

**General Plan**

1. Please enter the year of your jurisdictions most recent general plan element update. Add information for any additional elements contained in the General Plan but not listed:

<i>Element</i>	<b>Year</b>	<b>Web link</b>	<b>Comments</b>
Land Use	2015		
Circulation	2018		
Housing	2013		
Conservation	2013		
Open space	2012		
Noise	2012		
Safety	2013		
[Additional Element]	2012		Public Services & Facilities
[Additional Element]	2015		Growth Management
[Additional Element]			

[Other Comments]

2. Is your jurisdiction currently in the process of updating its General Plan? Yes  No  If yes, when do you expect to complete the update? Date: [Publish Date]

[Other Comments]

3. Which elements of the general plan will your jurisdiction plan to update within the next five years?

**Element**  
 Housing  
 Safety  
 [Title]  
 [Title]  
 [Title]

Year	Comments
2021	
2021	

[Other Comments]

4. Does the most recently adopted general plan update support or intend to support any of the following Sustainable Communities Strategies (SCS)?

**Strategies**

Transit oriented development (TOD)  
 Infill  
 Complete communities  
 Non-residential mixed use  
 Infill along Livable corridors  
 Form based code  
 Other [Other]

Yes	No	Intend	Elements	Web link
X	<input type="checkbox"/>	<input type="checkbox"/>		
X	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	X	<input type="checkbox"/>		
<input type="checkbox"/>	X	<input type="checkbox"/>		
<input type="checkbox"/>	X	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

[Other Comments]

5. Does the circulation element of your General Plan include the following:

**Plans and Guidelines**

Guidelines for freight movement and heavy duty vehicles  
 Designated truck route system  
 Truck circulation plan  
 A plan for the development of multimodal transportation networks per the California Complete Streets Act (AB 1358)

Yes	No	Web link
<input type="checkbox"/>	X	
<input type="checkbox"/>	X	
<input type="checkbox"/>	X	
<input type="checkbox"/>	X	

[Other Comments]

6. When was the zoning code last updated to reflect your most recent amendments?

Date: pending Web link: <http://www.ocgov.com/gov/pw/ds/>

[Other Comments]

7. Is your jurisdiction currently in the process of updating its land use designation and zoning code?  
 Yes  No  If yes, when do you expect to complete the update? Date: **2019**

[Other Comments]

8. Did your jurisdiction's most recent land use designation and/or zoning code update include provisions supporting any of these policies?

<u>Land Use Designation and/or Zoning Code</u>	Yes	No	Designation/Code	Web link
Transit oriented development (TOD)	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Infill	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Complete communities	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Non-residential mixed use	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Infill along Livable corridors	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Form based code	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Accessory dwelling units	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Other <input type="text" value="[Other]"/>	<input type="checkbox"/>	<input type="checkbox"/>		

[Other Comments]

9. Does your jurisdiction have TOD building standards and design guidelines? Yes  No

[Other Comments]

10. Does your jurisdiction offer incentives for infill development? Yes  No   
 If yes, which of the following apply:

<u>Incentives</u>	Yes	No	Web link
Fast track permitting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Fee Waivers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Density bonus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Increased floor area ratio	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Building height waivers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tax subsidies or other benefits	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Waived or reduced minimum parking requirement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Reduced open space requirements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Transfer of development rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Other [Other]

<input type="checkbox"/>	<input type="checkbox"/>	
--------------------------	--------------------------	--

[Other Comments]

11. Does your jurisdiction overlap with a High Quality Transit Area (HQTA) as included in the 2016 RTP/SCS? (Please refer to the HQTA Map located at SCAG's Scenario Planning Model (SPM)'s Data Management site at <https://spmdm.scag.ca.gov> to check out HQTA boundaries in your jurisdiction). Yes  No

[Other Comments] **only bus routes**

12. Does your jurisdiction have policy incentives to encourage development of TODs? Yes  No   
If yes, which of the following apply:

***Incentives and Policies***

- Fast track permitting**
- Fee waivers**
- Density bonus**
- Increased floor area ratio**
- Building height waivers**
- Tax subsidies or other benefits**
- Waived or reduced minimum parking requirement**
- Reduced open space requirements**
- Affordable Housing Set aside**

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Other [Other]

[Other Comments]

13. Do any adopted specific plans and/or community plans with certified EIRs overlap with the existing Transit Priority Areas (TPAs)? Yes  No

If yes, please list their names and years of adoption below.

Name	Year	Comments
[Title]	1995	Ladera Ranch
[Title]	1995	Coto De Caza
[Title]	1991	Foothill Trabuco Specific Plan
[Title]	1990	Las Flores
[Title]	2004	Rancho Mission Viejo

[Other Comments]

14. Are there any other adopted specific plans and/or community plans that do not overlap with the existing Transit Priority Areas (TPAs)? Yes  No   
 If yes, please list their name and years of adoption below.

Name	Year	Comments
[Title]	1986	Cowan Ranch
[Title]	1986	North Tustin
[Title]	1977	Silverado-Modjeska
[Title]		
[Title]		

[Other Comments]

15. Which of the following parking strategies are included in any of your existing specific plans or general plans?

**Parking strategies**

- Right-sized parking
- Park-once districts
- Shared parking
- Unbundled parking
- Parking maximums in designated areas
- Innovative parking design (i.e. Sustainable features)
- Waived or reduced minimum parking requirement
- Bicycle Parking
- Other [Other]

Yes	No	Web link
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

[Other Comments]

16. Does your jurisdiction have a small lot development policy? Yes  No  Date: [Publish Date]  
 Web link: [link] <http://www.ocgov.com/gov/pw/ds/>

[Other Comments]

17. Does your jurisdiction have any policies or programs in place to resolve potential impacts related to goods movement activities? Yes  No   
 If yes, please provide name and years of adoption below.

**Policies or Programs**

Year	Web link



[Title]  
[Title]  
[Title]  
[Title]  
[Title]


[Other Comments]

18. Does your jurisdiction have any design guidelines in place for logistics center, warehouse or distribution facility development? Yes  No  Date: [Publish Date] Web link: [link]

[Other Comments]

19. Does your jurisdiction have any policies or programs in place for the design of industrial neighborhoods? Yes  No

If yes, please provide name and years of adoption below.

**Policies or Programs**

[Title]  
[Title]  
[Title]  
[Title]  
[Title]

Year	Web link

[Other Comments]

20. Does your jurisdiction have a development/impact/linkage fee ordinance? Yes  No  Date: [Publish Date] Web link: [link] <http://www.ocgov.com/gov/pw/ds/>

If yes, which of the following does it fund?

**Areas that receive funding**

- Parks**
- Affordable housing**
- Natural lands/Open space preservation**
- Transit improvements/amenities**
- Other**

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

21. Does your jurisdiction participate in the Mills Act in an effort to maintain, preserve or rehabilitate historically significant property? Yes  No

[Other Comments]

22. Does your jurisdiction use any of the following water management and efficiency strategies:

**Strategies**

- Stormwater management best practices
- Greywater/reclaimed water (purple pipes)
- Ground water recharge
- Low impact development
- Green infrastructure
- Reduced impervious surface and/or lot coverage incentives
- Other

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

**Housing**

23. Does your jurisdiction utilize or are considering any of the following zoning or land use strategies for housing?

**Strategies**

- Inclusionary zoning ordinance
  - Is there an in-lieu fee component?
- Rent stabilization ordinance
  - Maximum annual percentage rent increase allowed
- Affordable housing preservation ordinance
- Mortgage down payment assistance program
- Special financing district (CRIA, EIFD, Others?)
- Incentives for affordable housing
  - Fast track permitting
  - Fee waivers
  - Density bonus
  - Increased floor area ratio
  - Building height waivers
  - Tax subsidies or other benefits
  - Waived or reduced minimum parking requirements

Yes	No	Web link
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
[Comments]		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	

- Reduced open space requirements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
- Other relaxed requirements for affordable housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Low-income housing tax credit (LITHC)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Other <input type="text" value="[Other]"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

24. Please fill in the number of affordable and non-affordable units permitted for each Regional Housing Needs Assessment (RHNA) category since the beginning of the reporting period for the current RHNA cycle (October 2013- October 2021). Affordable units are defined as affordable for households with incomes of 80% or less of county median income, or the very low and low income RHNA categories. Data can be found in your submitted annual progress report to the California Department of Housing and Community Development (HCD). (Please note that your housing permit data will not be used to determine the subsequent RHNA).

Year	Affordable Housing (very low and low)	Non-affordable housing (moderate and above moderate)
2014	0	773
2015	0	513
2016	232	777
2017	0	1388

25. Please indicate if any of the following planning circumstances affect future household growth in your jurisdiction (While this section is not the official local planning survey of the RHNA process, SCAG will use responses to inform the formal local survey as part of the 6<sup>th</sup> RHNA cycle process, beginning in 2018)

**Circumstances**

**Existing and projected job housing balance**

**Lack of capacity for sewer or water service due to federal and state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.**

**Availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.**

**Lands preserved or protected from urban development under existing federal and state programs, or both, designed to protect open space, farmland, environmental habitats and natural resources on a long-term basis.**

**County policies to preserve agricultural land within an unincorporated area.**

	Yes	No
Existing and projected job housing balance	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lack of capacity for sewer or water service due to federal and state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lands preserved or protected from urban development under existing federal and state programs, or both, designed to protect open space, farmland, environmental habitats and natural resources on a long-term basis.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
County policies to preserve agricultural land within an unincorporated area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

Loss of low-income housing units in assisted housing developments due to contract expirations or termination of use restrictions.

Market demand for housing

Agreements between a county and cities in a county to direct growth toward incorporated areas of the county

High housing cost burdens

Housing needs of farm workers

Housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction

Demand for rural housing

Other

<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

**PART II - TRANSPORTATION**

26. Has your jurisdiction adopted or plan to adopt any of the following (check I.D., if currently in development):

**Adopted Policies, Plans and Strategies**

- Complete streets policy
  - Does it include provisions for delivery vehicles or truck access?
- Safe routes to school program or plan
- Active transportation plan
- Bicycle master plan
- Pedestrian master plan
- Streetscape standards and design guidelines
- Transportation master plan
- Traffic calming measures
- Transportation demand management program
- Transportation demand management ordinance
- Parking management plan/ordinance
  - Provisions for truck parking?
  - Provisions for commercial vehicle access?
- Vision zero policy
- Safety plan/safety targets
- Industrial land use ordinance
- Intelligent transportation systems plan/program

Yes	No	I.D.	Year	Web link
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

- Intermodal facility plan
- Truck Route/Truck prohibit route plan
- Multimodal performance measures/targets
- Transit overlay district
- First/Last Mile Strategies
- Scenic Roadway Plan

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

[Other Comments]

27. Has your jurisdiction or employers within your jurisdiction adopted or implemented any of the following Travel Demand Management (TDM) Strategies:

**Adopted TDM strategies**

- Ridesharing incentives and rideshare matching
- Vanpool programs
- Transit pass benefits
- Private employer shuttles or other transportation providers
- Parking cash-out policies
- Preferential parking or parking subsidies for carpoolers
- Intelligent parking programs
- Dynamic pricing for parking
- Programs or mobility services aimed at local tourism travel (e.g. Shuttle bus)
- Guaranteed ride home programs
- Incentives for telecommuting
- Designated pick-up/drop-off for ride sourcing or transportation network companies (Lyft or Uber)
- Bike share system
- Facilities or incentives for low speed modes (Neighborhood Electric Vehicles)
- Integrated mobility hubs
- Transportation management areas

Yes	No	Year	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		

[Other Comments]

28. Is your jurisdiction currently in the process of or planning to address vehicle miles travelled (VMT) related development impacts? Yes  No

If yes, please list applicable projects and measures taken (or proposed) to mitigate VMT impacts.

**Project Name**

**Comments**

[Title]

[Title]

[Title]

[Title]

[Title]


[Other Comments]

29. Does your jurisdiction provide or plan to provide any of the following Bus Rapid Transit (BRT) infrastructure:

**BRT Infrastructure**

Bus-only land

Signal prioritization

Ticket vending machines on sidewalks for expediting boarding

First/Last mile connectivity improvements

Other [Other]

Yes	No	Web link
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

30. If applicable, please provide the estimated annual expenditures for the following:

**Annual expenditures**

Bus stops/shelters

Wayfinding/signage

Data/trip planner

N/A

Annual spending

[Other Comments]

31. Does your jurisdiction receive local return funding (from a county transportation tax measure)?

Yes  No

If **yes**, does your jurisdiction have an adopted policy for prioritizing spending of these funds? Yes

No  Date: [Publish Date] Web link: [link]

[Other Comments]

32. Does your jurisdiction use local return revenue to fund any of the following:

**Funding**

Yes	No
-----	----

- Bike Lanes
- Pedestrian improvements
- Repair (pavement, potholes)
- Signal synchronization
- Fixed route transit service
- Dial-a-ride or other demand response service
- Taxi scrip
- Cool streets
- Other Shuttle ride services, street intersections, road widening, storm water quality along streets

<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

[Other Comments]

33. Does your jurisdiction have a vehicle idling reduction policy or use communication/signage to reduce idling, particularly in sensitive areas such as near schools or hospitals? Yes  No  Date: [Publish Date] Web link: [link]

[Other Comments]

34. Has your jurisdiction recently budgeted a portion of its municipal funding (from the general fund, capital improvement program, or other sources) for bicycle and/or pedestrian improvements? Yes  No  Date: [Publish Date]

[Other Comments]

**PART III - ENVIRONMENTAL**

**Environmental Preferable Purchasing Policy**

35. Does your jurisdiction have an environmentally preferable purchasing (EPP) Policy? (Includes office supplies, cleaning products, or electronics that are considered "green". Yes  No

If yes, what percent of your municipal expenditures goes towards environmentally preferable purchases? Percent: **50%**

If no, is your jurisdiction interested in developing or have visions of including one in future general plan updates? Yes  No

**CEQA Streamlining**

36. Has your jurisdiction approved projects utilizing CEQA streamlining? (SB 743, SB 375, or SB 226) Yes  No   
 If yes, please provide projects and approval year below.

**Project**

[Title]  
[Title]  
[Title]  
[Title]  
[Title]

Year	Web link

[Other Comments]

**Natural and Agricultural Lands**

37. Does your jurisdiction encourage the use of vegetation native to Southern California? Yes  No

If yes, which of the following mechanisms does your jurisdiction use to promote native vegetation?

**Mechanisms**

Through code requirements

Code incentives

In conjunction with development on privately owned land

In conjunction with development on publicly owned land

In conjunction with the development with public infrastructure projects

Other [Other]

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

[Other Comments]

38. Does your jurisdiction participate in any of the following natural lands conservation strategies?

**Natural lands conservation strategies**

Conservation easement

Development impact fee

Hillside/steep slope protection ordinance

Transfer of development rights

Mitigation bank

Multiple species habitat conservation program (MSHCP)

Natural community conservation plan (NCCP)

Other [Other]

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]



39. Does your jurisdiction participate in any of the following agricultural lands conservation strategies?

**Agricultural Lands Conservation Strategies**

**Conservation easement**

**In-lieu fee**

**Agricultural land mitigation program**

**Williamson act**

**Cluster ordinance**

**Other**

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

40. What kinds of funds (from your general fund, special allocations, or voter-approved taxes/bonds) or other funding mechanisms are available to implement natural/agricultural conservation programs? Please select all that apply.

**Funds**

**General Fund**

**Grant Funds**

**Development impact fee**

**Other**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

41. Do you have any pending or future plans to develop natural/agricultural programs or policies in your jurisdiction in the near future? Yes  No

If yes, please provide projects and approval year below:

**Project**

[Title]

[Title]

[Title]

[Title]

[Title]

Year	Web link

42. Do you face any barriers to implementing conservation programs in your jurisdiction? Yes  No

If yes, please indicate which barriers from the list below:

**Barriers**

**Funding**

**Capacity (staff time)**

**Lack of interest from constituents**

**Other**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

43. Is your jurisdiction interested in applying for conservation grants through the California Greenhouse Reduction Fund (i.e. Cap and Trade)? Yes  No   
 If yes, which of the following would be most helpful to your jurisdiction:

**Grants**

**Sustainable agricultural lands conservation program**

**Urban greening grant program**

**Wetlands restoration for greenhouse gas reduction program**

**Other**

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

44. Are there any additional data, resources, tools or examples you need for considering conservation planning or mitigation? What types of data would be useful to have?  
 Please list:

45. What other agencies, non-profits, or private entities are particularly active in conservation planning, mitigation and conservation in your jurisdiction? Who else should we talk to?  
 Please list:

**Natural Communities Coalition, Friends of Harbors Beaches and Parks**

**Environmental Justice**

46. Does your jurisdiction have any disadvantaged areas? Yes  No   
 If no, please skip to question 52.

47. Does your jurisdiction take into account disadvantaged areas in planning, when seeking grant funding? Yes  No

[Other Comments]

48. Does your jurisdiction make use of the CalEnviroScreen tool developed by CalEPA to help identify disadvantaged communities within your jurisdiction? Yes  No

[Other Comments]

49. Does your jurisdiction have a program to mitigate air quality in environmentally sensitive areas (for example: hospitals, schools, hospices, or daycare facilities located within 500 feet of a freeway)? Yes  No  Date: [Publish Date] Web link: [link]

[Other Comments]

50. Which of the following strategies does your jurisdiction employ to engage low-income, minority groups and Tribal Governments when pursuing community infrastructure projects?

**Strategies**

**We host community workshops in targeted locations to solicit feedback from low-income and minority residents**

**We regularly engage community groups that have a large membership from low-income and minority residents**

**We advertise in media outlets that aim to serve low income and minority residents**

**We go out to community events and activities to engage residents who may not be able to attend workshops**

**All of the above**

**Other** [Other]

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

[Other Comments]

51. If your jurisdiction leads federally funded infrastructure or transportation programs, how do you identify and resolve potential severe and adverse impacts to low income and minority populations?

**Strategies**

**We conduct an environmental justice impacts analysis and seek input from community residents to minimize, mitigate, or avoid potentially severe or adverse impacts for low income and minority communities**

**We engage low income and minority residents early in the planning process to avoid impacts**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

We work with our County Transportation Commission to address impacts

Other

<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

52. Does your jurisdiction promote the use of New Markets Tax Credit Benefits to revitalize the community? Yes  No

**Environmental Sustainability**

53. Has your jurisdiction adopted or plan to adopt a Climate Action Plan? Yes  No  Date: [Publish Date] Web link: [link]  
 If yes, what is your greenhouse gas reduction target and anticipated horizon year? Target/Horizon Year: [Year]

54. Does your jurisdiction have plans or policies in place to implement a local version of the State's climate goal of reducing greenhouse gases by 40% below 1990 levels by 2030? Yes  No   
 Date: [Publish Date] Web link: [link]

55. Does your jurisdiction have the capacity (i.e. staffing and resources) to apply for Greenhouse Gas Reduction Fund (cap-and-trade) or other federal, state or local grants? Yes  No

56. Does your general plan and/or specific plan consider implications resulting from any of the following climate change hazards:

**Topics**

Fire  
 Flood  
 Drought resistance  
 Heat island effect  
 Sea level rise  
 Other

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

57. Does your jurisdiction monitor energy use in order to employ energy efficiency measures? Yes  No   
 If yes, how frequently is energy use reviewed?

**Frequency**

Weekly

Monthly

Quarterly

Annually

Other [Other]

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

[Other Comments]

58. Please indicate if your jurisdiction promotes the usage of Electrical Vehicles and/or Alternative Fuel Fleet stations or strategies:

**Stations/Fleet**

**Electrical Vehicle Station**

- Heavy Duty Vehicles
- Passenger/Light Duty Vehicles
- How many in municipal fleet?

**Alternative Fuel Fleet**

- Heavy Duty Vehicles
- Passenger/Light Duty Vehicles
- How many in municipal fleet?

Other [Comments]

Yes	No	Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
0		
66		
66		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
33		
6		
39		
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

**PART IV – PUBLIC HEALTH AND SAFETY**

59. Does your jurisdiction have a ‘Healthy Cities’ resolution or ordinance? Yes  No  Date: [Publish Date] Web link: [link]

[Other Comments]

60. Does your jurisdiction have a Health Element as part of its general plan or has your jurisdiction incorporated health as a consideration into the general plan? Yes  No  Date: [Publish Date]  
 Web link: [link]

[Other Comments]

61. Has your jurisdiction incorporated any of the following planning practices?

**Planning practices**

Health in all policies

Health equity

Analysis of the social determinants of health

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

62. Does your jurisdiction have any of the following plans to address emergencies caused by natural disasters?

**Emergency and Natural Disaster Plans**

Seismic safety plan

Emergency evacuation plan

Emergency response plan

Hazard mitigation plan

Fire protection plan

Other [Other]

Yes	No	Web link
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

[Other Comments]

**PART V - DATA**

63. Does your jurisdiction have or collect any of the following:

**Data**

Bicycle or pedestrian volume data

Sidewalk data

Traffic counts

Truck traffic counts

Automated traffic counters

Warehousing/distribution centers

Number of manufacturing firms

Yes	No	Contact Name	Email
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		

Local road pavement management and performance data  
 Public health data  
 Bike lane mileage data (bike lane, bike path, Class 3 bike routes, separated bike lanes (cycle tracks))  
 Collision data  
 Bridge condition data  
 Pavement condition index (PCI) or International roughness index (IRI) data for local roads.  
 Open data portal  
 New Housing starts data  
 Allowed parking and restricted parking areas

<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		

[Other Comments]

Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey

The RHNA process requires that SCAG survey its jurisdictions on local planning factors (formerly known as “AB 2158 factors”) prior to the development of a proposed RHNA methodology, per Government Code 65584.04 (b). Information collected from this survey will be included as part of the proposed RHNA methodology.

Between October 2017 and October 2018, SCAG included these factors as part of the local input survey and surveyed a binary yes/no as to whether these factors impacted jurisdictions. If your jurisdiction answered this part of the survey, your reply has been pre-populated in the table. Please review each factor and provide any information that may be relevant to the RHNA methodology. You may attach additional information to the survey. Please keep in mind that recent housing-related legislation has updated some of the factors listed, which were not included in the prior survey.

Per Government Code Section 65584.04 (g), there are several criteria that **cannot** be used to determine or reduce a jurisdiction’s RHNA allocation:

- (1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by the jurisdiction
- (2) Underproduction of housing units as measured by the last RHNA cycle allocation
- (3) Stable population numbers as measured by the last RHNA cycle allocation

The planning factors in the table below are abbreviated. For the full language used, please refer to Government Code Section 65584.04 (e) or the attached reference list.

Please review and submit the survey by 5 p.m. April 30, 2019 to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).



RHNA Methodology Local Planning Factor Survey

Jurisdiction	County of Orange
County	Orange

Planning Factor	Impact on Jurisdiction
Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing	Yes
Lack of capacity for sewer or water service due to decisions made outside of the jurisdiction's control	Yes
Availability of land suitable for urban development	Yes

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA

<p>Lands protected from development under Federal or State programs</p>	<p>Yes</p>
<p>County policies to preserve agricultural land</p>	<p>Yes</p>
<p>Distribution of household growth assumed for regional transportation planning and opportunities to maximize use of public transportation</p>	<p>No</p>
<p>Agreements between a county and cities to direct growth to incorporated areas of the county</p>	<p>No</p>

<p>Loss of low income units through contract expirations</p>	<p>Yes</p>
<p>[NEW] Percentage of households that pay more than 30% and more than 50% of their income on rent</p>	<p>Share of renter households spending 30% or more on rent is 55%. Share of renter households spending 50% or more on rent is 28%.</p>
<p>[NEW] Rate of overcrowding</p>	<p>4%</p>
<p>Farmworker housing needs</p>	<p>No</p>

<p>Housing needs generated by the presence of a university campus within the jurisdiction</p>	<p>No</p>
<p>[NEW] Loss of units during a declared state of emergency that have yet to rebuilt at the time of this survey</p>	<p>No</p>
<p>[NEW] The region's greenhouse gas emission targets provided by the California Air Resources Board</p>	<p>Yes</p>
<p>Other factors</p>	<p>N/A</p>

Affirmatively Furthering Fair Housing (AFFH) Survey

Jurisdiction	County of Orange
County	Orange County
Survey Respondent Name	Colby Cataldi
Survey Respondent Title	Deputy Director, OC Public Works

SCAG is surveying cities and counties on information related to affirmatively further fair housing\* as part of its development of the Regional Housing Needs Assessment (RHNA) proposed methodology. Information related to AFFH may be obtained from local analysis for housing choice, housing elements, and other sources. Using your jurisdiction's Analysis of Impediments to Fair Housing Choice, Assessment of Fair Housing, and/or local housing element, please answer the questions below about local issues, strategies and actions regarding AFFH and submit your answers no later than April 30, 2019 to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).

**Data Sources**

1a. Does your jurisdiction have an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing due to U.S. Department of Housing and Urban Development (HUD) requirements?

Yes	X
No	

2. When did your jurisdiction last update the General Plan?

Year	Last amendment adopted in 2018
------	--------------------------------

3a. Does your General Plan have an environmental justice/social equity chapter or integrate environmental justice/social equity, per SB 1000?

Yes	
No	X
In process	

3b. If you answered yes or in process to question 3a, how does your General Plan integrate or plan to integrate environmental justice?

A) An environmental justice chapter	
B) Throughout the General Plan in each chapter	
C) Both	

\* Per Government Code 65584(e), affirmatively furthering fair housing is defined as "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws."

## Fair Housing Issues

4. Describe demographic trends and patterns in your jurisdiction over the past ten years. Do any groups experience disproportionate housing needs?

The population size has increased by 7.5% and housing units have increased by 7.2% over the last decade.

5. To what extent do the following factors impact your jurisdiction by contributing to segregated housing patterns or racially or ethnically-concentrated areas of poverty?

Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or minimum parking requirements	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Occupancy restrictions	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Residential real estate steerings	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Patterns of community opposition	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Economic pressures, such as increased rents or land and development costs	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Major private investments	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Municipal or State services and amenities	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Foreclosure patterns	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Other	N/A

6. To what extent do the following acts as determinants for fair housing and compliance issues in your jurisdiction?

Unresolved violations of fair housing or civil rights laws	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Patterns of community opposition	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Support or opposition from public officials	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Discrimination in the housing market	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Lack of fair housing education	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Lack of resources for fair housing agencies and organizations	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.

**Fair Housing Strategies and Actions**

7. What are your public outreach strategies to reach disadvantaged communities?

Partnership with advocacy/non-profit organizations	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Partnership with schools	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Partnership with health institutions	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Variety of venues to hold community meetings	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Door-to-door interaction	<b>Not applicable</b>
Increased mobile phone app engagement	<b>Not applicable.</b>
Other	

8. What steps has your jurisdiction undertaken to overcome historical patterns of segregation or remove barriers to equal housing opportunity?

County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement. Also, see County of Orange Housing Element.

9. What steps has your jurisdiction undertaken to avoid, minimize, or mitigate the displacement of low income households?

See County of Orange Housing Element.



**Attachment 6 -  
Rancho Mission Viejo Development Agreement (2004)**

RESOLUTION OF THE BOARD OF SUPERVISORS OF  
ORANGE COUNTY, CALIFORNIA

November 8, 2004

WHEREAS, Sections 65864 *et seq.* of the Government Code authorize the County to enter into binding development agreements to achieve certain public purposes; and

WHEREAS, pursuant to the statutory authorization cited above, the County has established procedures and requirements for the processing of proposed development agreements; and

WHEREAS, Board of Supervisors Resolution No. 02-066 establishes procedures for the processing of development agreements in the County; and

WHEREAS, pursuant to Government Code Section 65300 *et seq.*, the County has adopted a General Plan that provides for residential, commercial, industrial and public facilities to meet the future needs of the County population as projected in adopted population and growth forecasts; and

WHEREAS, on November 8, 2004, this Board approved a General Plan Amendment (GPA01-01) and Zone Change (ZC01-02) authorizing the development of the Ranch Plan Planned Community Project (the "Project") upon a 22,815 parcel of real property owned by Rancho Mission Viejo ("RMV") and located in southern Orange County (the "Property") (*see* Board of Supervisors Resolution Nos. 04-291 and 04-292 and Ordinance No. 04-014); and

WHEREAS, this Board's approvals of GPA01-01 and ZC01-02 were expressly conditioned upon RMV's satisfaction of certain conditions ("Conditions of Approval") obligating RMV to provide specific public improvements to ensure that no public facility or service deficiencies would occur as a result of development of the Project upon the Property; and

WHEREAS, RMV proposes to enter into a development agreement ("Development Agreement") with the County for the Property whereby RMV would provide a series of public benefits to the County in exchange for the County's assurance that (i) RMV's development rights relative to the Project would immediately vest and (ii) the planned community development regulations and ordinances, development plan and other existing land use ordinances and regulations of the County would remain unchanged relative to the Project and the Property for a period of not less than 30 years; and

WHEREAS, the proposed Development Agreement provides significant public benefits to the County and the public that exceed those that the County could otherwise be lawfully obtained or exacted through the entitlement process; and

WHEREAS, through commitments contained in the proposed Development Agreement, RMV has agreed to pay or provide more than its pro-rata share of certain public facilities required in connection with the development of the Property as one element of consideration to the County for the Development Agreement; and

1 WHEREAS, in recognition of the need for assurances and predictability in providing these  
2 and other benefits to the County in connection with the proposed Development Agreement, RMV  
3 proposes said Agreement which provides that the regulations guiding development of the Project  
4 will be those in effect on the Effective Date of the Development Agreement and, as related to the  
5 Project, will not be modified except as set forth in the Development Agreement during the term  
6 thereof; and

7 WHEREAS, as a result of the County's consideration of the development rights to be  
8 vested pursuant to the proposed Development Agreement, the proposed Development Agreement  
9 requires RMV to participate in the provision of certain public services and facilities in connection  
10 with the development of the Property, including certain transportation improvements, a water  
11 quality basin and recreational trail facilities, and

12 WHEREAS, these additional requirements of the proposed Development Agreement are  
13 of significant benefit to the County and the residents of the Ranch Plan Planned Community; and

14 WHEREAS, the proposed Development Agreement reserves to the County all powers  
15 reasonably necessary to protect the public health and safety in connection with development of  
16 the Project; and

17 WHEREAS, the County also retains flexibility under the proposed Development  
18 Agreement to adopt and apply to the Project future regulations which are not in conflict with  
19 existing land use ordinances; and

20 WHEREAS, this Board has reviewed the proposed Development Agreement with respect  
21 to consistency with the Orange County General Plan (as amended by GPA01-01), all applicable  
22 specific plans, applicable zoning regulations, and Resolution No. 02-066; and

23 WHEREAS, in compliance with the California Environmental Quality Act (California  
24 Public Resources Code Sections 21000 *et seq.*) ("CEQA"), the State CEQA Guidelines (Title 14,  
25 California Code of Regulations Sections 15000 *et seq.*) ("CEQA Guidelines") and the County's  
26 environmental analysis procedures, the County of Orange prepared Program Environmental  
27 Impact Report No. 589 ("Program EIR No. 589") to address the environmental impacts of the  
28 proposed Ranch Plan Planned Community Project - including the proposed Development  
Agreement; and

WHEREAS, this Board has reviewed and considered all of the environmental  
documentation prepared to evaluate the Project, including all elements of Program EIR No. 589;  
and

WHEREAS, this Board, through Resolution No. 04-290, has heretofore certified Program  
EIR No. 589, in its composite form, as complete and adequate in that it addresses all  
environmental effects of the Project and fully complies with the requirements of CEQA, the  
CEQA Guidelines and the County's environmental analysis procedures; and

1 WHEREAS, the proposed Development Agreement contemplates that further  
2 environmental studies, analyses, reports and documents may be required in connection with  
3 future approvals; and

4 WHEREAS, the Development Agreement provides that prior to and as a condition  
5 precedent to the construction or development of any public facilities to be constructed and/or  
6 funded, in whole or in part, by RMV, all governmental permits and approvals must be obtained as  
7 required by the applicable land use ordinances or other regulations and all environmental studies,  
8 analyses, reports and other documents are to be prepared and completed therefore in full and strict  
9 compliance with CEQA and other applicable regulations; and

10 WHEREAS, the Orange County Planning Commission ("Planning Commission")  
11 conducted legally noticed public hearings concerning GPA01-01, ZC01-02, the Development  
12 Agreement and Program EIR No. 589 on September 14, September 28, October 6 and October  
13 12, 2004, respectively; and

14 WHEREAS, at the conclusion of a supplemental meeting conducted by the Planning  
15 Commission on October 14, 2004, said Commission adopted Resolution 04-07 recommending, in  
16 relevant part, that this Board approve, execute and deliver the Development Agreement; and

17 WHEREAS, in accordance with the Government Code of the State of California, a legally  
18 noticed public hearing concerning GPA01-01, ZC01-02, the Development Agreement and  
19 Program EIR No. 589 was conducted by this Board on November 8, 2004; and

20 WHEREAS, this Board has listened to and carefully considered the public comments that  
21 were presented to it at the public hearing held on the Project; and

22 WHEREAS, the proposed Development Agreement will not subject the County to any  
23 additional liability for monetary damages as a result of any assurance or right contained therein or  
24 for any other reason; and

25 WHEREAS, this Board shares the concerns of all citizens of Orange County that adequate  
26 public facilities be provided within the Ranch Plan Planned Community area;

27 NOW, THEREFORE, BE IT RESOLVED THAT based upon the foregoing recitals,  
28 which are incorporated herein as findings of this Board, and the following findings, this Board  
hereby approves the Ranch Plan Development Agreement:

1. Final Program EIR No. 589, certified by this Board on November 8, 2004 (*see*  
Resolution No. 04-290), adequately addresses the potential environmental effects of the proposed  
Project covered by the Development Agreement.

2. The Development Agreement is consistent with the Orange County General Plan  
(as amended by GPA01-01) and applicable zoning regulations and procedures.

3. The Development Agreement would, during the term of said Agreement (*i.e.*, 30  
years), maintain the existing General Plan, the Ranch Plan Planned Community project

1 documents, land use regulations and other selected and identified ordinances for the benefit of the  
 2 Project and the Property. Notwithstanding, the Development Agreement would ensure that the  
 3 County's future discretionary authority in reviewing and processing Master Area Plans, Sub-Area  
 4 Plans, use permits, site development permits and subdivision maps will be maintained. In order  
 to achieve equity for the above consideration, the County will receive various, specified public  
 benefits.

5 4. The Development Agreement is consistent with the County Development  
 6 Agreement Resolution in that the affected school district (ala Capistrano Unified School District  
 7 [CUSD]) was afforded an opportunity to review and comment upon the proposed Ranch Plan  
 8 Planned Community and the school facility need generated by the Project throughout the review  
 9 process for Program EIR No. 589. A condition of the Project is that RMV shall coordinate with  
 CUSD to ensure that adequate educational facilities are implemented to serve students generated  
 by the proposed Project. In its action on the Project, this Board has determined that the impacts  
 of this Project on the affected school district are fully mitigated by the foregoing condition.

10 5. The Development Agreement would ensure the following major public benefits to  
 11 be provided by RMV as consideration for the County's entering into and performing the  
 Development Agreement:

12 a. Transportation Improvements/Contributions

13  
 14 The Conditions of Approval obligate RMV to participate, on a Fair Share basis, in the  
 15 financing of certain on-site and off-site transportation system improvements. In order to  
 16 facilitate and promote the County's timely completion and achievement of these necessary  
 improvements, RMV shall provide the following additional financial/resource assistance  
 to the County:

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- Acceleration of RMV's Fair Share payment obligations for the transportation improvements identified in the Conditions of Approval.
  - Provision of land for public right-of-way to facilitate the future construction of identified transportation facilities.
  - Provision of financial contributions that exceed the minimum Fair Share obligations specified in the Conditions of Approval.

21 The specific transportation benefits to be received by County and its residents are  
 22 summarized in Table D-1 of Exhibit D to the Development Agreement, and more  
 23 particularly described in Section I.C. of said Exhibit D. Table D-1, Exhibit D and  
 24 Exhibit E to the Development Agreement further identify the milestone events for when  
 25 the accelerated and additional resources will be provided by RMV to the County and the  
 26 phasing plan for the specified transportation improvements. Again, the provision of the  
 27 accelerated and additional resources will enable the County to expedite and accomplish  
 28 both current and future transportation improvement projects benefiting the residents of  
 Orange County (e.g., advance funding shall allow for the near-term preparation of design  
 materials and environmental documentation to expedite the approval processes for critical  
 off-site improvement projects). Furthermore, RMV's provision of advance funding will  
 enhance the ability of the County and adjoining jurisdictions to seek and receive matching

1 funds for identified circulation improvements (as said matching funds may be available  
 2 from regional, state and federal sources). As identified in Section I.B. of Exhibit D to the  
 3 Development Agreement, all funding provided by RMV pursuant to the Development  
 4 Agreement shall be deposited into the South County Roadway Improvement Program  
 5 (“SCRIP”) and credited against RMV’s Fair Share and extra contribution obligations.

6 **b. Water Resources**

7 In planning the Project, RMV has designed an integrated Flood Management Program that  
 8 effectively addresses and minimizes impacts associated with development of the Project.  
 9 Notwithstanding, studies indicate that areas located south of the Project area will continue  
 10 to be impacted by nuisance and first flush flows generated by existing, non-Project  
 11 development. Additionally, storm flows generated by and within the Coto de Caza  
 12 residential community have historically impacted downstream environmentally sensitive  
 13 areas (e.g., the Gobernadora Ecological Restoration Area) and the mainstem of San Juan  
 14 Creek, and have contributed to water quality and flooding problems in areas located  
 15 downstream of the Project area. In the absence of affirmative planning and response,  
 16 these non-Project related impacts will continue to produce negative downstream impacts.

17 In order to assist the County, Coto de Caza and the community at large in the abatement  
 18 of this nuisance, RMV shall design and provide a water quality basin in Gobernadora  
 19 Canyon that has the ability and capacity to capture nuisance and first flush storm flows  
 20 generated by the Coto de Caza residential community. Specifically, and as identified in  
 21 Section II of Exhibit D to the Development Agreement, RMV shall (i) contribute up to 35  
 22 acres of land that will be used as the situs for the water quality basin and (ii) design and  
 23 implement the necessary water quality basin improvements in conjunction with Santa  
 24 Margarita Water District and/or other partners. Section II of Exhibit D to the  
 25 Development Agreement further specifies the events triggering RMV’s obligation to  
 26 contribute the land and implement the water quality basin improvements.

27 **c. Public Trails**

28 The Conditions of Approval specify that prior to the recordation of individual subdivision  
 maps within the Project area, each subdivider shall offer to the County an easement that  
 provides for any designated regional riding and hiking trail located within the subdivided  
 area. The purpose underlying said Condition is to facilitate the County’s implementation  
 of the 348-mile regional trail network described and identified in the County General  
 Plan. However, full implementation of the regional trail network (as said network  
 traversed the Project area) and accomplishment of the County’s trail system goals will  
 require the establishment of supplemental easements and trail linkages that are in addition  
 to those mandated by the Conditions of Approval.

In furtherance of the public interest in (i) achieving completion of the County’s regional  
 trail network, (ii) providing connectivity between existing and proposed community trails  
 and (iii) enhancing connectivity between regional recreational facilities, RMV shall:

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- Dedicate to the County an easement for regional riding and hiking trail purposes that connects the existing Wagon Wheel Trail (extending from General Thomas F. Riley Wilderness Park) with the Ridge Top Trail (located within Caspers Wilderness Park). The general location of the trail easement is depicted as "Trail X" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing easement dedication.
- Design and implement a community trail connection between the existing Ladera Ranch Community Trail and the proposed San Juan Creek Regional Riding and Hiking Trail. The general location of the proposed community trail connection is depicted as "Trail Y" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing of the identified trail improvements.
- Design and implement a community trail connection between Coto de Caza and the proposed Wagon Wheel Community Connector Trail (*see first arrow point, above*) and the proposed San Juan Creek Class I Bikeway. The general location of the proposed community trail connection is depicted as "Trail Z" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing of the identified trail improvements.

BE IT FURTHER RESOLVED THAT this Board directs that the Development Agreement be entered into and that the Clerk of this Board is directed to: (i) execute the Development Agreement on behalf of the County of Orange after execution thereof by RMV, provided that RMV executes and delivers to the Clerk of this Board the Development Agreement within 30 days of this Resolution; and (ii) insert the date of said execution on the page numbered "1" of the Development Agreement.

BE IT FURTHER RESOLVED THAT the Clerk of this Board is hereby directed to record the Development Agreement with the County Recorder upon execution.

[THIS SPACE INTENTIONALLY LEFT BLANK]

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors on November 8, 2004; to wit:


AYES:	Supervisors	THOMAS W. WILSON, CHARLES V. SMITH, JAMES W. SILVA, BILL CAMPBELL, CHRIS NORBY
NOES:	Supervisor(s)	
EXCUSED:	Supervisor(s)	
ABSTAINED:	Supervisor(s)	

  
 \_\_\_\_\_  
 CHAIRMAN

STATE OF CALIFORNIA )  
 ) ss.  
 County of Orange )

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

  
 \_\_\_\_\_  
 DARLENE J. BLOOM  
 Clerk of the Board of Supervisors  
 County of Orange, State of California



Resolution No.: 04-293  
 Agenda Date: 11/08/2004  
 Item No.: 1

I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, County of Orange, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: \_\_\_\_\_  
 Deputy

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

Recording Requested by and  
when Recorded, return to:  
Clerk of the Board  
10 Civic Center Plaza, Room 465  
Santa Ana, California 92701

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

NO FEE

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115 42 A12 157

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**EXEMPT RECORDING REQUESTED  
PER GOVERNMENT CODE 6103**

(Space Above This Line for Recorder's Use)

**RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT**

**COUNTY OF ORANGE**

**(Ranch Plan Project)**

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**RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT**

(Govt. Code Sections 65864-65869.5)

THIS RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT (“Agreement”) is entered into this 8th day of November, 2004, by and between the COUNTY OF ORANGE, a political subdivision, organized and existing under the laws of the State of California (“COUNTY”), and the following parties (each of which shall be individually referred to herein as an “OWNER” and all of which shall be collectively referred to herein as the “OWNERS”): DMB SAN JUAN INVESTMENT NORTH, LLC, a Delaware limited liability company, RMV MIDDLE CHIQUITA, LLC, a California limited liability company, RMV RANCH HOUSE, LLC, a California limited liability company, RMV HEADQUARTERS, LLC, a California limited liability company, RMV SAN JUAN WATERSHED, LLC, a California limited liability company, RMV SAN MATEO WATERSHED, LLC, a California limited liability company, and RMV BLIND CANYON, LLC, a California limited liability company.

**RECITALS**

This Agreement is entered into based upon the following facts:

A. When used in these Recitals, each of the terms defined in Section 1 of this Agreement shall have the meaning given to it therein.

B. Government Code Sections 65864-65869.5 authorize COUNTY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, in order to, among other things: encourage and provide for the development of Public Facilities to support the development of new housing and commercial projects; provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in the cost of housing and other development to the consumer and to encourage investment in and commitment to comprehensive planning which will make maximum efficient utilization of resources at the least economic cost to the public; provide assurance to developers that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to their conditions of approval; and strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development.

C. OWNERS hold legal title to the Property. The Property consists of approximately 22,815 acres. The Property is located in the unincorporated portion of southern Orange County, east of the Cities of Mission Viejo and San Juan Capistrano and north of the City of San Clemente.

D. OWNERS desire and intend to develop the Property as a large scale master planned development commonly known as the “Ranch Plan” for the uses and purposes set forth in the Development Plan. The Development of the Property requires substantial early and major capital expenditures and investments with respect to the construction and installation of major infrastructure and facilities, both on-site and off-site, of sufficient capacity to serve the future residents and users of the Property as anticipated by the General Plan and, in some instances, existing communities.

E. The Development Plan provides balanced and diversified land uses and imposes appropriate standards and requirements with respect to land development and usage so as to maintain the overall quality of life and of the environment within the County. COUNTY has determined that the Development Plan implements the goals and policies of COUNTY's General Plan applicable to the Project.

F. Pursuant to Government Code Section 65865, COUNTY has adopted the County Development Agreement Resolution, establishing procedures and requirements for the consideration of proposed development agreements such as this Development Agreement.

G. COUNTY has approved the Development Plan in order to protect the interests of COUNTY's existing and anticipated citizens and the quality of their community and environment through the planned development process. As part of the process of approving the Development Plan, COUNTY has undertaken, pursuant to the California Environmental Quality Act ("CEQA"), the required analyses of the environmental effects which would be caused by the Project. On November 8, 2004, the COUNTY Board of Supervisors adopted Resolution No. 04-290 certifying Environmental Impact Report No. 589. In addition to other matters which COUNTY took into consideration in its analyses of the environmental effects which would be caused by the Project, COUNTY scrutinized with particular care the adverse impacts associated with vehicular traffic conditions within the County and the availability of adequate levels of housing, public services and facilities within the County, including, without limitation, library, sheriff, fire and paramedic protection, open space and community parks. COUNTY has imposed a series of mitigation measures in connection with the development of the Project to reduce or eliminate the anticipated adverse impacts on traffic conditions and on levels of housing, public services and facilities within the County.

H. As consideration for the assurances provided by this Agreement, COUNTY has requested that OWNERS provide, and OWNERS are willing to provide, additional public benefits as described in Exhibit D of this Agreement. The COUNTY has determined that the public benefits for which OWNERS are obligated, together with the mitigation measures imposed by the COUNTY on the Project, adequately provide for the health, safety and welfare needs of the existing and future residents of the Property and the population of adjacent areas of the County subject to the provisions of this Agreement with respect to future monitoring programs.

I. The Public Facilities to be provided by OWNERS will benefit not only the Project, but also in many instances adjacent areas and, in the case of roadways, parks, open space areas and trails (see Exhibit D), regional populations. Given the regional significance of these improvements and facilities, COUNTY desires to obtain, and OWNERS are willing to assist in providing, the Public Facilities in an orderly phased manner.

J. As with other major private undertakings, the Development of the Project is subject to significant economic and demographic uncertainties. These uncertainties, together with other currently unknown factors which may arise over the term of this Agreement, prevent OWNERS from presently predicting the precise timing for Development of the Project.

K. The COUNTY has found and determined that this Agreement: (i) is consistent with COUNTY's General Plan; (ii) is in the best interests of the health, safety and general welfare of COUNTY, its residents and the public; (iii) is entered into pursuant to and constitutes a present exercise of the police power by COUNTY; and (iv) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Legislation and the County Development Agreement Resolution; and the COUNTY Board of Supervisors has adopted an ordinance authorizing the execution of this Agreement.

L. COUNTY desires to be assured that if all or a material portion of the Property is annexed to, or included within the boundaries of, a Local Agency, OWNERS' Obligations will be completed to the extent required by this Development Agreement irrespective of the exercise of jurisdiction by the Local Agency. For that reason, this Agreement will provide assurances that the Exhibit D obligations will survive any transfer of land use jurisdiction to a Local Agency.

M. A Fiscal Impact Report has been prepared for the Project to analyze fiscal impacts on, among other items, the COUNTY's General Fund. This Agreement documents that the Project will result in a positive fiscal impact on the COUNTY General Fund.

N. Based on the foregoing, OWNER and COUNTY desire to enter into this Agreement.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals of fact, the mutual covenants contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

#### 1. SECTIONS, DEFINITIONS AND EXHIBITS.

##### 1.1 Sections and Paragraphs.

Any reference in this Agreement to a "Section" is a reference to the indicated numbered section or subsection of this Agreement and a reference to a "Paragraph" is a reference to the indicated paragraph of a Section.

##### 1.2 Definitions.

The following terms when used in this Agreement shall be defined as follows:

1.2.1 "Annual Monitoring Review" means the annual review required pursuant to Section 5 hereinbelow.

1.2.2 "Approval Date" means November 8, 2004, when the COUNTY Board of Supervisors first adopted the Development Plan defined below.

1.2.3 "Assignment and Assumption Agreement" means the alternative forms of agreement attached hereto as Exhibit H-1 and Exhibit H-2.



1.2.4 “Benefitted Interest” means any corporation, company, joint venture, partnership, trust and individual owning the Property or any portion thereof benefiting from any Public Financing Mechanism created to support development of the Project associated with and obligated to make payments of taxes, fees, assessments, special taxes or other charges pursuant to or in support of said public financing.

1.2.5 “Building and Improvement Standards” means Regulations of COUNTY which are of general application to all development and improvement projects within the COUNTY’s jurisdiction and which establish regulations and standards for the building, construction and installation of structures and associated improvements such as and including, without limitation, COUNTY’s building, plumbing, mechanical, grading, swimming pool, sign and fire codes.

1.2.6 “COUNTY” means the County of Orange, a political subdivision of the State of California.

1.2.7 “County” means the geographical area within the boundaries of COUNTY.

1.2.8 “County Development Agreement Resolution” means the resolution adopted by the Board of Supervisors of COUNTY establishing a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Legislation.

1.2.9 “CSA” means any County Service Area established pursuant to California Government Code Section 25210.1 *et seq.* by the COUNTY after execution of this Agreement to administer and provide certain public services to the Project.

1.2.10 “CSD” means any Community Services District established pursuant to California Government Code Section 61000 *et seq.* by the COUNTY after execution of this Agreement to administer and provide certain public services to the Project.

1.2.11 “Development” means the improvement of the Property for purposes of effecting the structures, improvements and facilities comprising the Project including, without limitation: grading, the construction of infrastructure and Public Facilities related to the Project whether located within or outside the Property; the construction of structures and buildings; and the installation of landscaping; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the construction and completion thereof.

1.2.12 “Development Agreement Legislation” means Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.

1.2.13 “Development Approval(s)” means sites-specific plans, maps, permits and other entitlements of every kind and nature now or hereafter approved or granted by COUNTY in connection with the Development of the Property, including but not limited to: area plans and site plans, tentative and final subdivision tract maps, vesting tentative maps, conditional and special use permits and grading, building and other similar permits.

1.2.14 “Development Exactions” means requirements of COUNTY in connection with or pursuant to any Land Use Ordinance or Development Approval for the dedication of land or property, the payment of fees or money or the construction or improvement of Public Facilities in order to lessen, offset, mitigate or compensate for the adverse impacts of the Project on environmental or other public concerns or interests or for the improvement, construction or acquisition of any public infrastructure, facilities or property; provided, however, that said term shall not include assessments and taxes unless exacted as a condition of development under a Development Approval, nor shall it include any requirements for the purpose of or with respect to the replacement, repair, maintenance or operation of public infrastructure, facilities and property or the provision of public services.

1.2.15 “Development Plan” means the Ranch Plan Planned Community and regulations with respect thereto adopted by COUNTY Board of Supervisors on November 8, 2004 by Ordinance No. 04-014, and as amended from time to time pursuant to the terms of this Agreement or the Development Plan.

1.2.16 “Economic Expectations” means reasonable investment-based economic expectations with respect to the completion of the Project in accordance with the Governing Policies taking into consideration technical, financing, market and other factors.

1.2.17 “Effective Date” means the effective date of this Agreement which is the effective date of the COUNTY’s ordinance approving this Agreement.

1.2.18 “Existing Land Use Ordinances” means those certain Land Use Ordinances in effect on the Effective Date.

1.2.19 “Existing Land Use Regulations” means those certain Land Use Regulations in effect on the Effective Date and includes “Existing Land Use Ordinances.” Exhibit B sets forth certain of the Land Use Regulations in effect on the Approval Date and shall be adjusted to reflect the Existing Land Use Regulations as of the Effective Date. This adjustment shall occur as provided in Exhibit B of this Agreement.

1.2.20 Intentionally Omitted.

1.2.21 “General Plan” means the General Plan of COUNTY.

1.2.22 “Governing Policies” means (i) the policies specified in Section 4.1; (ii) the Existing Land Use Ordinances; and (iii) the Development Plan.

1.2.23 “Growth Management Program” means that program in the County’s General Plan which is intended to balance the timing of development with public service demands.

1.2.24 “Land Use Ordinances” means the ordinances adopted by the Board of Supervisors of COUNTY which govern the permitted uses of land, the density and intensity of use, and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to: the General Plan, the Development Plan, specific plans, zoning ordinances, planned community district ordinances, development

moratoria and growth management and phased development programs, ordinances establishing Development Exactions, subdivision and park codes and Building and Improvement Standards.

1.2.25 “Land Use Regulations” means Regulations of COUNTY which govern the permitted uses of land, the density and intensity of use, and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to, mitigation measures required in order to lessen or compensate for the adverse impacts of the Project on the environment and other public interests and concerns. Land Use Regulations include, but are not limited to, Land Use Ordinances, Development Approvals and Development Exactions. The term Land Use Regulations does not include, however, Regulations relating to the conduct of business, professions and occupations generally; taxes and assessments other than Development Exactions; Regulations for the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; and any exercise of the power of eminent domain.

1.2.26 “Local Agency” means any city into which the Property may be annexed or incorporated.

1.2.27 “Local Service District(s)” means a special district providing municipal services to, or Public Financing Mechanisms for, the Property (*e.g.*, a CSA, CSD or similar entity), to be established by COUNTY after execution of this Agreement to administer and provide to the Property certain municipal services and Public Facilities necessary for the development of the Property as set forth in the Development Approvals. One or more such Local Service Districts may be formed to achieve the governance and municipal services and infrastructure financing requirements set forth in this Agreement.

1.2.28 “MPAH” means the Master Plan of Arterial Highways which has been adopted by the Orange County Transportation Authority (OCTA) and which designates routes for collector, secondary, primary, major and principal arterial highways, and transportation corridors, “smartstreets” and freeways within the County.

1.2.29 “Mortgage” means a mortgage, deed of trust or sale and leaseback arrangement or other transaction in which the Property, or a portion thereof or an interest therein, is pledged as security, contracted for in good faith and for fair value.

1.2.30 “Mortgagee” means the holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.

1.2.31 “Municipal Services Agreement” means the agreement to be entered into between OWNERS and the Local Service District to provide Public Facilities and municipal services as set forth in Section 3.6 hereof.

1.2.32 “Ordinance Number 3570” means Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange, as in effect on the Effective Date. Those Sections were originally enacted by Ordinance 3570.

1.2.33 “OWNER” means the individual persons or entities identified as such in the preamble of this Agreement, and any permissible successor or assignee to the rights, powers and responsibilities of such persons or entities in accordance with Section 6 of this Agreement.

1.2.34 “OWNERS” means all of the individual OWNERS collectively.

1.2.35 “OWNERS’ Obligations” means the obligations of OWNERS set forth in Section 3 to pay the sums, build and construct the improvements, dedicate the lands and improvements and undertake and perform the other actions described in Section 3.

1.2.36 “Project” means the development project contemplated by the Development Plan with respect to the Property, including but not limited to on-site and off-site improvements, as such development project is further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.2.37 “Property” means the lands described in Exhibit A-1 and generally depicted on Exhibit A-2. A reference to the “Project Site” is intended to refer to the Property. The Property consists of approximately 22,815 acres.

1.2.38 “Pro-Rata Share” means a proportionate amount of any fee, charge or liability paid or otherwise tendered in satisfaction of an obligation or commitment, where full responsibility for the obligation or commitment is shared by OWNERS and others, and the respective obligations can be calculated exactly pursuant to a formula.

1.2.39 “Public Facilities” means i) those certain lands and facilities (including infrastructure) to be improved, constructed and/or dedicated or conveyed to the public; and ii) other public benefits as described in Exhibit D, all of which OWNERS are obligated to provide pursuant to Section 3.1.

1.2.40 INTENTIONALLY OMITTED.

1.2.41 “Public Financing Mechanism(s)” means the Local Service District, COUNTY, and any regional or independent special district, community facilities district (CFD), infrastructure financing district (IFD), integrated financing mechanism, assessment district, maintenance district, landscape and lighting district or any other similar financing mechanism or entity; revenue bonds and other debt financing; Project or area-specific development impact or mitigation fee; planning, environmental and processing fees; monitoring program fees; stand-by charges; developer advances; and other means of financing (including, but not limited to, Federal, State, regional and local funding sources); to be applied, formed, adopted or secured by the COUNTY or the Local Service District for the purpose of financing the construction, acquisition and/or maintenance of public improvements and facilities, and the provision of public services for the Project, and which may include other property in addition to the Property or portion thereof included within said Public Financing Mechanism.

1.2.42 “Regulations” means laws, statutes, ordinances, and codes (including the Building and Improvements Standards), resolutions, rules, regulations and orders; approvals, denials and conditional approvals in connection with tentative, vesting tentative and final subdivision maps, parcel maps, conditional and special use permits and other permits of every

kind and character; programs; and official policies and actions of COUNTY; together with amendments to all of the foregoing.

1.2.43 “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER in Section 4.2 and reserved to COUNTY therein and in Section 4.3.

### 1.3 Exhibits.

The reference to a specified “Exhibit” in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation, which exhibits are attached hereto and by this reference made a part hereof.

<u>Exhibit Designation</u>	<u>Description</u>
A-1	Description of Property.
A-2	The Ranch Plan Planned Community (PC) Zoning Map.
A-3	The Ranch Plan Statistical Summary.
B	Existing Land Use Regulations.
C	Intentionally Omitted.
D	Benefits to COUNTY and its Residents.
E	Transportation Improvement Phasing Plan
F	Particular Conditions and Mitigation Measures Contained in the Land Use Regulations, Development Approvals and Mitigation Monitoring Programs Which are Satisfied or Partially Satisfied Through Adoption and Implementation of the Development Agreement.
G	Intentionally Omitted.
H-1	Assignment and Assumption Agreement (Form) – Non-Public Entities
H-2	Assignment and Assumption Agreement (Form) – Public Entities

2. MUTUAL BENEFITS AND ASSURANCES.

2.1 Purposes of Agreement.

This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will ensure certain anticipated benefits to both COUNTY (including, without limitation, the existing and future residents and populations of COUNTY) and OWNERS as described in the RECITALS, in Exhibit D, and as follows:

(i) To provide and assure to COUNTY certain Public Facilities and benefits and to provide for the anticipated levels of residents and populations of the Property, the County and adjacent areas, all as provided for in the General Plan;

(ii) To provide to OWNERS assurances regarding the Regulations that will be applicable to the Development of the Property that will justify the undertakings and commitments of OWNER described in Paragraph (i) above and the investment in on-site and off-site Public Facilities and improvements as set forth in the Development Plan and this Agreement.

2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation.

The mutual undertakings and assurances described above and provided for in this Agreement are for the benefit of COUNTY and OWNERS and promote the comprehensive planning, private and public cooperation and participation in the provision of Public Facilities, and the effective and efficient development of infrastructure and facilities supporting development which was contemplated and promoted by the Development Agreement Legislation.

2.3 Bargained For; Reliance by Parties.

The assurances provided to OWNERS in this Agreement are provided pursuant to and as contemplated by the Development Agreement Legislation, bargained and in consideration for the undertakings of OWNERS set forth in this Agreement and are intended by COUNTY to be and have been relied upon by OWNERS to their detriment in undertaking the obligations and covenanting as provided in Section 3 hereinbelow and in this Agreement generally and in expending monies and making improvements pursuant to this Agreement with respect to the Public Facilities and the Project.

2.4 No Liability for Failure to Develop.

Notwithstanding anything to the contrary express or implied herein, OWNERS shall have no liability (other than the potential termination of this Agreement as provided below) if the contemplated Development of the Project fails to occur.

3. OWNERS' AND COUNTY'S RESPECTIVE OBLIGATIONS; PROVISION OF PUBLIC BENEFITS.

3.1 In General; Public Benefits.

OWNERS shall be obligated to, and shall, perform all of the duties and obligations provided for or required by any provisions of the existing General Plan and the Development Plan in connection with the Development of the Property. Subject to the terms and conditions set forth herein, OWNERS shall be obligated to provide the Public Facilities, including the public benefits as described in Exhibit D, and to comply with any and all requirements set forth in Exhibit D for securing or guaranteeing the performance of the OWNERS' Obligations. (Some obligations required by the Development Plan also are set forth in Exhibit D.) Conditions and mitigation measures contained in the Existing Land Use Regulations, Development Approvals and mitigation monitoring programs which are or will be satisfied or partially satisfied through the adoption and implementation of this Agreement are set forth in Exhibit F.

3.2 Dedication, Construction and Conveyance of Public Facilities.

a. In General.

The Public Facilities to be dedicated (in the case of lands) and constructed by OWNERS and dedicated or conveyed to COUNTY as described in Exhibit D, shall be completed in accordance with the provisions of Exhibit D, and dedicated and conveyed to COUNTY in fee, free of all liens and encumbrances of every kind and nature except as expressly set forth in Exhibit D or agreed in writing by COUNTY. All such dedications shall be accomplished in a manner meeting the approval of the COUNTY.

b. Public Facilities; Subdivision Requirements.

Public Facilities required by the Development Plan are subject to standard subdivision requirements of general application except as expressly set forth in Exhibit D or agreed to in writing by COUNTY.

3.3 Relationship of Parties.

In performing OWNERS' Obligations, OWNERS are acting under this Agreement as independent contractors and are not acting as the agents or employees of COUNTY. Nothing contained in this Agreement shall be construed as creating between the OWNERS and COUNTY a partnership or joint venture for any purpose.

3.4 Public Facilities.

If OWNERS are required by this Agreement to construct any Public Facilities which will be dedicated to COUNTY or any other public agency upon completion, and if required by applicable laws to do so, OWNERS shall perform such work subject to the same engineering specifications and standards as would be applicable to COUNTY or such other public agency should it have undertaken such construction.

### 3.5 Obligations of COUNTY Regarding Public Facilities.

In any instance where OWNERS are required to construct any Public Facilities on lands other than the Property, as a condition precedent to the performance of such obligation, COUNTY shall provide or cause to be provided the real property rights and interests necessary for the construction of such Public Facilities. Where those property rights and interests are to be acquired by any Public Financing Mechanism including the project site, OWNERS shall have no obligation to pay for such rights or interests except that OWNERS shall pay all reasonable administrative costs of COUNTY (including but not limited to the administrative costs of condemnation) related to the acquisition and transfer of said rights and interests. Where those real property rights and interests are acquired for ownership by COUNTY and not by a Public Financing Mechanism, OWNERS shall reach agreement with COUNTY for payment by OWNERS of all reasonable costs, including land costs, incurred in acquiring those real property rights and interests; in no event shall COUNTY have any obligation to pay for such acquisition. COUNTY's only obligation is to use at its option its power of eminent domain to acquire such property at OWNERS' expense. (Note: This Section does not mean that OWNERS are required to acquire any real property rights or interests related to OWNERS' "Fair Share Contributions" or "Extra Contributions" for the off-site traffic mitigation program as set forth in Exhibit D.)

### 3.6 Financing and Provision of Public Facilities and Services.

COUNTY and OWNERS may establish a series of Local Service Districts to provide necessary administration, financing and municipal services for the benefit of the Project area and its residents. Preliminary concepts envision the potential use of a two-tier structure for the Local Service Districts; namely: (i) creation of a Project area-wide limited purpose district designed to provide necessary services for the entire Project area as it develops and (ii) establishment of supplemental community service districts that will provide a range of municipal level services for each planning area developed within the Project area. In the event COUNTY and OWNERS elect to proceed with the establishment of one or more Local Service Districts for the Project area, the following provisions shall apply:

#### a. Local Service Districts.

It is the intent of the parties that COUNTY shall cooperate in establishing the Local Service Districts and other Public Financing Mechanisms to administer and provide to the Property, in conjunction with COUNTY and other public agencies, municipal services and Public Facilities necessary to support urban development pursuant to the Project. COUNTY agrees to use reasonable efforts to facilitate the formation of the Local Service Districts, and OWNERS shall cooperate with COUNTY in the formation of the Local Service Districts, including a waiver of any protest provisions set forth in the applicable statute related to the formation of the particular Local Service District if the formation is in accord with the Development Approvals and the terms and conditions of this Agreement. It is also a condition of this Agreement that OWNERS and the Local Service District(s) shall enter into a Municipal Services Agreement(s) providing for certain municipal services and Public Facilities to be provided in connection with the development of the Project and the parties shall undertake and carry out their respective obligations under the Municipal Services Agreement.



b. Establishment of Public Financing Mechanisms.

(i) The parties intend to explore and, where possible, use Public Financing Mechanisms for financing OWNERS' Obligations for Public Facilities under this Agreement. OWNERS shall have the right to request COUNTY and/or the Local Service District, upon OWNERS posting a deposit or other security satisfactory to COUNTY for payment of COUNTY's costs in connection therewith, to initiate and conclude appropriate proceedings for the establishment of Public Financing Mechanisms under applicable Regulations to pay for the costs and expenses associated with the construction and provision of the Public Facilities required to be provided by OWNERS under this Agreement. OWNERS may also request that COUNTY and/or the Local Service District(s) consider the utilization of any other financing method then available under the Regulations, provided that such alternative methods do not impose any additional un-reimbursed expense upon COUNTY. Upon OWNERS' request to initiate proceedings, COUNTY and/or the Local Service District(s) shall initiate proceedings under applicable law, it being understood and agreed, however, that COUNTY and/or the Local Service District(s) must follow applicable legal procedure with respect thereto and reserve its legislative discretion in determining spread of assessments, allocation of benefit and other matters and in deciding whether to approve the formation of any such Public Financing Mechanism.

(ii) OWNERS shall cooperate with the COUNTY and/or the Local Service District(s) in the establishment of any such Public Financing Mechanism and waive their right to protest such establishment if it is in accord with the Development Approvals and the terms and conditions of this Agreement. OWNERS do reserve, however, their rights to protest during any such proceedings the allocation of benefit and spread of assessments. OWNERS also reserve the right to withdraw their request for Public Financing Mechanisms under this Section 3.6, provided COUNTY and/or the Local Service District(s) is/are fully reimbursed for its/their costs and expenses hereunder. If a permitted assignment under Section 6.1 hereof is made after proceedings to establish a Public Financing Mechanism have been initiated, the OWNER or OWNERS then holding title to the Property or any interest therein shall continue to cooperate with the establishment of the Public Financing Mechanism. OWNERS acknowledge and understand that the failure to establish any such Public Financing Mechanism or OWNERS' failure to participate therein may preclude development of the Project until a Public Financing Mechanism is established by the COUNTY or the Local Service District(s) and OWNERS participate therein.

(iii) In connection with bonds or other financings proposed to be undertaken by COUNTY or the Local Service District(s) or pursuant to a Public Financing Mechanism, OWNERS understand and agree that OWNERS and other affected property owners may be required to provide detailed background, financial and project information deemed necessary by COUNTY and/or the Local Service District(s) or such Public Financing Mechanism in order to issue its bonds or obtain other financing. This information may include financial and project information necessary for COUNTY and/or the Local Service District(s) or the Public Financing Mechanism to determine financial feasibility as well as other information generally expected by the capital markets for transactions of the type of financing contemplated in order to meet industry standards for disclosure. Such information may include, but is not limited to: complete financial statements for up to three (3) years from each information

regarding principal owners, investors, and lenders of the Benefitted Interests; previous experience, if any, of the Benefitted Interests in undertaking projects of the kind contemplated under this Agreement; disclosure of the Benefitted Interests' bankruptcies, receiverships, delinquencies, defaults, tax liens, foreclosures, lawsuits, and criminal indictments and convictions, if any. OWNERS shall promptly provide this information to COUNTY and/or the Local Service District(s), the bond underwriters and/or financial advisors and/or counsels, subject to mutual agreement of the parties, and shall cooperate with the underwriters and/or financial advisors and/or counsels to assemble and analyze all such required information. The COUNTY, Local Service District(s), and the underwriters, financial advisors and counsels of the agency responsible for issuing the debt will cooperate with OWNERS, subject to their fiduciary or contractual obligations to the agency responsible for issuing the debt, to protect the confidentiality of confidential or proprietary information provided by OWNERS to COUNTY and/or the Local Service District(s). OWNERS shall warrant and certify to the COUNTY and/or Local Service District(s), as required, and to the underwriters, financial advisors and their counsels, the accuracy and completeness of such information and shall provide any opinions of OWNERS' counsel reasonably requested by the COUNTY, Local Service District(s) or their underwriters, financial advisors and their counsels.

(iv) The failure or inability of COUNTY to establish any such Public Financing Mechanism or the failure of any such Public Financing Mechanism to carry out its obligations shall not relieve OWNERS of the requirements of the Development Approvals and this Agreement to satisfy the OWNERS' Obligations as a condition to the development of the Property or any phase thereof.

c. Payment of Share of Costs.

To the extent not otherwise provided for in applicable Regulations, and subject to the provisions regarding establishment of Public Financing Mechanisms required hereunder, the parties intend that OWNERS shall arrange for and participate in necessary financing for construction and provision of the required Public Facilities applicable to the development of the Property. The parties acknowledge that OWNERS' financial obligations with respect to the Public Facilities may exceed the amount actually related to the development and use of the Property as set forth in the Development Approvals and that other properties and developers may also directly benefit from such improvements and regulations. COUNTY, to the extent the Local Service District or other Public Financing Mechanism does not provide for such matters, shall adopt by subsequent ordinance detailed procedures for reimbursement or offsetting credits to OWNERS for Public Facilities that provide measurable benefit to other developing properties.

3.7 Future Fee Programs.

Ordinance Number 3570 establishes a means by which development fees will be required of development projects where supporting facilities will be needed to provide public services. OWNERS have agreed to provide the Public Facilities and other public benefits as described in Exhibit D. In certain instances, the obligations of OWNERS in providing such facilities and services are in excess of OWNERS' Pro-Rata Share (and may include, in effect, amounts reflecting benefits to existing development or development anticipated in the future) of the costs of such facilities and services as determined pursuant to Ordinance Number 3570. It is

acknowledged by the parties that the Development of the Property in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the General Plan, as implemented through the Growth Management Program. Subject to the provisions below, OWNERS shall participate, on a pro rata basis in the manner as provided for in Ordinance Number 3570, in any future fee programs (which are not Development Exactions for the purpose of providing the Public Facilities and other public benefits as described in Exhibit D) and which are adopted by the COUNTY's Board of Supervisors in accordance with the Growth Management Program which include the Project as a portion of the respective area of benefit. Participation in any such future fee program shall be subject to the following:

(i) COUNTY shall use its best efforts to establish fair and equitable fee programs to allocate the costs of any facilities and services to be funded by the programs. COUNTY hereby acknowledges that the Property constitutes a majority of the undeveloped land within the County that is capable of development, and agrees to appropriately consider such fact in establishing fair and equitable programs such that the same do not disproportionately and adversely affect the Project or the costs thereof.

(ii) Notwithstanding any other provision of this Section 3.7, if, as a result of an initiative, COUNTY is compelled by a court of competent jurisdiction to construct Public Facilities within the Project for the purpose of benefiting the Project other than the Public Facilities, then OWNERS shall be subject to any fee program adopted pursuant to Ordinance Number 3570 for the purpose of funding such additional facilities. Nothing in this Agreement shall prohibit any OWNER from challenging or appealing any such judicial determination.

(iii) While the parties acknowledge the appropriateness of the Growth Management Program as a procedure for monitoring and providing for future residents and populations, OWNERS are concerned that COUNTY could attempt to decrease the rights and interests of OWNERS provided for in this Agreement under the guise of providing increased facilities for future residents or the public. Accordingly, in adopting any such program which is in conflict with the Governing Policies, COUNTY shall reasonably find and determine that the future needs of the residents or the public require such facilities.

### 3.8 No Further Development Exactions for Public Facilities.

Except as expressly provided elsewhere in this Agreement and subject to the Reservations of Authority, OWNERS shall have no obligation to participate in, pay, contribute or otherwise provide any further Development Exactions imposed by COUNTY in satisfying and completing OWNERS' Obligations.

### 3.9 Replacement; Repair, Maintenance and Operation.

Except as expressly provided in Section 3.1 to the contrary, the replacement, repair, and maintenance of any of the Public Facilities after the completion and acceptance thereof by COUNTY and during the term of this Agreement shall not be the subject of a fee with respect to, or a condition of, any Development Approval regarding, and no fee, tax or assessment shall be levied by COUNTY on, any undeveloped lands within the Property for any such

purposes with respect to such completed and accepted Public Facilities which does not include similarly situated and benefited developed lands. The foregoing shall not apply when OWNERS have requested that the County establish a Public Financing Mechanism affecting the Property specifically for the purpose of providing long-term maintenance for Public Facilities (including dedicated open space).

3.10 No Limitations on Objections.

Nothing in this Section 3 shall be construed as limiting OWNERS' rights to object before the COUNTY Board of Supervisors or to judicially challenge the adoption of any of the future fee programs or to otherwise take any action in opposition to the adoption of any future Regulations.

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY.

4.1 Specified Policies.

The following policies set forth in this Section 4.1 are consistent with and/or are provided for in or contemplated by the Existing Land Use Ordinances, including the General Plan and the Development Plan. Subject to the terms and conditions of this Agreement, the OWNERS shall have the vested right to carry out and develop the Project on the Property in accordance with the Existing Land Use Ordinances.

a. Permitted Uses.

The uses permitted hereunder in accordance with the Existing Land Use Ordinances, are as set forth in the Development Plan and include, without limitation, residential, commercial, office, business parks, neighborhood commercial, agricultural, Public Facilities, recreation and conservation.

b. Development Density and Intensity.

As set forth in the Development Plan, and as specifically identified in the Ranch Plan Statistical Summary (see Exhibit A-3), a maximum of 7,683 acres will be developed within the Project area. The maximum density/intensity for development of residential dwelling units within the Project area is 14,000 units on 7,277 acres. The Development Plan also permits the construction of (i) a maximum of 3,480,000 square feet of Urban Activity Center uses on 251 acres, (ii) a maximum of 1,220,000 square feet of Business Park uses on 80 acres, (iii) a maximum of 500,000 square feet of Neighborhood Center uses on 50 acres and (iv) a golf resort occupying not more than 25 acres. The parties acknowledge that the number of units for, and density and intensity of, the Project may be allocated by the OWNERS in accordance with the terms and conditions set forth in the Development Plan. [Note: The foregoing sentence does not apply to the allocation by OWNERS or their successors of their respective ownership/development interests in the Property or Project among the entities comprising OWNERS. Such allocations are outside the scope of this Agreement and shall not affect vested rights granted pursuant to this Agreement.]

c. Maximum Height and Size of Buildings.

The maximum height and size of structures within the Property is as set forth in the Development Plan.

d. Reservations and Dedication of Lands for Public Purposes and Undertakings for Provision of Public Facilities.

The obligations of the OWNERS to reserve and dedicate lands for public purposes and to provide the Public Facilities are set forth in Section 3 and Exhibit D.

e. Density/Intensity Increases.

COUNTY has expressed interest in ensuring the provision of regional- and community-level infrastructure, and is pursuing the use of development agreements as a method whereby a level of assurance can be achieved concerning the service demands within planned communities so that adequate long-range plans for needed infrastructure can be developed and implemented. COUNTY and OWNERS acknowledge that the establishment of land use density and dwelling unit/non-residential square footage maximums as set forth in Section 4.1.b. are necessary for facility planning efforts. OWNERS intend not to apply for increases in residential or non-residential uses for the Project, and COUNTY intends not to revise the maximum density, intensity and residential/non-residential use totals as set forth in Section 4.1.b., during the term of this Agreement, unless it can be demonstrated that such increases would not be inconsistent with, and would not unduly burden, existing and planned Public Facilities and services. Notwithstanding the foregoing, dwelling units and non-residential square footage may be allocated by OWNERS in accordance with Paragraph 6.1b.

f. Timing of Development.

The parties acknowledge that the most efficient and economic Development of the Property depends upon numerous factors such as market orientation and demand, interest rates, competition and similar factors and that generally it will be most economically beneficial to the ultimate purchasers to have the rate of Development determined by OWNERS. Accordingly, the timing, sequencing and phasing of Development shall be as determined by OWNERS in their sole subjective business judgment and discretion except that the rate of Development shall not exceed that permitted by the Phasing Schedule set forth in Exhibit E and shall be in accord with the Existing Land Use Regulations, subject to the Reservations of Authority and the other terms and conditions of this Agreement and the Development Plan.

g. Moratoria; Phasing of Development.

The parties acknowledge and agree that the Governing Policies contemplate and provide for the phasing of the Development of the Property and that except as expressly provided in this Agreement, no moratorium, ordinance, resolution, initiative or other Land Use Regulation or limitation on the conditioning, rate, timing or sequencing of the Development of the Property or any portion thereof shall apply to or govern the Development of the Property during the term hereof whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy permits or other entitlements to use issued or granted by

COUNTY. In the event of any such subsequent action, OWNERS shall continue to be entitled to apply for and receive Development Approvals in accordance with the Existing Land Use Regulations, subject only to the exercise of the Reservations of Authority and the terms of this Agreement.

h. Development Exactions.

In addition to and not in limitation of the foregoing, or the provisions of Section 4.2, except and subject to the Reservations of Authority, COUNTY shall not levy or require:

(i) any further Development Exactions except those provided for in this Agreement or which are provided for or required by the Existing Land Use Regulations (including, but not limited to the existing General Plan and the Development Plan) which include, but are not limited to, Development Exactions which may be required by COUNTY in accordance with its current subdivision standards and policies (including, without limitation, as to the amount, time and method of payment); or

(ii) any further Development Exactions for the Public Facilities.

4.2 Regulation of Development.

a. In General.

Notwithstanding any future action of COUNTY, whether by ordinance, resolution, initiative or otherwise, during the term of this Agreement, the Regulations applicable to and governing the Development of the Property shall be the Existing Land Use Regulations (including the conditions of approval) together with amendments and additions adopted pursuant to the Reservations of Authority. OWNERS shall have the vested right to develop the Property in accordance with the terms, conditions and provisions of this Agreement. The intent of this Section 4.2a is to cause all development rights which may be required to develop the Project in accordance with this Agreement to be deemed vested in OWNERS upon the Effective Date to the greatest extent permitted by law.

b. Vested Rights.

In developing the Property, OWNERS are provided and assured the vested right to require that the Land Use Regulations of COUNTY applicable to and governing the Development of the Property during the term hereof shall be as provided in this Section 4.2.

c. Life of Development Approvals.

It is the intent of the parties that the term of any Development Approvals shall not expire prior to the expiration of the term of this Agreement. To accomplish this intent, all Development Approvals (including, without limitation, any tentative parcel map, tentative tract map or vesting tentative map which has or may be adopted for the Project) shall, if required, be

automatically extended to expire upon the later of the expiration of the particular Development Approval or the expiration of the term of this Agreement.

d. Water Supply.

Any tentative map prepared for a subdivision proposed in conjunction with the Project shall comply with the provisions of Section 66473.7 of the California Government Code, if then applicable.

4.3 Limitations, Reservations and Exceptions.

Notwithstanding anything to the contrary set forth in Section 4.2 hereinabove, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by COUNTY hereafter shall apply to and govern the Development of the Property:

a. Non-Conflicting Land Use Regulations.

COUNTY hereby reserves the right to adopt and implement future Land Use Regulations which (i) are not in conflict with this Agreement, the Governing Policies or the Existing Land Use Regulations; or (ii) are in conflict with this Agreement, the Governing Policies or the Existing Land Use Regulations provided the same (and/or the application thereof to the Development of the Property) has been consented to in writing by each affected OWNER.

b. State and Federal Laws and Regulations.

Existing and future State and federal laws and regulations, together with any Land Use Regulations, programs and actions, or inaction, which are reasonably (taking into consideration, among other things, the assurances provided to OWNERS hereunder) adopted or undertaken by COUNTY in order to comply with State and federal laws and regulations; provided, that in the event that State or federal laws and regulations prevent or preclude compliance with one or more provisions of this Agreement, then the parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such new law or regulation and to determine the effect such modification or suspension would have on the purposes and intent of this Agreement and the Existing Land Use Regulations and the implementation of the Development Plan. Following the meeting between the parties, the provisions of this Agreement may, to the extent feasible, be modified or suspended but only to the minimum extent necessary to comply with such new law or regulation. In such an event, this Agreement (together with any required modifications) shall continue in full force and effect. Notwithstanding the foregoing, if any material provision of this Agreement is adversely affected by the change in State or federal Regulation(s), OWNERS (in their sole discretion) may terminate this Agreement by providing written notice of such termination to COUNTY.

c. Public Health and Safety.

Land Use Regulations which are adopted by COUNTY, which may be in conflict with the Governing Policies or the Existing Land Use Regulations, which are reasonably necessary in order to protect the public health and safety;

d. Building and Improvement Standards.

Subject to Section 7 below, present and future Building and Improvement Standards, except that (taking into consideration the assurances to OWNER in this Section 4) any future amendment thereto which significantly reduces the amount of land within the Property which can be utilized for structures and improvements or significantly increases the amount of open space within the Project under the Development Plan shall not be considered a provision of any of the Building and Improvement Standards included within the exception provided by this Paragraph 4.3.d and shall not apply to and govern the Development of the Project unless it complies with another Reservation of Authority under this Section 4.3 (such as, for example, Paragraph 4.3.c);

c. Processing Fees and Charges.

Processing fees and charges of every kind and nature imposed or required by COUNTY under current or future Regulations covering the actual costs of COUNTY in (i) processing applications and requests for permits, approvals and other actions and (ii) monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of OWNERS hereunder; and

f. Full Extent of Law.

The parties acknowledge and agree that COUNTY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to COUNTY all of its police power which cannot be so limited. Therefore, this Agreement shall be construed, contrary to its stated terms if necessary, to reserve to COUNTY all such power and authority which cannot be restricted by contract.

4.4 Further Assurances to OWNER Regarding Exercise of Reservations of Authority.

a. Adoption of General Plan Amendment and Development Plan.

In preparing and adopting the General Plan Amendment and the Development Plan, COUNTY fully and comprehensively considered the health, safety and welfare of the existing and future residents and populations of the County as required by the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*). Without limiting the generality of the foregoing, in preparing and adopting the General Plan Amendment and the Development Plan, the COUNTY Board of Supervisors carefully considered and determined the projected needs (taking into consideration the planned development of the Project, the County and adjacent areas) for sheriff, fire, library, paramedic and similar facilities and services within the Project, the County and adjacent areas, the general carrying capacity of the Property, the needs of the residents for open space and parks and the appropriateness of the number and type of dwelling units and non-residential square footage to be developed and the density and intensity of the development comprising the Project.



b. Assurances to OWNERS.

The parties acknowledge that the public benefits to be provided by OWNERS to COUNTY pursuant to this Agreement are in consideration for and reliance upon assurances that the Property can be developed in accordance with the Existing Land Use Regulations and the terms of this Agreement. Additionally, while recognizing that the Development of the Property may be affected by exercise of the Reservations of Authority and the requirement that OWNERS participate in future fee programs as set forth in Section 3.7, OWNERS are concerned that normally the courts extend to local agencies significant deference in the adoption of Land Use Regulations which might permit COUNTY to attempt to apply inconsistent Land Use Regulations in the future under the guise of the Reservations of Authority or the COUNTY's authority to require OWNERS' participation in future fee programs under Section 3.7. Accordingly, OWNERS desire assurances that COUNTY will not further restrict or limit the Development of the Property in conflict with the provisions of this Agreement except in strict accordance with the Reservations of Authority or Section 3.7. COUNTY hereby agrees that, to the extent it may legally do so, it will not attempt to so restrict or limit the development of the Property in conflict with the provisions of this Agreement. COUNTY acknowledges that the OWNERS cannot at this time predict the timing or rate at which the Property will be developed as the same will depend on numerous factors such as market demand, interest rates, absorption, completion schedules, and other factors which are not within the OWNERS' control. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development and controlling the parties' agreement, it is the intent of COUNTY and OWNERS to hereby acknowledge and provide for the right of OWNERS to develop the Property in such order and at such rate and times as the OWNERS deem appropriate within the exercise of OWNERS' prudent business judgment. In addition to and not in limitation of the foregoing, but except as set forth in the following sentence, it is the intent of the parties that no COUNTY moratorium or other similar limitation relating to the rate or timing of the development of the Project or any portion thereof, whether adopted by initiative or otherwise, shall apply to the Property to the extent such moratorium or other similar limitation is in conflict with the express provisions of this Agreement. Notwithstanding the foregoing, the OWNERS acknowledge and agree that nothing herein is intended or shall be construed as (i) overriding any provision set forth in this Agreement relating to the rate or timing of development of the Project, (ii) overriding any provision of the Existing Land Use Regulations relating to the rate or timing of development of the Project, or, (iii) restricting COUNTY's ability to properly exercise the Reservations of Authority or its rights under Section 3.7 of this Agreement.

c. Judicial Review.

(i) Burdens of Proof.

Based on the foregoing, in the event any OWNER challenges (judicially or otherwise) the application of a future Regulation, such OWNER shall bear the burden of proof in establishing that such Regulation (or the application thereof) was either (A.) in conflict with the Governing Policies or this Agreement (including, without limitation, Section 3.7 hereof) or (B.) in excess or violation of the Reservations of Authority. In the event that such OWNER bears its

burden of proof, COUNTY shall thereafter bear the burden of proof in establishing that such Regulation or the application thereof was permitted pursuant to the terms of this Agreement.

(ii) Considerations.

Considerations, among others, in determining whether any such future Land Use Regulation was properly applied pursuant to the terms of this Agreement shall include:

(A) with respect to any future Land Use Regulations adopted by COUNTY pursuant to paragraphs 4.3.b. (with respect to federal and state regulation) or 4.3.c. (with respect to the protection of public health and safety), the extent to which such regulation substantially impairs the rights of OWNERS under Section 4.2 and is (1) to be unreasonably borne by the Project (taking into consideration the obligations of OWNERS under this Agreement) rather than being also borne by other lands and interests, or (2) unreasonable taking into consideration other reasonable and practicable alternatives; and

(B) with respect to any future Land Use Regulations adopted pursuant to Paragraph 4.3.c. (with respect to the protection of public health and safety):

(1) Whether, and the extent to which, the concerns which are the subject of the proposed Land Use Regulation were considered and/or provided for in the adoption of the Existing Land Use Regulations or this Agreement; and

(2) The greater the severity of the adverse impact of the Land Use Regulation on the reasonable Economic Expectations of OWNER (taking into consideration the extent of any mitigation of such impacts provided by COUNTY in connection with such Regulation, for example, by the transfer of development density), the greater the showing required of COUNTY that the concerns addressed are legitimate and that such Regulation is reasonable taking into consideration such concerns.

The parties believe that the foregoing considerations are appropriate under the law and are not intended to, and shall not, limit the authority of COUNTY with respect to the police power which cannot be limited by contract. Further, said considerations shall be interpreted, supplemented and revised to reflect subsequent judicial determinations and State legislative enactments further defining the extent and nature of the authority of local agencies which must be reserved and cannot be limited by contracts such as this Agreement.

(iii) Administrative Findings and Burden of Proof.

(A) COUNTY Findings and Determinations.

As a condition precedent to adopting any Land Use Regulation, amending any Existing Land Use Regulation or taking any action requiring the action or approval of the COUNTY's Board of Supervisors which is in conflict with the Governing Policies, after providing OWNERS with reasonable notice and an opportunity to be heard, COUNTY shall make specific findings and determinations as to the basis for applying such Land Use Regulation to the Project in accordance with Section 4.3 or Section 3.7.

(B) OWNERS' Burden of Proof.

As a condition precedent to any claim by any OWNER that a proposed Land Use Regulation does not comply with the Reservations of Authority or Section 3.7 and, therefore, cannot be applied to and govern the Development of the Property (whether in a judicial proceeding or otherwise), such OWNER shall raise the claim at the COUNTY's Board of Supervisors hearing (and may raise it earlier) at which the proposed Land Use Regulation is considered and shall present all information then in its possession upon which it shall rely or present in any judicial proceeding, including, but not limited to, information regarding such OWNER's reasonable Economic Expectations, and, in addition, shall provide at such time any further information regarding OWNER's Economic Expectations reasonably requested by COUNTY. In the event that the proposed Land Use Regulation is of a kind that is not heard by or appealable to the COUNTY's Board of Supervisors and provided that such OWNER is given reasonable prior notice, as a condition precedent to any such claim, such OWNER shall raise the claim and provide the above information as a protest to the agent or representative of COUNTY promulgating or applying the proposed Regulation.

4.5 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within the control of COUNTY possess authority to regulate aspects of the Development of the Property separately from or jointly with COUNTY and this Agreement does not limit the authority of such other public agencies. For example, pursuant to Government Code Section 66477(i), in the event that an agency provides services or facilities, it is permitted, and that agency has a right to participate jointly with COUNTY to determine the location of land to be dedicated or in lieu of fees to be paid for specified purposes, provided that COUNTY shall exercise its authority subject to this Agreement. If any requirement of this Agreement cannot be implemented because of the actions of another jurisdiction, this Agreement shall continue in full force and effect and COUNTY may require OWNERS to provide public benefits of no greater expense (including regulatory processing expenses such as filing fees, consultant fees, legal fees, and mitigation expenses), subject to the provisions of Exhibit D regarding substitute improvements and all required environmental and regulatory review. Any such modifications to public benefits shall not be considered an amendment to this Agreement unless those modifications are inconsistent with Paragraphs 4.1.a., b., c. and d.

5. PERIODIC REVIEWS.5.1 Annual Review.

During the term of this Agreement, COUNTY and OWNERS shall jointly review the performance of this Agreement and the Development of the Project at least once every 12-month period from the Effective Date. As part of the Annual Monitoring Review, within 90 days after each anniversary of this Agreement, OWNERS shall deliver to COUNTY all information reasonably requested by COUNTY regarding OWNERS' performance under this Agreement demonstrating that OWNERS have complied in good faith with the terms of this Agreement.

If as a result of such Annual Monitoring Review, COUNTY finds and determines, on the basis of substantial evidence, that OWNERS have not materially complied in good faith with any of the terms or conditions of this Agreement, COUNTY may declare a default by OWNERS pursuant to Section 11 and, if applicable, thereafter terminate this Agreement as provided in Section 11. If as a result of such Annual Monitoring Review, COUNTY finds and determines that OWNERS have materially complied in good faith with the terms and conditions of this Agreement, COUNTY shall, at OWNERS' request, issue and have recorded a certificate of compliance indicating OWNERS' compliance with the terms and conditions of this Agreement.

## 5.2 Five-Year General Plan Review.

Every five years following the Effective Date, COUNTY intends (but shall not be obligated) to conduct a review of the General Plan as it applies to the Project. OWNERS shall cooperate with COUNTY in the conducting of this review and in developing mutually acceptable revisions to the General Plan and the Development Plan pursuant thereto; provided, however, that neither COUNTY nor OWNER shall have any obligation to agree to such changes.

## 6. TRANSFERS AND ASSIGNMENTS.

### 6.1 Transfer and Assignments of Rights and Interests.

#### a. Rights and Interests Appurtenant.

Except as provided in Section 6.1c, the rights and interests conveyed and provided herein benefit and are appurtenant to the Property. Each OWNER has the right to sell, assign and transfer any and all of its rights and interests and to delegate any and all of its duties and obligations hereunder; provided, however, that such rights and interests may not be transferred or assigned except in strict compliance with the following conditions precedent:

(i) Said rights and interests may be transferred or assigned only together with and as an incident of the transfer and assignment of the portions of the Property to which they relate, including any foreclosure of a Mortgage or a deed in lieu of such foreclosure;

(ii) Concurrent with any such assignment or transfer or within five (5) business days thereafter, the assigning or transferring OWNER shall notify COUNTY in writing of such assignment or transfer. Said notice shall indicate and/or identify the portions of the Property to which the assignment or transfer is appurtenant; the name and address (for purposes of notices hereunder) of the transferee or assignee; the corresponding number and type of dwelling units or non-residential square footage which are included within such transfer; whether the assignee or transferee has assumed any of the OWNERS' Obligations under this Agreement; and which of OWNERS' Obligations have been assumed. Notwithstanding the preceding, a failure of OWNERS (or any of them) to strictly comply with the timing of this Subsection 6.1.a.(ii) shall not constitute a material breach of this Agreement;

(iii) Prior to or concurrent with such assignment or transfer, the assigning or transferring OWNER shall either make an offer of dedication to COUNTY of all rights-of-way and lands necessary to complete the Public Facilities within or through the

portions of the Property being assigned or transferred in accordance with the provisions of Section 3.1 or provide COUNTY with the binding commitment and agreement of the proposed assignee or transferee, in a form reasonably acceptable to COUNTY, irrevocably committing said proposed assignee or transferee to offer to dedicate said rights-of-way or lands to COUNTY in accordance with the provisions of Section 3.1; and

(iv) Prior to or concurrent with such assignment or transfer, either (A) the assigning or transferring OWNER shall prepay all fees described in Exhibit D attributable to the portions of the Property being assigned or transferred or (B) the proposed assignee or transferee shall assume the obligations of such OWNER with respect to the payment of such fees and shall provide COUNTY with an agreement, in a form reasonably acceptable to COUNTY, assuming such obligation and irrevocably committing said proposed assignee or transferee to pay such fees in accordance with the terms of Exhibit D.

In satisfaction of (A) the written notification requirements set forth in Section 6.1a(ii) above and (B) the written commitment and assumption options set forth in Sections 6.1a(iii) and (iv) above, the assigning or transferring OWNER may tender to COUNTY an Assignment and Assumption Agreement in the form attached hereto as Exhibit H-1 or in the form attached hereto as Exhibit H-2, as appropriate. Exhibit H-1 applies in circumstances involving assignments/transfers to non-public entities (e.g., builders and developers); Exhibit H-2 applies in circumstances involving assignments/transfers to public entities (e.g., school districts and water districts). The Assignment and Assumption Agreement shall be fully executed by the assigning or transferring OWNER(S) and the proposed assignee/transferee. Provided that the Assignment and Assumption Agreement is complete and contains all relevant information, commitments and avowals, COUNTY agrees that it shall (i) accept the Assignment and Assumption Agreement as final, (ii) promptly arrange for execution and return of same to the tendering OWNER(S) and (iii) be bound by the terms, conditions and covenants therein appearing.

Any attempt to assign or transfer any right or interest in this Agreement except in strict compliance with this Section 6, shall, at the option of COUNTY, be null and void and of no force and effect. COUNTY shall have no duty or obligation of any kind or nature to maintain a record of such transfers or assignments of portions of the Property or numbers and allocations of units or square footage involved or to notify or advise prospective or actual assignees or transferees or others of such assignments or the resulting allocation of units or square footage with respect to the Property or under this Agreement.

b. Allocation of Density and Intensity.

It is acknowledged that the density and intensity of development provided by the Governing Policies may be distributed by OWNERS disproportionately throughout the Property in accordance with and subject to the Existing Land Use Regulations and the Development Plan. COUNTY shall not be obligated to the successors of an OWNER to advise or notify any such successor or any other person as to the density of development allowed under this Agreement or any of the Land Use Regulations with respect to any particular portion of the Property; provided, however, that COUNTY shall upon the request of an OWNER enter into further agreements in a recordable form allocating to the various portions of the Property the then allowable

density/intensity of dwelling units, non-residential square footage and/or other land use types pursuant to the Governing Policies. Such an agreement may include provisions relating to the assumption of certain of OWNERS' Obligations hereunder and the allocation of the benefits and burdens of this Agreement, all as specifically provided in this Section 6. The reasonable costs and expenses of COUNTY in considering and responding to any such request shall be reimbursed to COUNTY by the requesting OWNER forthwith upon the request of COUNTY.

c. Subject to Terms of Agreement.

Following any such assignment or transfer of any of the rights and interests of an OWNER under this Agreement, the exercise, use and enjoyment thereof shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were a signatory to this Agreement as an OWNER. Without limiting the generality of the foregoing,

(i) in order to claim or benefit from any right or interest hereunder or provision hereof (including but not limited to the rights of an OWNER under Section 11), any subsequent assignee or transferee shall have no right, and shall be obligated not, to claim damages from or against COUNTY under Section 11 (except as otherwise specifically permitted therein);

(ii) the further assignment or transfer of any of the rights or interests under this Agreement shall be made only in accordance with and subject to the terms of this Section 6.1; and

(iii) the rights and interests assigned or transferred are subject to termination in accordance with this Agreement.

Notwithstanding the foregoing, the assignee or transferee of any of the rights and interests of an OWNER shall take said rights and interests subject to this Agreement and shall have no duty or obligation to perform OWNERS' Obligations or other affirmative covenants of an OWNER under this Agreement unless such obligations and covenants are expressly assumed in connection with the conveyance of said rights and interests; provided, however, that any such assignee on acceptance of such assignment or transfer and without any other assumption or action shall be bound and obligated to, and shall, perform the duties and obligations of an OWNER under and with respect to Section 3.2.

d. Release of OWNER.

Notwithstanding the assignment or transfer of portions or all of the Property or rights or interests under this Agreement, each OWNER shall continue to be obligated under this Agreement unless released or partially released by COUNTY with respect to such OWNERS' obligations and the other duties and obligations of such OWNER under this Agreement, which release or partial release shall be provided by COUNTY upon the full satisfaction by such OWNER of the following conditions:

(i) OWNER is not then in default under this Agreement;

(ii) OWNER has provided COUNTY with the written notice or fully-executed Assignment and Assumption Agreement required under Paragraph 6.1 a.; and

(iii) Such assignee or transferee has assumed such duties and obligations as to which such OWNER is requesting to be released and has provided COUNTY with security and other assurances (as appropriate) equivalent to those which were provided by OWNER assuring COUNTY that such OWNER's duties and obligations under this Agreement for which such OWNER is being released will be fully and strictly performed as provided in this Agreement. Submission of a fully-executed and complete Assignment and Assumption Agreement shall constitute (A) adequate demonstration of the assignee's/transferee's assumption of the specified duties and obligations and (B) proper showing of assignee's/transferee's provision of appropriate security and assurances guaranteeing the performance of the relevant duties and obligations.

#### 6.2 Termination of Agreement with Respect to Individual Parcels upon Sale to Public.

(i) Notwithstanding any provisions of this Agreement to the contrary, the burdens of this Agreement shall terminate as to any lot which has been finally subdivided and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the purchaser or user thereof and thereupon and without the execution or recordation of any further document or instrument such lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement; provided, however, that the benefits of this Agreement shall continue to run as to any such lot until a building is constructed on such lot, or until the termination of this Agreement, if earlier, at which time this Agreement shall terminate as to such lot.

### 7. ANNEXATION AND INCORPORATION.

#### 7.1 Transfer of Development Agreement Pursuant to Government Code.

If the Property is annexed to or incorporated within a Local Agency the provisions of Government Code Section 65865.3 shall apply, to the extent those provisions remain applicable at the time of incorporation or annexation.

#### 7.2 Exhibit D Obligations.

COUNTY has entered into this Agreement to provide maximum assurances to its residents that the Public Facilities will be completed as contemplated by this Agreement. To assure completion of those Public Facilities which will remain of substantial interest to COUNTY even after annexation or incorporation (see Exhibit D), OWNERS shall not enter into any agreement with the Local Agency to modify this Agreement after annexation to the Local Agency or to apply for any development permits from the Local Agency if (i) those actions would reduce or eliminate OWNERS' Obligations listed in Exhibit D and (ii) COUNTY has not consented to those actions in writing. Prior to consenting to any annexation of the Property, OWNERS shall enter into an agreement with COUNTY to either a) provide security for their Exhibit D obligations in the same time and manner set forth in this Agreement and any subsequent modifications; or b) grant COUNTY the continuing right to enforce OWNERS' Exhibit D obligations as set forth in this Agreement.

8. TERM OF AGREEMENT.

8.1 Stated Term.

a. Initial Term.

This Agreement shall become effective on the Effective Date and, unless earlier terminated pursuant to the provisions of this Agreement, shall continue in effect for a period of thirty (30) years.

b. Delayed Commencement of Term.

If any litigation affecting the Property is filed prior to or after the Effective Date challenging, or otherwise raising issues regarding the validity of, any of the Existing Land Use Regulations or this Agreement, the term of this Agreement shall be extended for the period of time such litigation is pending, and upon the conclusion thereof by dismissal or final judgment, the OWNERS and COUNTY shall indicate the period of such extension in a recorded notice referencing this Agreement.

8.2 Rights and Duties Following Termination.

a. In General.

Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligations that have been performed prior to said termination, or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to said termination, or with respect to any obligations or rights described in Paragraphs 8.2b and 8.2c below.

b. Reimbursement.

COUNTY acknowledges that in connection with certain fee programs, an OWNER may have participated financially in excess of such OWNER'S Pro-Rata Share in the cost of the Public Facilities. Accordingly and notwithstanding anything to the contrary contained in this Agreement (including, without limitation, Paragraph 8.2a above), in the event that this Agreement is terminated for any reason other than the default of such OWNER, COUNTY shall cooperate in good faith to cause other benefited undeveloped lands and owners thereof (including any other OWNERS) to be identified, and COUNTY shall, to the extent feasible, attempt to require such other landowners to reimburse to such OWNER, through COUNTY, that portion of such costs incurred by such OWNER in excess of its Pro-Rata Share, as reasonably determined by COUNTY, which has not been previously reimbursed by COUNTY or a Public Financing Mechanism. Each OWNER acknowledges that COUNTY is limited in the manner in which it may collect or require such reimbursement and that COUNTY may be unable to cause such OWNER to be reimbursed for such costs.



c. Assurances for Completed Milestones.

Exhibit E references “milestones” contained in the Exhibit D to this Agreement. These milestones reflect the required timing for contributions pursuant to this Agreement which must occur before an OWNER is entitled to proceed with specific phases of development. Where this Agreement is terminated and (1) at the time of termination, OWNERS (either individually or collectively) have met the obligations of OWNERS referenced in Exhibit E for a specific phase and (2) OWNERS’ (or any OWNER’s) Exhibit D obligations have been fully performed to the extent required at the time of termination, any changes after termination to the Existing Land Use Regulations shall not be applicable to any phases of the Project for which the obligations of OWNERS referenced in Exhibit E were satisfied on the date of termination. OWNERS shall retain their respective vested right under this Agreement to complete those phases under the Existing Land Use Regulations through the term of this Agreement as set forth in Section 8 above so long as OWNERS perform all of the duties and obligations associated with those phases as set forth in Section 3.1. The assurances of this Agreement, however, shall not continue to apply after termination to any phases of development for which the obligations of OWNERS referenced in Exhibit E were not met at the time of termination.

9. AMENDMENT.

9.1 General Provisions.

Except as otherwise expressly provided for herein, this Agreement may be amended or canceled only by the mutual agreement of the parties in accordance with Government Code Section 65868. No amendment, modification, waiver or change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which expressly refers to this Agreement and is signed by the duly authorized representatives of each Party, their successors or assigns.

9.2 Amendments to Development Agreement Legislation.

This Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation as those provisions existed on the Effective Date. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Agreement shall be applicable to this Agreement unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be affected by same unless the parties mutually agree in writing to amend this Development Agreement to permit such applicability. If such amendment or change is mandatory, the procedure described in Section 4.3(b) shall be followed.

9.3 Amendments to or Cancellation of Agreement.

This Agreement may be amended from time to time or cancelled in whole or in part by mutual consent of the parties or their successors-in-interest or assigns in writing in accordance with the provisions of the Development Agreement Legislation and the County Development Agreement Resolution. Review and approval of an amendment to this Agreement shall be strictly limited to consideration of only those provisions to be added or modified.

#### 9.4 Amendments to Development Plan and/or Development Approvals.

Notwithstanding any other provisions in this Agreement, OWNERS may seek and COUNTY may review and grant, in accordance with applicable Regulations, amendments or modifications to the Development Plan and/or the Development Approvals subject to the following:

(i) Except as otherwise provided in this Agreement, an amendment of the Development Plan, or the issuance or the amendment of a Development Approval, which results in an increase in density or number of units, intensity of use, maximum height or size of proposed buildings, or a change in the permitted uses, provisions for reservation or dedication of land for public purposes, provisions relating to subsequent discretionary actions, provisions for public improvements and financing of public improvements, or a change in any other Development Approval, shall require an amendment to this Agreement for such increase or change to be vested, but OWNERS shall have the right (upon County approval of the requested amendment of the Development Plan or issuance/amendment of the Development Approval) to develop in accordance with any such increase or change at its election without obtaining an amendment to this Agreement and such election shall not adversely affect vesting with respect to other aspects of the Development Plan or any of the Development Approvals not changed.

(ii) Any change in an element of the Project not specified in this Agreement to be an element of the Development Plan or Development Approvals shall not require an amendment to this Agreement.

(iii) In no event shall any amendment or modification to a Development Approval be made except with the mutual agreement of the Parties.

#### 9.5 Amendments Authorized by the Development Plan.

Upon written application by OWNERS, the Director of the Resources and Development Management Department may agree to certain modifications in the Project in accordance with the procedures in the Development Plan. COUNTY acknowledges that the modifications permitted by the Development Plan subject to the approval of the Director RDMD, or its successor department, are consistent with the Development Plan and do not constitute an amendment to this Agreement or the Development Approvals.

#### 9.6 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the COUNTY and OWNERS and development of the Property hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the COUNTY and OWNERS. If and when, from time to time, during the term of this Agreement, the COUNTY and OWNERS agree that such clarifications are necessary or appropriate, the COUNTY and OWNERS shall effectuate such clarifications through operating memoranda approved by the COUNTY and OWNERS, which, after execution, may be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary

with future approval by the COUNTY and OWNERS. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The Director of the Planning and Development Services Department, in consultation with the County Counsel, shall be authorized to make the determination on behalf of the COUNTY whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such a character to constitute an amendment hereof pursuant to preceding Sections. Further, the Director of the Planning and Development Services Department shall be authorized to execute any operating memoranda hereunder on behalf of the COUNTY.

10. PROCESSING OF REQUESTS AND APPLICATIONS.

COUNTY shall process any applications for action pursuant to this Agreement, or for permits or approvals for Development of the Property, under the procedures for the processing of applications for such applications which are then in effect; provided, however, as provided in Section 4, no subsequently adopted Regulation (including, without limitation, any moratorium or other phasing of development) shall be applicable or delay the acceptance or processing of any such application except in strict accordance with the Existing Land Use Regulations or Land Use Regulations adopted by COUNTY pursuant to the Reservations of Authority. As provided above, the standards applied in approving or disapproving such applications shall be as set forth in the Existing Land Use Regulations, subject to the Reservations of Authority.

11. DEFAULT AND REMEDIES.

11.1 Remedies in General.

It is acknowledged by the parties that they would not have entered into this Agreement if they were to be liable in damages under or with respect to this Agreement or the application thereof. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement; except that no party shall be liable in damages to any other party or to any assignee, transferee thereof or any other person, and each party hereby covenants not to sue for or claim any damages, for:

out of, this Agreement; (i) any breach of, or which arise

restriction of any right or interest conveyed or provided hereunder or pursuant hereto; or (ii) the taking, impairment or

with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement; (iii) arising out of or connected

provided, however, that the foregoing does not limit the liability of a party, if any, for damages which:

Agreement or which do not arise under this Agreement; (iv) are not for a breach of this

(v) are not with respect to any right or interest conveyed or provided hereunder or pursuant hereto; and

(vi) do not arise out of or which are not connected with any dispute, controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement to, on or the application of, any Regulation of COUNTY.

Without limiting the generality of the foregoing, and as an example, in the event that COUNTY refuses to issue building permits under and in accordance with a vesting tentative map approved by COUNTY, OWNERS would be entitled to whatever remedies at law or in equity which are available, including, if available under law, the right to monetary damages.

11.2 Termination of Agreement for Default of OWNERS.

COUNTY in its discretion may terminate this Agreement for any failure of the OWNERS to perform any material duty or obligation of OWNERS under, or to comply in good faith with the terms of, this Agreement (hereinafter referred to as "default"); provided, however, COUNTY may terminate this Agreement pursuant to this Section only after providing written notice to OWNERS (or the applicable OWNER) of the default setting forth the nature of the default and the actions, if any, required by OWNERS (or the applicable OWNER) to cure such default and, where the default can be cured, OWNERS have failed to take such actions and cure such default within 30 days after the OWNERS' receipt of such notice, or, in the event that such default cannot be cured within such 30 day period but can be cured within a longer time, OWNERS (or the applicable OWNER) have failed to commence the actions necessary to cure such default within such 30 day period and to diligently proceed to complete such actions and cure such default. COUNTY shall provide OWNERS (or the applicable OWNER) an opportunity to be heard concerning any proposed termination prior to any final action by COUNTY.

11.3 Termination of Agreement for Default of COUNTY.

OWNERS in their discretion may terminate this Agreement by written notice to COUNTY after the default by COUNTY in the performance of a material term of this Agreement; provided, however, OWNERS may terminate this Agreement pursuant to this Section only after providing written notice to COUNTY of the default setting forth the nature of the default and the actions, if any, required by COUNTY to cure such default and, where the default can be cured, the failure of COUNTY to cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period, the failure of COUNTY to commence to cure such default within such 30 day period and to diligently proceed to complete such actions and to cure such default.

11.4 Specific Performance.

The parties acknowledge that monetary damages and remedies at law generally are inadequate and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to both parties based on the following reasons and facts:

(i) the unavailability of monetary damages against a party provided in Section 11.1 hereinabove;

(ii) OWNERS' obligations under this Agreement were bargained for by COUNTY and given in return for assurances by COUNTY to OWNER regarding the Regulations that would be applicable to the Development of the Property, which assurances were in turn relied upon by OWNERS in undertaking OWNERS' Obligations;

(iii) due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun; after such implementation, OWNERS may be foreclosed from other choices it may have had to utilize the Property, or portions thereof, and provide other benefits; OWNERS have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sums of money which would adequately compensate OWNERS for such efforts;

(iv) the inability of OWNERS to recover and receive back its capital investment in the Public Facilities to be provided to COUNTY as part of OWNERS' Obligations and to replan and provide for different uses of the Property once such facilities and infrastructure have been completed;

(v) the use of the Property for the purposes and uses described in the Development Plan is unique; and

(vi) the public need and concern for the Public Facilities to be provided by OWNERS as part of OWNERS' Obligations as well as for the benefits that can be obtained from the long-term and comprehensive planning and stability contemplated by the Development Agreement Legislation.

Further, the parties acknowledge that for the reasons set forth above (particularly because of the lack of monetary damages available to OWNERS), in connection with any judicial proceeding regarding the performance of this Agreement, rights, or the interests and duties of the parties hereunder, including a proceeding pursuant to Section 11.5, it is appropriate for, and the parties shall cooperate in requesting (whether by stipulations or otherwise), the court with jurisdiction to proceed expeditiously and to retain jurisdiction until the underlying conflict or dispute has been fully resolved.

#### 11.5 Appointment of Referee.

As an alternative procedure hereunder, a party initiating legal action hereunder may request that the action be heard by a referee from the Orange County Superior Court pursuant to Code of Civil Procedure Sections 638 *et seq.* OWNERS and COUNTY, in such case, shall use their best efforts to agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before him. If OWNERS and COUNTY are unable to agree upon a referee within ten (10) days of a written request to do

so by either party, either party may seek to have a referee appointed pursuant to Section 640 of the Code of Civil Procedure. The cost of such proceeding (exclusive of the attorneys fees and cost of the parties) shall be borne equally by the parties. Any referee selected pursuant to this Section 11.5 shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution. In the event that an alternative method of resolving disputes concerning the application, enforcement or interpretation of development agreements is provided by legislative or judicial action after the Effective Date, the parties may, by mutual agreement, select such alternative method.

11.6 Cross-Default.

Notwithstanding anything to the contrary contained herein, a default by one OWNER shall not constitute a default of the other OWNERS except in the event the obligation breached (and failed to be timely cured) is one in which the OWNERS are jointly and severally liable. In the event that a default exists with respect to one or more (but not all) OWNERS, then COUNTY shall not be entitled to any legal or equitable remedies (including the termination of this Agreement) with respect to the non-defaulting OWNERS.

12. THIRD PARTY LITIGATION.

12.1 General Plan Litigation.

a. Litigation.

As set forth above, COUNTY has determined that this Agreement is consistent with the General Plan and that the General Plan meets all of the legal requirements of State law. OWNERS have reviewed the General Plan and concur with COUNTY's determination. The parties acknowledge that:

(i) there has been litigation challenging the legality, validity and adequacy of certain provisions of the General Plan;

(ii) in the future there may be other similar challenges to such provisions of the General Plan as well as others; and

(iii) if successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of Section 11, COUNTY shall have no liability under this Agreement for any failure of COUNTY to perform under this Agreement or the inability of OWNERS to develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

b. Revision of General Plan.

If for any reason the General Plan or any part thereof is hereafter judicially determined as provided above to be invalid or inadequate or not in compliance with the State or federal Constitutions, laws or regulations, this Agreement shall remain in full force and effect and upon the adoption or amendment of any General Plan provision which is necessary in order to comply with State or federal Constitutions, laws or regulations to cure such invalidity or inadequacy, together with any amendments of the Development Plan and the Land Use Regulations which are necessary in order to comply with the portions of such new or revised General Plan which are necessary to avoid the invalidation of this Agreement, the reference in Section 4 to the General Plan shall thereafter mean and refer to such portions of the new or amended General Plan and such amendments in the Development Plan and Land Use Regulations.

c. Suspension of Obligations.

In the event that Development of the Property is enjoined or prevented from proceeding by any judicial order or determination in connection with the determinations regarding the General Plan referred to above and the subsequent proceedings with respect thereto referred to in Paragraph b. of this Section, the time for performance of the obligations of the parties hereunder shall be extended as provided in Section 17.13.

d. Option to Terminate.

In the event that any such amendments of the General Plan result in a reduction in the number of units or the density or intensity, or timing, sequencing or phasing of Development or otherwise adversely impact the Economic Expectations of OWNERS in connection with the Project, OWNERS may terminate this Agreement by notice in writing to COUNTY and recorded in the official records of COUNTY.

13. ESTOPPEL CERTIFICATE.

Any party may, at any time, and from time to time, deliver written notice to the other party or parties requesting such party or parties to certify in writing that, to the knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The Director of the Planning and Development Services Department of COUNTY (or his/her designee) shall have the right to execute any certificate requested by an OWNER hereunder. COUNTY acknowledges that a certificate hereunder may be relied upon by assignees or transferees of an OWNER and Mortgagees. In accordance with Section 11, COUNTY shall have no liability for monetary damages to OWNER, any assignee or transferee thereof or Mortgagee, or any other person in connection with, resulting from or based upon the issuance of any certificate hereunder.

14. EFFECT OF AGREEMENT ON TITLE.

14.1 Covenants Run With The Land.

Subject to the provisions of Sections 6 and 15:

a. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

b. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law;

c. Each covenant to do or refrain from doing some act on the Property hereunder (i) is for the benefit of and is a burden upon every portion of the Property; (ii) runs with such lands; and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and shall benefit each party and its lands hereunder, and each other person succeeding to an interest in such lands.

Notwithstanding any of the foregoing or anything in this Agreement to the contrary, any assignee or transferee or Mortgagee which acquires any right or interest in or with respect to the Property or any portion thereof shall take and hold such rights and interests subject to this Agreement and shall not have been deemed to have assumed the OWNERS' Obligations or the other affirmative duties and obligations of OWNERS hereunder except:

(A) to the extent that any such assignee, transferee or Mortgagee has expressly assumed any of the duties or obligations of any OWNER hereunder;

(B) if any such assignee, transferee or Mortgagee accepts, holds, or attempts to exercise or enjoy the rights or interests of an OWNER hereunder, it shall have assumed the obligations of such OWNER under Section 11; and

(C) to the extent that the performance of any duty or obligation by an OWNER is a condition precedent to the performances of a covenant by COUNTY, it shall continue to be a condition to COUNTY's performance hereunder.

14.2 No Dedication or Lien.

Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, the title to the Property.



14.3 Termination Upon Final Sale.

As provided in Section 6.2, without the requirement of any further writing or action on the part of any party hereto, this Agreement shall terminate as to specific lots as provided therein.

15. MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE.

15.1 Mortgagee Protection.

This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof, by a Mortgagee (whether under or pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise), shall be subject to all of the terms and conditions contained in this Agreement, and any such Mortgagee who takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

15.2 Mortgagee Not Obligated.

Notwithstanding the provisions of Section 15.1 above, no Mortgagee shall have an obligation or duty under this Agreement to perform obligations or other affirmative covenants of an OWNER hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by an OWNER is a condition to the performance of a covenant by COUNTY, the performance thereof shall continue to be a condition precedent to COUNTY's performance hereunder.

15.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure.

If COUNTY receives notice from a Mortgagee requesting a copy of any notice of default given OWNERS or one or more particular OWNERS hereunder and specifying the address for service thereof, and records a copy of each request in the official records of COUNTY in the manner required under Civil Code Section 2924b with respect to Requests for Notices of Default, then COUNTY shall deliver to such Mortgagee, concurrently with service thereon to the applicable OWNERS, any notice given to the such OWNER(s) with respect to any claim by COUNTY that such OWNER(s) have not complied in good faith with the terms of this Agreement or have committed an event of default. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after the receipt of such notice from COUNTY to cure or remedy, or to commence to cure or remedy, the claim of default or noncompliance set forth in the COUNTY's notice. If the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continuity through foreclosure, a receiver or otherwise, and shall thereafter remedy or cure the default or noncompliance within thirty (30) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within such thirty (30) day period, then such Mortgagee shall have such additional time as may be reasonably

necessary to remedy or cure such default or noncompliance if such Mortgagee commences cure during such thirty (30) day period, and thereafter diligently pursues and completes such cure.

#### 15.4 Bankruptcy.

Notwithstanding the foregoing provisions of Section 15, if any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving any OWNER or COUNTY, the times specified in Section 15.3 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such Mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than one year.

### 16. COOPERATION AND IMPLEMENTATION.

#### 16.1 Cooperation.

The parties to this Agreement shall cooperate with and provide reasonable assistance to the other parties to the extent contemplated in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of any party, the other parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement, to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

#### 16.2 Covenant of Good Faith and Fair Dealing.

No party shall do anything which shall have the effect of harming or injuring the rights of the other parties to receive the benefits of this Agreement.

#### 16.3 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within the control of the COUNTY may possess authority to regulate aspects of the Development of the Property separately from or jointly with the COUNTY and this Agreement does not limit the authority of such other public agencies. Nevertheless, the COUNTY shall be bound by, and shall abide by, its covenants and obligations under this Agreement in all respects when dealing with any such agency regarding the Property.

#### 16.4 Other Governmental Permits and Approvals.

OWNERS or COUNTY (whichever is appropriate) shall apply in a timely manner for the permits and approvals which may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. COUNTY shall cooperate with OWNERS in their endeavors to obtain such permits and approvals and shall, from time to time,

at the request of OWNERS, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project. To the extent allowed by law, OWNERS shall be a party to any such agreement, or third party beneficiaries thereof, entitled to enforce for its benefit on behalf of COUNTY, or in their own name, the rights of COUNTY or OWNERS thereunder or the duties and obligations of the parties thereto. In the event the issuance of a building permit for any part of the Project is delayed as a result of OWNERS' or COUNTY's inability to obtain any other required permit or approval, then the term of this Agreement shall be extended by the period of any such delay.

#### 16.5 Cooperation in the Event of Legal Challenge.

In the event of any legal action instituted by a third party challenging the validity of any provision of this Agreement, the procedures leading to its adoption, or the issuance of Development Approvals for the Project, the parties hereby agree to affirmatively cooperate in defending said action. OWNERS agree to bear the litigation expenses of defense, including reasonable attorneys' fees; provided, however, that such compensation shall include only COUNTY's internal counsel and attorney time and overhead costs and other COUNTY staff overhead costs and normal day-to-day business expenses incurred by COUNTY and shall exclude, without limitation, compensation paid to counsel not otherwise employed as COUNTY staff. OWNERS shall be entitled to any award of reasonable attorneys' fees arising out of any such legal action. OWNERS' Obligation to pay for legal counsel shall not extend to fees incurred on appeal unless OWNERS are participating in the appellate process. OWNERS shall have sole discretion to terminate their defense at any time. COUNTY retains the option to employ independent defense counsel at its expense. As part of the cooperation in defending an action, COUNTY and OWNERS shall coordinate their defense in order to make the most efficient use of legal counsel.

#### 16.6 Revision to Project.

In the event of a court order issued as a result of a successful legal challenge, the COUNTY shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of this Agreement and the Development Approvals and avoid or minimize to the greatest extent possible (i) any impact to the Development of the Project as provided for in, and contemplated by, the Development Plan, or (ii) any conflict with the Development Plan or frustration of the intent or purpose of the Development Plan. In the event that any required amendments of this Agreement or the Development Approvals result in a reduction in the number of residential units or the square footage or the intensity, or adversely affects the timing, sequencing or phasing of development, or other material provision of the Development Plan, OWNERS (in their sole discretion) may terminate this Agreement by providing written notice to the COUNTY of such termination.

17. MISCELLANEOUS PROVISIONS.

17.1 Recordation of Agreement.

This Agreement and any amendment or cancellation hereof shall be recorded in the Official Records of COUNTY by the Clerk of the Board of Supervisors within the period required by Section 65868.5 of the Government Code.

17.2 Entire Agreement.

This Agreement sets forth and contains the entire understanding and agreement of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

17.3 Project is a Private Undertaking.

It is specifically understood and agreed by the parties that (a) the Development contemplated by this Agreement is a private development, (b) that no party is acting as the agent of the other in any respect hereunder, (c) that COUNTY has no interest in or responsibility for or duty to third persons concerning any Public Facilities until such time as COUNTY accepts the same pursuant to the terms of this Agreement, and (d) that OWNERS shall have full power over the exclusive control of the Property subject only to the limitations and obligations of OWNERS under this Agreement.

17.4 Limitation on Liability.

Notwithstanding anything to the contrary contained herein, in no event shall any member, partner, officer, director, unit holder, shareholder, employee or agent of OWNERS (or any OWNER) be personally liable for any breach of this Agreement by OWNERS (or any OWNER) or for any amount which may become due to COUNTY under the terms of this Agreement.

17.5 Severability.

If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

17.6 Interpretation and Governing Law.

This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

17.7 Section Headings.

All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

17.8 Singular and Plural.

As used herein and except for the terms “OWNER” and “OWNERS”, the singular of any word includes the plural.

17.9 Joint and Several Obligations.

If any obligation of OWNERS hereunder to COUNTY is the obligation of more than one person, such obligation and any liability with respect thereto shall be joint and several among the obligees.

17.10 Time of Essence.

Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

17.11 Waiver.

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party’s right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

17.12 No Third Party Beneficiaries.

The only parties to this Agreement are OWNERS and COUNTY. This Agreement is not intended, and shall not be construed to benefit or be enforceable by any other person whatsoever.

17.13 Force Majeure.

No party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots, terrorist acts or similar hostilities, strikes and other labor difficulties beyond such party’s control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party’s control. If any such events shall occur, the term of this Agreement and the time for performance by a party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years or for a period which would cause this Agreement or provisions hereof to be void as violating the rule against perpetuities.

17.14 Attorneys Fees.

In any judicial proceeding, arbitration, or mediation (collectively referred to in this Paragraph as an “action”) between COUNTY and one or more OWNERS seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party(ies) in such action shall be awarded all of its(their) actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or 1717 in the absence of this Agreement), including expert witness fees, attorney’s fees, and costs of investigation and preparation prior to the commencement of such action. The right to recover such costs and expenses shall accrue upon commencement of such action, regardless of whether the action is prosecuted to a final judgment or decision.

17.15 Mutual Covenants.

The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

17.16 Notices.

All notices required or provided for under this Agreement shall be in writing and delivered in person or sent certified mail, postage prepaid and addressed as follows:

If to COUNTY:

Orange County Board of Supervisors  
10 Civic Center Plaza  
Santa Ana, CA 92701  
ATTN: Clerk of the Board

With a copy to:

Planning Director  
Planning and Development Services Department  
County of Orange  
300 North Flower Street  
PO Box 4048  
Santa Ana, CA 92702-4048

If to OWNERS:

c/o Rancho Mission Viejo, LLC  
28811 Ortega Highway  
PO Box 9  
San Juan Capistrano, CA 92693  
ATTN: Mr. Richard Broming

with a copy to:

Morgan, Lewis & Bockius LLP  
1 Ada, Suite 250  
Irvine, CA 92618  
ATTN: Stephen R. Finn, Esquire

Any notice given as required herein shall be deemed given seventy-two (72) hours after deposit in the United States mail or upon receipt. A party may change its address for notices by giving notice in writing to the other party as required herein and thereafter notices shall be addressed and transmitted to the new address.

17.17 Successors and Assigns.

The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

17.18 Counterparts.

This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

OWNERS:

DMB SAN JUAN INVESTMENT NORTH, LLC,  
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

RMV MIDDLE CHIQUITA, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

RMV RANCH HOUSE, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer



RMV HEADQUARTERS, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

RMV SAN JUAN WATERSHED, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

RMV SAN MATEO WATERSHED, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

RMV BLIND CANYON, LLC,  
a California limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as authorized agent and manager

By: Anthony R. Moiso  
Anthony R. Moiso  
President and Chief Executive Officer

By: Donald L. Vodra  
Donald L. Vodra  
Chief Operating Officer

COUNTY:

THE COUNTY OF ORANGE, a political subdivision  
of the State of California

By: Thomas Watson  
Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD.

By: Joann Beach  
Clerk of the Board of Supervisors,  
County of Orange, California



APPROVED AS TO FORM:

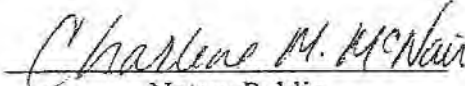
BENJAMIN P. DE MAYO, COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By: , Deputy

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On this 6<sup>th</sup> day of December, 2004, before me, Charlene M. McNair, personally appeared Susan Novak, known to me to be the Clerk of the Board of Supervisors of the County of Orange and known to me to be the person who executed the within instrument on behalf of the County of Orange pursuant to Government Code Section 25103, and acknowledged to me that such political subdivision executed the same by use of an authorized facsimile signature.

WITNESS my hand and official seal.

  
Notary Public  
in and for said County and State



By: \_\_\_\_\_  
Authorized Signature/Position

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On November 23, 2004 before me, Linda K. Ledger, a Notary Public in and for said state, personally appeared Anthony R. Moiso and Donald L. Vodra, personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Linda K. Ledger  
Signature of Notary  
My Commission Expires:  
March 7, 2007



EXHIBIT A-1

Description of Property

[See following pages]

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



LEGEND

- N.A.P.: NOT A PART
- PARCELS OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01
- VARIOUS PARCELS AS DESCRIBED HEREON.

# HUITT-ZOLLARS

Huitt-Zollars, Inc. Irvine  
 430 Exchange, Suite 200, Irvine, CA 92602-1315  
 Phone (714) 734-5100 Fax (714) 734-5155

APPROVED BY

6/16/04

SKETCH TO ACCOMPANY  
A LEGAL DESCRIPTION

## RANCH PLAN PLANNED COMMUNITY

SCALE NOT TO SCALE

DRAWN BY DAO

CHECKED BY PMC

DATE 6-16-04

JOB NO. 10-0755-01

G:\10075501\PH801\ZONING\RMV\_ZONING\_1.DWG

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## NOTE:

PARCEL A IS SHOWN HEREON AS INDIVIDUAL PARCELS AS NUMBERS IN A CIRCLE ○ .

PARCELS B THROUGH I ARE SHOWN HEREON AS INDIVIDUAL PARCELS AS LETTERS IN A SQUARE □ .

## LEGAL DESCRIPTION:

PARCEL A: PARCELS 1 THROUGH 107, INCLUSIVE, 110 THROUGH 126, INCLUSIVE, AND 128 THROUGH 153, INCLUSIVE, OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01 IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED JULY 26, 2001 AS INSTRUMENT NO. 20010508635 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY RECORDED MAY 30, 1996 AS INSTRUMENT NO. 19960269157, OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL B: PARCEL 2, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 90, PAGES 23 THROUGH 27, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL C: PARCEL 1 OF PARCEL MAP 85-476, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 248, PAGES 7 AND 8 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-504837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL D: PARCEL 1 OF PARCEL MAP 93-159, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 280, PAGES 49 AND 50 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL E: PARCEL 1 OF PARCEL MAP 94-153, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 287, PAGES 9 AND 10 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL F: PARCEL 1 OF PARCEL MAP 95-161, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 296, PAGES 11 AND 12 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL G: PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL 2003-004, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON EXHIBIT B ATTACHED TO THAT CERTAIN DOCUMENT RECORDED MARCH 19, 2003 AS INSTRUMENT NO. 2003000294469 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

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TOGETHER WITH THOSE PORTIONS OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 7 WEST, OF RANCHO MISSION VIEJO AS SHOWN ON THE MAP SECTIONIZING RANCHO MISSION VIEJO, IN SAID UNINCORPORATED TERRITORY, FILED IN BOOK 9, PAGES 15 THROUGH 22, INCLUSIVE, OF RECORD OF SURVEYS, IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED IN PARCELS AS FOLLOWS:

PARCEL H: BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF PARCEL 149 OF SAID CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 26, 2001, AS INSTRUMENT NO. 20010508635 OF OFFICIAL RECORDS, BOUNDED NORTHEASTERLY BY THE SOUTHWESTERLY LINE OF PARCEL 146 OF SAID CERTIFICATE OF COMPLIANCE, BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF PARCEL 128 OF SAID CERTIFICATE OF COMPLIANCE AND BOUNDED WESTERLY AND NORTHWESTERLY BY THE SOUTHEASTERLY LINE OF PARCEL 127 OF SAID CERTIFICATE OF COMPLIANCE.

PARCEL I: BOUNDED EASTERLY BY THE WESTERLY LINE OF PARCEL 149 OF THAT CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 26, 2001, AS INSTRUMENT NO. 200100508635 OF OFFICIAL RECORDS AND BOUNDED WESTERLY AND SOUTHERLY BY THE GENERAL EASTERLY LINE OF PARCEL 5 AS SHOWN ON CERTIFICATE OF COMPLIANCE NO. CC 87-06 RECORDED AUGUST 7, 1987 AS INSTRUMENT NO. 87-449971, BOTH OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL J: THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-504837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

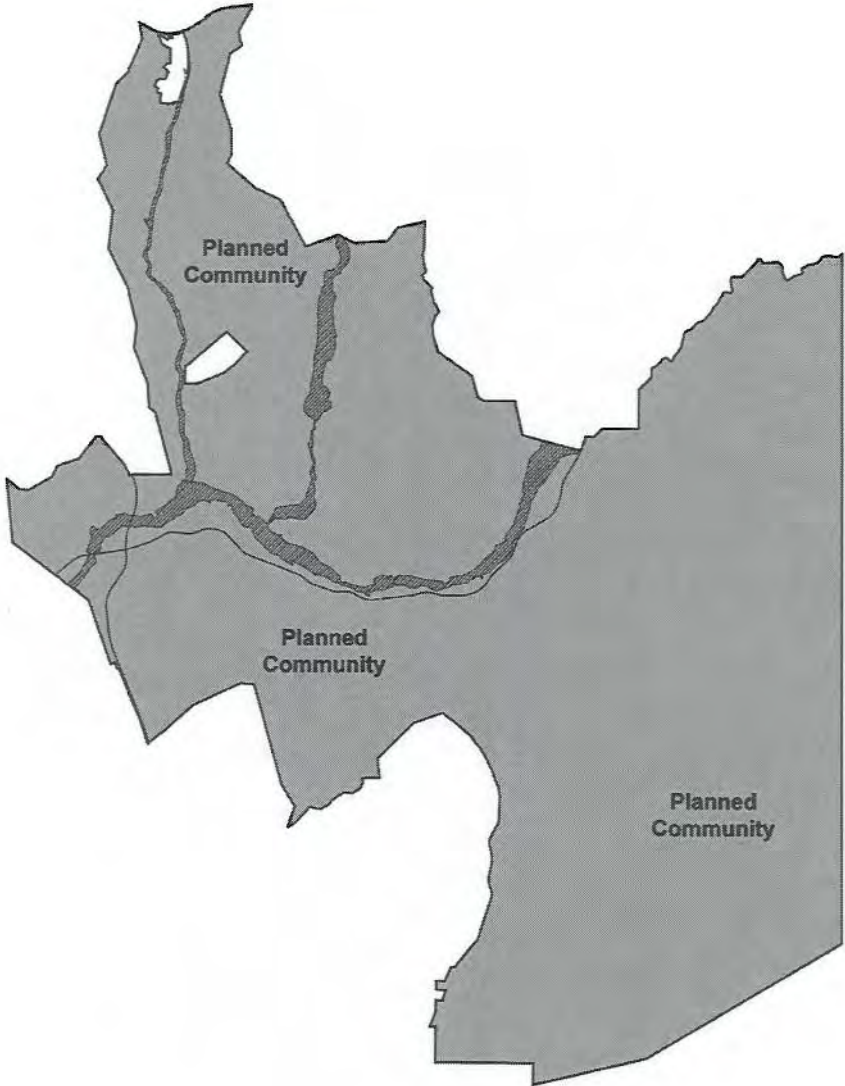
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EXHIBIT A-2

The Ranch Plan Planned  
Community (PC) Zoning Map

[See following page]



**Legend**

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- PC (Planned Community) District
- FP-2 (Floodplain) District

EXHIBIT A-3

The Ranch Plan Statistical Summary

[See following page]

**The Ranch Plan Statistical Summary**

Development Use										Open Space Use	Planning Area Totals
Residential		Urban Activity Center		Neighborhood Center		Business Park		Golf Resort	Gross Acres		
Gross Acres	Maximum Dwelling Units	Gross Acres	Maximum Square Footage	Gross Acres	Maximum Square Footage	Gross Acres	Maximum Square Footage	Gross Acres	Gross Acres	Open Space Acres	Gross Acres
7,277	14,000	251	3,480,000	50	500,000	80	1,220,000	25	7,683	15,132	22,815

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT B

## Existing Land Use Regulations

The following list is intended to reflect the principal Land Use Regulations in effect on the Approval Date. It does not, and is not intended to, represent an exhaustive study of County files to identify each and every Land Use Regulation in effect on the Approval Date. Either OWNER or COUNTY may establish independently in the future that a Land Use Regulation not listed below was, in fact, in effect on the Approval Date.

Those Land Use Regulations in effect on the Approval Date include:

## 1. Land Use Ordinances -

As of the Approval Date, the Land Use Ordinances applicable to the Property are:

- a. Ordinance No. 04-015 by which County adopted this Development Agreement (04-01);
- b. COUNTY's General Plan including General Plan Amendment 01-01 adopted by the Board of Supervisors on November 8, 2004.
- c. The Codified Ordinances of the County of Orange as in effect on the Approval Date, including Zone Change 01-02 adopted by the Board of Supervisors on November 8, 2004.

## 2. Development Approvals -

As of the Approval Date, the Development Approvals applicable to the Property are:

- a. Final Environmental Impact Report No. 589 (certified by Resolution No. 04-290)

This Exhibit B shall be adjusted to reflect any Development Approvals occurring between the Approval Date and the Effective Date.

## 3. Development Exactions:

As of the Approval Date, Development Exactions include all Development Exactions set forth as Conditions of Project approval and identified in the ordinances and resolutions adopted by COUNTY authorizing (i) approval of this Development Agreement (ii) certification of EIR No. 589 and (iii) approval of the General Plan Amendments and Zone Change for the Ranch Plan Planned Community.

4. Mitigation Monitoring and Reporting Program

On November 8, 2004, COUNTY's Board of Supervisors approved a Mitigation Monitoring and Reporting Program for the Project. This program sets forth mitigation measures for the project which were identified in EIR No. 589 for the Ranch Plan, as well as other Project conditions required by COUNTY for development of the Property.

This Exhibit B shall be modified to reflect any changes in the Mitigation Monitoring and Reporting Program occurring between the Approval Date and the Effective Date.

EXHIBIT C

[Intentionally Omitted]

**RANCH PLAN DEVELOPMENT AGREEMENT**  
**EXHIBIT D**  
**BENEFITS TO COUNTY AND ITS RESIDENTS**

The public benefits to be received by COUNTY and its residents as a result of the Development Agreement (“Agreement”) to which this Exhibit D is attached are summarized as follows:

TABLE D-1 Summary of Principal Public Benefits Conferred Pursuant to This Agreement Which Are in Addition to Those Benefits Required by the Project Conditions of Approval			
ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
<b>Transportation</b>			
1.	Offer of dedication for Avenida La Pata right-of-way (extending from Ortega Highway to Prima Deshecha Landfill)	Development Agreement Approval	Dedication Prior to Issuance of Building Permit for 1st Equivalent Dwelling Unit (EDU) ✓
2.	Payment of defined financial contribution to offset costs incurred in the preparation of preliminary designs and environmental studies for traffic improvement projects (Part I)	Development Agreement Approval	Payment into South County Roadway Improvement Program (SCRIP) Prior to Issuance of Building Permit for 1st EDU ✓
3.	Accelerated payment of Owner’s Fair Share contribution for construction of Oso Parkway widening in unincorporated Orange County (east of Las Flores)	Development Agreement Approval	Payment into SCRIP Prior to Issuance of Building Permit for 1st EDU ✓
4.	Accelerated payment of Owner’s Fair Share contribution for Avenida Pico / I-5 interchange improvements	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓
5.	Accelerated payment of Owner’s Fair Share contribution for freeway ramp improvements at southbound I-5 / Oso Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓
6.	Accelerated payment of Owner’s Fair Share contribution for widening portions of Ortega Highway to 4-lanes within unincorporated County (westerly of Antonio Parkway)	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓

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ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
7.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley & Marguerite in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
8.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Felipe & Oso in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
9.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements ( <i>i.e.</i> , "Flex Funds Part I")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
10.	Accelerated payment of Owner's Fair Share obligation for construction of southbound off-ramp improvements at I-5 and Crown Valley Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
11.	Accelerated payment of Owner's Fair Share contribution for widening of Crown Valley Parkway Bridge at I-5	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
12.	Accelerated payment of Owner's Fair Share contribution for construction of interchange improvements at I-5 and Ortega Highway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
13.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements ( <i>i.e.</i> , "Flex Funds Part II")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 2,500th EDU
14.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Avenida La Pata extension (Phase I)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
15.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at La Pata & Vista Hermosa in San Clemente	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU

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ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
16.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Vera Cruz & Vista Hermosa in San Clemente	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
17.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Ortega Highway & Rancho Viejo Road in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
18.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Ortega Highway & La Novia in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
19.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Camino Capistrano & Del Obispo in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
20.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at San Juan Creek Road & Valle Road in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
21.	Accelerated payment of Owner's Fair Share contribution for widening portions of Ortega Highway to 4-lanes within San Juan Capistrano (easterly of Avenida La Novia [context sensitive design])	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 5,000th EDU
22.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Oso Parkway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
23.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Crown Valley Parkway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU

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ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
24.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Ortega Highway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
25.	Accelerated payment of Owner's Fair Share contribution for construction of interchange improvements at I-5 and Avery Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
26.	Provision of land for Park & Ride facility	Development Agreement Approval; Building Permit (EDU) Milestones	Dedication Prior to Issuance of Building Permit for 5000th EDU
27.	Payment of defined financial contribution to offset costs incurred in the preparation of preliminary designs and environmental studies for traffic improvement projects (Part II)	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP prior to issuance of Building Permit for 5,000th EDU.
28.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements ( <i>i.e.</i> , "Flex Funds Part III")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 5,000th EDU
29.	Accelerated payment of Owner's Fair Share contribution for construction of Saddleback College / I-5 connector ramps in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
30.	Accelerated payment of Owner's Fair Share contribution for extension of Cow Camp Road (easterly to Ortega Highway)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
31.	Offer of dedication for right of way, accelerated payment of Owners' Fair Share obligation, and design and construction of improvements to widen portions of Antonio Parkway within the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
32.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley Parkway & Cabot Road in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU

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ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
33.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley Parkway & Forbes Road in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
34.	Accelerated financial contribution in excess of Owner's Fair Share obligation for widening of Railroad Bridge along Crown Valley Parkway in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
35	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Oso Parkway widening in Mission Viejo (Marguerite to I-5)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
36.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Avenida La Pata extension (Phase II)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
37.	Accelerated payment of Owner's Fair Share obligation for construction of lane improvements at Junipero Serra and I-5	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
38.	Accelerated payment of Owner's Fair Share obligation for construction of SR-241 ramp improvements	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
<b>Water Resources</b>			
39.	Provision of acreage in Gobernadora Canyon to allow for construction of water quality basin to mitigate nuisance and first flush flows from Coto de Caza; participation in design and implementation of water quality basin	Development Agreement Approval	Implementation of Basin Improvements Concurrent with Development Activities Occurring in Any Planning Area Other Than Planning Area 1; Completion Prior to Issuance of Precise Grading Permit for 500th EDU (Exclusive of Grading Permits Issued for (i) Residential Units Located in Planning Area 1 and (ii) Model Homes)
40.	Provision of defined financial contribution to assist in preparation of studies which will analyze hydrology, river hydraulics, sedimentation and erosion within the San Juan Creek watershed	Development Agreement Approval	Funding provided by OWNERS in accordance with terms of a separate agreement executed by and between COUNTY and OWNERS concerning the preparation of the watershed studies.

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ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
<b>Trails</b>			
41.	Dedication of a Regional Trail Easement connecting Wagon Wheel Wilderness Park to Caspers Wilderness Park	Development Agreement Approval	Implementation Prior to Issuance of First Precise Grading Permit for Residential Unit within Project Area, but in No Event Prior to Completion of Specified Trail Improvements.
42.	Implementation of a Community Trail connecting Ladera Ranch Community Trail with San Juan Creek Trail	Development Agreement Approval	Phased Implementation Concurrent with Adjoining Development Activities in Planning Area 1
43.	Implementation of a Community Trail connecting Wagon Wheel Connector Trail with San Juan Creek Bikeway Trail	Development Agreement Approval	Implementation in Accordance with Terms and Conditions Set Forth in Supplemental Agreement
<b>Affordable Housing Sites</b>			
44.	Offer of 60 gross acres of land (comprised of one or more sites) that may be developed, operated and managed by COUNTY as affordable housing site(s) for Very-Low and Low Income households in South Orange County	Development Agreement Approval	Identification of Affordable Housing Site(s)/Acreage Concurrent with Preparation of Master Area Plans for Individual Planning Areas (as appropriate); Offer(s) of Dedication Tendered Following Identification of Affordable Housing Site(s)/Acreage and Approval of COUNTY Preliminary Development Plan/Program; Rough Grading of Affordable Housing Site(s)/Acreage Concurrent with Occurrence of Development Activity in Affected Planning Area(s).

The public benefits are detailed as follows:

## I. TRANSPORTATION

### A. BACKGROUND INFORMATION

On November 8, 2004, following public hearing and due consideration of all relevant issues/information, the Board of Supervisors approved Rancho Mission Viejo's (*i.e.*, OWNERS') request for General Plan Amendment (GPA01-01) and Zone Change (ZC01-02) relative to the Ranch Plan Project (the "Project"). Concurrent with said approvals, the Board of Supervisors certified as complete the Final Program Environmental Impact Report No. 589 ("Program EIR") prepared for the Project which addressed and analyzed the anticipated environmental impacts associated with the development of the Project. The Program EIR also describes a mitigation program designed to address both project and cumulative impacts.

The EIR mitigation program and certain other transportation-related conditions of approval (collectively "Conditions") establish specific obligations on OWNERS as a requirement of Project implementation. Of particular note, these Conditions specify a series of transportation

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and circulation improvements for which OWNERS have an obligation. For example, OWNERS are obligated to participate, on a pro-rata basis, in the funding of certain on-site arterial improvements (*e.g.*, widening of Antonio Parkway). Additionally, OWNERS are obligated to pay their “Fair Share” toward the development of certain off-site roadway improvements (*e.g.*, widening of a portion of Ortega Highway between I-5 and the Project boundary). Funds contributed by the OWNERS pursuant to the Conditions are to be made to the South County Roadway Improvement Program (SCRIP), which is described below.

The Conditions were specifically designed to mitigate Project-related impacts in compliance with CEQA. However, OWNERS are desirous of providing additional assistance to COUNTY vis-à-vis participating in the attenuation of circulation problems that affect the greater community. In furtherance of this goal, OWNERS have entered into this Development Agreement which, in relevant part, defines, quantifies and memorializes specific covenants of OWNERS as to the funding and/or implementation of circulation improvements that not only mitigate the Project’s impacts, but which also provide additional circulation benefits to the public. Table D-1, above, summarizes the additional circulation system benefits (as well as other public benefits) that OWNERS are providing beyond those required by the Conditions; the following sections provide more particularized description/discussion of these additional benefits.

**Note:** The adoption and implementation of this Development Agreement will satisfy or partially satisfy certain Conditions. The specific Conditions which are fulfilled or partially fulfilled are listed in Exhibit F to this Agreement, together with a brief explanation of how they are fulfilled.

#### B. TRANSPORTATION SYSTEM IMPROVEMENTS – CONTRIBUTIONS, ACKNOWLEDGMENTS & COVENANTS

As indicated above, the Conditions obligate OWNERS to participate, on a Fair Share basis, in the financing of certain on-site and off-site transportation system improvements. In an effort to facilitate COUNTY’s timely completion and achievement of these improvements, OWNERS are willing to provide additional financial/resource assistance to COUNTY; to wit:

- Acceleration of OWNERS’ Fair Share payment obligations for transportation improvements identified in the Conditions
- Provision of land for public right-of-way to facilitate the future construction of transportation facilities
- Provision of financial contributions that exceed the minimum Fair Share obligations for specific improvements identified in the Conditions
- Provision of additional financial contributions (*i.e.*, “Flex Funds”) for use in addressing local and regional transportation improvements identified in the SCRIP

The provision of these accelerated/additional resources will enable COUNTY to expedite and accomplish both current and future transportation improvement projects benefiting the residents of Orange County (*e.g.*, advance funding shall allow for the near-term preparation of design

materials and environmental documentation to expedite the approval processes for critical off-site improvement projects). Furthermore, OWNERS' provision of advance funding will enhance the ability of COUNTY and adjoining jurisdictions to seek and receive matching funds for identified circulation improvements (as said matching funds may be available from regional, state and federal sources). Again, OWNERS' provision of such accelerated/additional resources is beyond the obligations specified in the Conditions, and represents an extra public benefit that would not otherwise exist but for approval/development of the Project.

Table D-2, attached hereto, reflects the aggregate, accelerated payments to be tendered by OWNERS at specific Project milestones. Notably, Table D-2 reflects that 100% of OWNERS' total financial obligations for transportation improvements (*i.e.*, Fair Share obligations –PLUS– extra contributions specified in this Development Agreement) shall be tendered before the Project is 85% complete. The Project utilizes an “equivalent dwelling unit” (“EDU”) formula/strategy for determining the amount of fees that must be paid upon issuance of each building permit within the Project area. An EDU is a unit of measurement which expresses single-family, multi-family and non-residential development on a common trip generation basis. As described in the SCRIP, for purposes of calculating transportation mitigation fees, the aggregate development program for the Project contemplates a total of 11,890 EDUs. As set forth in Table D-2, the entirety of OWNERS' financial commitment for transportation improvements must be paid prior to the issuance of a building permit for the 10,000th EDU. Thus, OWNERS' aggregate financial obligations hereunder will be paid well in advance of Project completion.

All funding provided by OWNERS hereunder shall be deposited into the SCRIP and credited against OWNERS' Fair Share and extra obligations. The SCRIP has been developed cooperatively by the OWNERS and COUNTY for the purpose of facilitating the implementation of specific transportation improvements that will benefit both local and regional elements of southern Orange County's circulation system. Specifically, the SCRIP complements existing road improvement programs in South Orange County by providing a comprehensive framework for implementing identified transportation improvements in a coordinated and timely manner. The SCRIP is essentially comprised of two parts:

- Part 1: A framework for (a) implementing the transportation improvement program outlined in the Program EIR and this Development Agreement for improvements located within the County's jurisdiction and (b) funding certain other local improvements within the jurisdiction of one or more cities that are to be funded whether or not the affected cities elect to participate in the SCRIP
- Part 2: Part 2, when adopted, would complement Part 1 with regard to (a) identified local City improvements that require the participation of the cities for their full funding/implementation and (b) identified regional improvements that require the participation of Caltrans and/or the Orange County Transportation Authority (OCTA) for their full funding/implementation

The Project is located within the area of benefit prescribed for the SCRIP action plan, and the action plan includes improvements which OWNERS will support through (i) Fair Share contributions pursuant to the Conditions and (ii) excess contributions pursuant to this Development Agreement. Accordingly, OWNERS' participation in the SCRIP will mitigate the future traffic impacts of the Project and other growth in the area and assist COUNTY in achieving its local and regional infrastructure goals.

As reflected in Table D-2, the aggregate value of OWNERS' financial commitment for transportation improvements vis-à-vis Project approval and implementation is \$143,775,000 (the "Total Transportation Fee"). OWNERS and COUNTY acknowledge that the Total Transportation Fee represents an amount that greatly exceeds the value of OWNERS' Fair Share costs for Project-related transportation mitigation, as detailed in the 2003 Traffic Study prepared by Austin-Foust and Associates and summarized in the Program EIR. In light of the foregoing, OWNERS and COUNTY agree that the Total Transportation Fee represents the maximum amount that OWNERS shall be required to pay for the mitigation of any and all traffic impacts relative to the Project, subject only to the escalation of fees as specified in the SCRIP (but not to exceed an average of 3 percent per year). In no event shall COUNTY request, nor shall OWNERS be obligated to pay, any amount in excess of the Total Transportation Fee for traffic impact mitigation.

As identified in the SCRIP, implementation and/or completion of certain of the off-site traffic improvements identified in the SCRIP action plan will require the approval and participation of other agencies (*e.g.*, affected cit(y/ies), Caltrans and resource agencies). Accordingly, the possibility exists that individual traffic improvements may not be complete or in place at the intended times due to action/inaction on the part of other parties. COUNTY recognizes this fact/possibility and acknowledges that (i) OWNERS' obligations hereunder are limited solely to the provision of financial contributions in an amount not to exceed the Total Transportation Fee and (ii) OWNERS cannot provide any assurance that action plan improvements will be completed in accordance with SCRIP objectives. Accordingly, COUNTY covenants and agrees that it shall not withhold, restrict or otherwise delay the issuance of any Project-related grading or building permit due to delays, complications or setbacks in the processing, construction or completion schedule for any transportation improvement, PROVIDED that OWNERS are current with respect to their EDU milestone payment obligations set forth herein.

COUNTY and OWNERS also recognize that SCRIP contains express terms/conditions that provide for the reapportionment of funding for particular transportation improvement projects, as well as the ability to identify/fund new priority projects, so long as certain findings can be made with regard to the "alternative improvements" (including a finding that the alternative improvement will provide an equivalent level of mitigation for traffic impacts). Accordingly, COUNTY and OWNERS acknowledge that a possibility exists that certain of the projects currently identified in the SCRIP action plan may be delayed, modified or otherwise eliminated as the SCRIP is implemented over time. COUNTY covenants and agrees that in no event shall any modifications, changes or revisions to the SCRIP or any of the individual improvements identified therein compromise, encumber or otherwise hinder the entitlements vested in OWNERS and the Project area pursuant to GPA01-01, ZC01-02, this Development Agreement or other Development Approvals. Nor shall any modification, change or revision to the SCRIP

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(or any of the individual improvements identified therein) require an amendment to or modification of this Development Agreement.

Notwithstanding any provision herein to the contrary, to the extent of any conflict between the terms of this Development Agreement and the terms of the SCRIP, the terms of this Development Agreement shall control.

C. ADJUSTMENTS TO OWNERS' TRAFFIC MITIGATION COMMITMENTS AND OBLIGATIONS

For purposes of this Section I.C., the term "Transportation Improvements" shall refer to all transportation and circulation improvements identified in this Exhibit D and in the SCRIP action plan for which OWNERS have committed to provide Fair Share and supplemental funding pursuant to the Conditions and the Development Agreement.

1. Transportation Improvements Implemented and/or Funded by OWNERS and/or Other Private Entities

OWNERS shall be entitled to a credit against their Total Transportation Fee obligation to the extent of any and all Transportation Improvement(s) implemented and/or funded by OWNERS or their affiliates, whether directly or indirectly (and including, without limitation, funding through CFDs or similar financing mechanisms), following execution and delivery of this Development Agreement. Furthermore, in the event that any specific Transportation Improvement(s) is/are constructed, implemented and or funded by a private entity other than OWNERS (including, but not limited to, OWNERS' successors and assigns), OWNERS' obligations and commitments with respect to said Transportation Improvement(s) shall be deemed satisfied and no payment from OWNERS relative to said Transportation Improvement(s) shall be required.

2. Funding of Transportation Improvements by Non-OWNER Private Entities and/or Public Agencies

In the event that funding provided for one or more of the Transportation Improvements (i) is derived from sources other than OWNERS and (ii) exceeds the "Other (Non-Project) Funding" share for the individual Transportation Improvement(s) as specified in Exhibit E of the Development Agreement, OWNERS' fee obligations and commitments with respect to said Transportation Improvement(s) shall be proportionally adjusted to reflect the reduction of funds needed from OWNERS to complete the Transportation Improvement(s). Furthermore, in the event that:

(A) a regional or sub-regional program contains, in whole or in part, one or more of the Transportation Improvements and

(B) such regional/sub-regional Transportation Improvement(s) is/are implemented by OWNERS, any public agency, and/or a combination of entities/agencies,

then (1) OWNERS shall receive a credit against OWNERS' obligations and commitments relative to OWNERS' share of the funding of said Transportation Improvement(s) and (2)

OWNERS' Total Transportation Fee obligation shall be proportionally adjusted to reflect the reduction of costs needed to complete the Transportation Improvement(s).

### 3. Substitution of Transportation Improvements

As recognized in Section I.B., above, the SCRIP provides for the potential substitution of Transportation Improvements if such adjustments/actions are necessary and warranted. In the event that one or more Transportation Improvement(s) is/are eliminated in favor of the implementation of a substitute improvement(s), then (i) the substitute improvement(s) shall be implemented in accordance with the provisions of the SCRIP and (ii) OWNERS' fee commitments and obligations relative to the original Transportation Improvement(s) shall be recalculated to reflect OWNERS' proportional obligation for the substitute transportation improvement(s). In no event, however, shall the fee calculation described above result in OWNERS' fee obligation exceeding OWNERS' original Exhibit D obligation for the Transportation Improvement(s) thus modified/substituted. Furthermore, all fee offsets and credits applicable to the original Transportation Improvement(s) shall apply to the substitute transportation improvement(s).

#### D. STATE AND FEDERAL ASSISTANCE IN IMPLEMENTING THE SCRIP

In connection with implementation of the Project, COUNTY, at no out-of-pocket cost or expense and without being obligated to incur any obligation or liability with respect thereto, shall reasonably cooperate with OWNERS and any and all agencies or departments that may provide assistance to the SCRIP including, without limitation, the following:

- California Infrastructure and Economic Development Bank
- California Department of Transportation
- California Transportation Commission
- Orange County Transportation Authority
- United States Congress
- United States Department of Transportation
- United States Federal Highway Administration
- United States Federal Transit Administration
- Relevant Joint Powers Authorit(y/ies)
- Relevant Special Powers Entit(y/ies)

E. IDENTIFICATION OF AGGREGATE TRAFFIC MITIGATION COMMITMENTS AND OBLIGATIONS

OWNERS' aggregate obligations for transportation system improvements/contributions are as follows:

**Item No. 1** *Dedication of Avenida La Pata Right-of-Way*

COUNTY is desirous of extending Avenida La Pata from its current northern terminus point (*i.e.*, south of Ortega Highway) to its current southern terminus point (*i.e.*, intersection at Calle Saluda) (the "Extension Area"). Portions of the Extension Area are located within the Project area and, as such, would require public purchase and/or acquisition prior to implementation of the intended right-of-way improvements. In furtherance of COUNTY's interest in providing and implementing the desired Avenida La Pata extension, OWNERS are willing to dedicate to COUNTY those portions of the Extension Area currently located within the Project area, all as more specifically described in the following paragraphs.

a. Offer of Dedication; Timing. Prior to recordation of the first final tract map (except for financing purposes) within Planning Area 1 in the Project, OWNERS shall enter into an agreement with COUNTY to provide a construction easement and fee dedication right of way, within the Project ownership, relative to the Extension Area. The agreement shall provide that the offer of dedication shall be made prior to the issuance of a building permit for the first (1st) EDU for the Project and shall be irrevocable.

b. Description of Extension Area. The precise location and width of the Extension Area shall be identified in the terms of the above-referenced agreement.

c. Use of Extension Area. The deed conveying the Extension Area to COUNTY pursuant to the agreement shall contain an express restriction limiting the use of said area for public right-of-way purposes.

**Item No. 2** *Defined Financial Contribution – Part I*

OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to fund initial designs, environmental studies and other preliminary items that will facilitate COUNTY's timely implementation of traffic improvement projects (*vis-à-vis* the SCRIP action plan). Said contribution is in excess of, and in addition to, OWNERS' express contribution obligations specified in the Conditions. The following paragraphs describe the terms and conditions underlying Part I of OWNERS' commitment to provide the extra contribution (Part II is discussed hereafter in relation to Item No. 27).

a. Extra Contribution. The amount of the extra contribution described above (ala Part I) shall be \$7,320,000.

b. Payment of Extra Contribution. OWNERS shall pay the aforesaid extra contribution (ala Part I) into the SCRIP prior to COUNTY's issuance of a building permit for the first (1st) EDU for the Project.

c. Use of Extra Contribution. Consistent with the provisions of the SCRIP, all portions of the extra contribution identified in this Section shall be used for the preparation of the preliminary design, environmental and related materials described above.

**Item No. 3** *Oso Parkway Widening – East of Las Flores*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$1,250,000 toward the costs associated with widening portions of Oso Parkway extending east of Las Flores between Meandering Trail and Solano Avenue from a Primary arterial highway to a Major arterial highway. Specifically, the improvements contemplate the addition of one lane in each direction. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions. ✓

a. Timing and Method of Accelerated Payment. Prior to (a) the first date following twelve months after approval of the Ranch Plan project by the Board of Supervisors, or (b) 30 days following the final order/judgment issued by the courts in a successful defense of all litigation brought against the Ranch Plan GPA/ZC, EIR No. 589 and/or the Development Agreement, whichever occurs last, OWNERS shall post financial security (e.g., bond, letter of credit, cash, etc.) acceptable to the County of Orange in the full amount of the above-stated obligation, in a manner meeting the approval of the Director, RDMD. Said financial security shall be accompanied by an agreement that allows for phased payment of the obligation consistent with the construction payment requirements for the contract and/or reimbursement to the County for the Ranch Plan Project's Fair Share if the County has already completed the work. ✓

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the construction of the widening improvements described above.

**Item No. 4** *Interchange Improvements – I-5 and Avenida Pico*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Avenida Pico interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$571,000 toward the costs of re-striping the southbound off-ramp and modifying the existing signal. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$571,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

**Item No. 5**    *Ramp Improvements – I-5 and Oso Parkway*

The Conditions obligate OWNERS to financially participate in the construction of certain interchange improvements in the City of Mission Viejo. Specifically, the Conditions provide that OWNERS will contribute a Fair Share payment of \$4,126,000 toward the construction of certain improvements relative to the southbound I-5 connector ramps at Oso Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a.     Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$4,126,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b.     Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the ramp improvements described above.

**Item No. 6**    *Ortega Highway Widening – Antonio Parkway to West of San Juan Creek (Including Bridge)*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$6,000,000 toward the costs of (i) widening, to four lanes, certain portions of Ortega Highway located within the unincorporated County (between Antonio Parkway and San Juan Creek) and (ii) constructing certain bridge improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a.     Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$6,000,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b.     Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the roadway widening and bridge improvements described above.

**Item No. 7**    *Intersection Improvements – Crown Valley & Marguerite*

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Marguerite Parkway in the City of Mission Viejo. The specific improvements involve the addition of a second left-turn lane, a fourth thru-lane and a right turn lane for the benefit of westbound traffic. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$170,000 toward the construction of these improvements. OWNERS are willing to contribute an additional amount toward the completion of said improvements, subject to the following terms and conditions.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$724,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$894,000. This aggregated amount shall be paid into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

***Item No. 8 Intersection Improvements – Oso Parkway & Felipe Road***

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Oso Parkway and Felipe Road in the City of Mission Viejo. The specific improvements involve the addition of a second, southbound left-turn lane. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$324,000 toward the construction of these improvements. OWNERS are willing to contribute an additional amount toward the completion of said improvements, subject to the following terms and conditions.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$552,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$876,000. This aggregated amount shall be paid into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

***Item No. 9 Defined Financial Contribution – Flex Funds Part I***

OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (collectively described as the "Flex Funds") is not earmarked for, or otherwise allocated to, particular improvements identified

in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The aggregate amount of the Flex Funds to be contributed by OWNERS is \$16,000,000; notwithstanding, payment of the Flex Funds shall be divided into three discrete segments (*i.e.*, Part I, Part II and Part III), with periodic payments occurring in accordance with identified EDU milestone events. The following paragraphs describe the terms and conditions underlying OWNERS' commitment to provide Part I of the Flex Funds; the terms and conditions relating to Parts II and III of the Flex Funds are discussed hereafter in relation to Item No. 13 and Item No. 28, respectively.

- a. Extra Contribution (Flex Funds Part I). The amount of the Flex Funds Part I contribution shall be \$5,000,000.
- b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part I contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.
- c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part I contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

**Item No. 10** *Interchange Improvements – I-5 and Crown Valley Parkway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Crown Valley Parkway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$240,000 toward the construction of certain improvements designed to improve the operation/efficiency of the southbound off-ramp. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

- a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$240,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$160,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit for 2,500th EDU	\$80,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

**Item No. 11** *Widening of Crown Valley Parkway / I-5 Bridge*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the Crown Valley Parkway / Interstate 5 Bridge. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$109,000 toward the construction of certain improvements designed to widen the Crown Valley Parkway / I-5 Bridge. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$109,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$73,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit 2,500th EDU	\$36,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).



b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the bridge widening improvements described above.

**Item No. 12** *Interchange Improvements – I-5 and Ortega Highway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Ortega Highway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$13,600,000 toward the comprehensive costs associated with reconstruction of the interchange. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$13,600,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$9,100,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit for 2,500th EDU	\$4,500,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

**Item No. 13** *Defined Financial Contribution – Flex Funds Part II*

As identified above (see Item No. 9), OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (heretofore collectively defined as the “Flex Funds”) is not earmarked for, or otherwise allocated to, particular improvements identified in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The following paragraphs describe the terms and conditions underlying OWNERS’

commitment to provide Part II of the Flex Funds; the terms and conditions relating to Parts I and III of the Flex Funds are discussed in Item No. 9 and Item No. 28, respectively.

- a. Extra Contribution (Flex Funds Part II). The amount of the Flex Funds Part II contribution shall be \$5,000,000.
- b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part II contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 2,500th EDU for the Project.
- c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part II contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

**Item No. 14** *Improvement of Avenida La Pata (Phase I)*

Avenida La Pata currently exists as a three-lane road extending south of Ortega Highway and terminating at the Prima Deshecha Landfill. The ultimate design/geometry for Avenida La Pata connotes a four-lane road extending south from Ortega Highway and intersecting/ending at Avenida Vista Hermosa in the City of San Clemente. Implementation of the Avenida La Pata improvements is contemplated to occur in two phases, namely: Phase I – extension and improvement of Avenida La Pata as a two-lane road, extending southerly from the Prima Deshecha Landfill (terminus of existing Avenida La Pata) to Avenida Vista Hermosa. Phase II – upgrade and widen Avenida La Pata to its ultimate four-lane configuration. The Conditions obligate OWNERS to financially participate in the improvement of Avenida La Pata to its ultimate configuration/geometry. For Phase I, OWNERS are obligated to tender a Fair Share contribution of \$5,250,000 toward the specified improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of Phase I and to dedicate right of way within OWNERS' property to facilitate the above-described improvements. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said Phase I and to dedicate right of way.

- a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an additional \$9,750,000 toward the cost of accomplishing the Phase I improvements described above.
- b. Payment of Extra Contribution. In order to facilitate the prompt completion of the Phase I improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$15,000,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$6,000,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$6,000,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$3,000,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the Phase I improvements described above.

d. Construction of Phase 1. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, and based upon approved documentation prepared by the COUNTY for environmental approval, permitting and design of Avenida La Pata, OWNERS shall enter into an agreement with COUNTY to construct Phase 1 of the improvement consistent with the alignment for this road adopted by the Board of Supervisors. Said roadway design and construction shall provide for full grading to accommodate a Primary arterial highway but paved for only two lanes.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

**Item No. 15** *Intersection Improvements – La Pata & Vista Hermosa*

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Avenida La Pata & Avenida Vista Hermosa in the City of San Clemente. The specific improvements involve (i) the addition of a southbound free right turn lane to Avenida La Pata and (ii) the addition of a second and third eastbound left-turn lane for Avenida Vista Hermosa. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$52,000 toward the construction of these improvements. In order to facilitate the prompt implementation of these improvements,

OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$320,000 toward the cost of accomplishing the improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$372,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$148,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$148,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$74,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 16** *Intersection Improvements – Vera Cruz & Vista Hermosa*

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Camino Vera Cruz & Avenida Vista Hermosa in the City of San Clemente. The specific improvements involve the addition of a second southbound left-turn lane. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$66,000 toward the construction of these improvements. In

order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$871,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$937,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$374,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$374,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$187,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

***Item No. 17 Intersection Improvements – Ortega Highway & Rancho Viejo Road***

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$374,000 toward the costs of constructing certain improvements at the intersection of Ortega Highway and Rancho Viejo Road in the City of San Juan Capistrano. The specific improvements involve the addition of a second left turn lane to northbound Rancho Viejo Road. In order to facilitate the

prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$374,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$149,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$149,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$74,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 18** *Intersection Improvements – Ortega Highway & La Novia*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$248,000 toward the costs of constructing certain improvements at the intersection of Ortega Highway and La Novia Road in the City of San Juan Capistrano. The specific improvements involve the addition of a second eastbound left turn lane to Ortega Highway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$248,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$99,200
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$99,200
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$49,600

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 19** *Intersection Improvements – Camino Capistrano & Del Obispo*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$54,000 toward the costs of constructing certain improvements at the intersection of Camino Capistrano and Del Obispo in the City of San Juan Capistrano (per City nexus program). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$54,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$21,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$21,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$10,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 20** *Intersection Improvements – San Juan Creek Road & Valle Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$300,000 toward the costs of constructing certain improvements at the intersection of San Juan Creek Road and Valle Road in the City of San Juan Capistrano (per City nexus program). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$300,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:



Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$120,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$120,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$60,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 21** *Ortega Highway Widening – San Juan Capistrano (Context Sensitive Design)*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$4,000,000 toward the costs of widening, to four lanes [using a context sensitive design], certain portions of Ortega Highway located within the City of San Juan Capistrano. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$4,000,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$1,600,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$1,600,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$800,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 22** *Intersection Improvements – Antonio Parkway & Oso Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$644,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway and Oso Parkway in the unincorporated County. The specific improvements involve (i) the addition of a fourth southbound thru lane and a third northbound left turn lane to Antonio Parkway and (ii) the addition of a fourth westbound thru lane to Oso Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$705,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$1,349,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to

the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$539,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$539,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$269,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

d. Provision for Funding of Full Cost of Improvements. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that, prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, OWNERS shall enter into an agreement with COUNTY to fully fund (*i.e.*, to provide the remaining cost of) the specified improvements to the extent said funds are not then available.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

**Item No. 23** *Intersection Improvements – Antonio Parkway & Crown Valley Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$137,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway and Crown Valley Parkway in the unincorporated County. The specific improvements involve (i) the addition of a second eastbound right turn lane to Crown Valley Parkway and (ii) the addition of a third northbound left turn lane to Antonio Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional

amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$168,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$305,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$122,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$122,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$61,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

d. Provision for Funding of Full Cost of Improvements. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that, prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, OWNERS shall enter into an agreement with COUNTY to fully fund (*i.e.*, to provide the remaining cost of) the specified improvements to the extent said funds are not then available.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

**Item No. 24** *Intersection Improvements – Antonio Parkway/Avenida La Pata & Ortega Highway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$301,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway/Avenida La Pata and Ortega Highway in the unincorporated County. The specific improvements involve (i) the addition of a second thru lane and free right lane to Antonio Parkway, (ii) the addition of a second northbound left turn lane and second thru lane to La Avenida La Pata and (iii) the addition of a second eastbound thru lane to Ortega Highway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$119,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$420,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$168,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$168,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$84,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 25** *Interchange Improvements – I-5 and Avery Parkway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Avery Parkway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$152,000 toward the construction of an additional lane located beneath the I-5 / Avery Parkway overpass. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$152,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$60,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$60,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$30,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

**Item No. 26** *Park & Ride Facility*

The Conditions obligate OWNERS to participate in the creation of a new Park & Ride facility. In satisfaction of said obligation, OWNERS shall dedicate to COUNTY a parcel of land (the "P&R Parcel") that may be used for the development, construction and operation of the desired Park & Ride facility. The terms and conditions underlying the proposed dedication are set forth below.

a. Offer of Dedication; Timing. Prior to issuance of a building permit for the 5,000th EDU for the Project, OWNERS shall prepare and deliver to COUNTY an offer of dedication relative to the P&R Parcel. The offer of dedication shall be irrevocable.

b. Description of Extension Area. The precise location and size of the P&R Parcel shall be identified per the terms of the Project Report.

c. Use of P&R Parcel. The deed conveying the P&R Parcel to COUNTY shall contain an express restriction limiting the use of said area to a public parking lot that is used in connection with community mass transit activities (*e.g.*, bus ridership).

d. Value of Extension Area. COUNTY and OWNERS agree that the value of the Extension Area conveyed pursuant hereto shall be \$600,000.

**Item No. 27** *Defined Financial Contribution – Part II*

As identified in relation to Item No. 2, above, OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to fund initial designs, environmental studies and other preliminary items that will facilitate COUNTY's timely implementation of traffic improvement projects (vis-à-vis the SCRIP action plan). Said contribution is in excess of, and in addition to, OWNERS' express contribution obligations specified in the Conditions. The following paragraphs describe the terms and conditions underlying Part II of OWNERS' commitment to provide the extra contribution.

- a. Extra Contribution. The amount of the extra contribution described above (ala Part II) shall be \$4,880,000.
- b. Payment of Extra Contribution. OWNERS shall pay the aforesaid extra contribution (ala Part II) into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project.
- c. Use of Extra Contribution. Consistent with the provisions of the SCRIP, all portions of the extra contribution identified in this Section shall be used for the preparation of the preliminary design, environmental and related materials described above.

**Item No. 28** *Defined Financial Contribution – Flex Funds Part III*

As identified above (*see* Item Nos. 9 and 13), OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (heretofore collectively defined as the "Flex Funds") is not earmarked for, or otherwise allocated to, particular improvements identified in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The following paragraphs describe the terms and conditions underlying OWNERS' commitment to provide Part III of the Flex Funds.

- a. Extra Contribution (Flex Funds Part III). The amount of the Flex Funds Part III contribution shall be \$6,000,000.
- b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part III contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project.
- c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part III contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

**Item No. 29** *Connector Ramps – Saddleback College and I-5*

The Conditions obligate OWNERS to financially participate in the construction of certain interchange improvements in the City of Mission Viejo. Specifically, the Conditions provide



that OWNERS will contribute a Fair Share payment of \$7,000,000 toward the construction of the Saddleback College / I-5 connector ramps. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$7,000,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$2,800,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$2,800,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$1,400,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the connector ramp improvements described above.

**Item No. 30** *Extension of Cow Camp Road*

The Conditions obligate OWNERS to financially participate in the easterly extension of Cow Camp Road to Ortega Highway. Specifically, the Conditions provide that OWNERS shall tender a Fair Share contribution in the amount of \$32,160,000 toward the construction of said extension improvements. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$32,160,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$12,864,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$12,864,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$6,432,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the improvements described above.

**Item No. 31** *Antonio Parkway Widening*

OWNERS have been determined to have a Fair Share obligation of \$7,370,000 toward the costs of widening that portion of Antonio Highway (located within the unincorporated County) extending southerly from Ladera Ranch Planned Community to Ortega Highway as a Major arterial (hereafter, the Antonio Parkway Widening Project). The specific improvements contemplate the addition of one lane in each north/south direction (and the attendant widening of the Antonio Parkway bridge). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, and to undertake certain other obligations as described below, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$7,370,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$2,948,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$2,948,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$1,474,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the Antonio Parkway widening improvements described above.

c. Dedication of Right of Way. In addition to OWNERS’ Fair Share obligation, prior to recordation of the first final tract map (except for financing purposes) within Planning Area 1 in the Ranch Plan development, OWNERS shall enter into an agreement with the County to provide necessary right-of-way, in fee, for construction of the Antonio Parkway Widening Project in a manner meeting the approval of the Director, RDMD.

d. Design and Construction of Improvements. Notwithstanding OWNERS’ Fair Share obligation described in a. above, OWNERS agree that, prior to recordation of the first tract map (except for financing purposes) within Planning Area 1 in the Ranch Plan development, they shall enter into an agreement to design and construct the Antonio Parkway Widening Project. Said improvements shall also include the intersection of Antonio Parkway at Cow Camp Road, and at existing Ortega Highway, in a manner meeting the approval of the Manager, Transportation.

e. COUNTY’s Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS’ funding of the improvements to the extent said funding is over and above OWNERS’ Fair Share obligation.

**Item No. 32** *Intersection Improvements – Crown Valley Parkway & Cabot Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$103,000 toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Cabot Road in the City of Laguna Niguel (per City “Gateway” conditions).

OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS’ commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS’ Fair Share obligation, OWNERS shall contribute an extra \$874,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS’ Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$977,000. This aggregated amount shall be paid prior to COUNTY’s issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$390,800
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$390,800
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$195,400

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 33** *Intersection Improvements – Crown Valley Parkway & Forbes Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$71,000 toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Forbes Road in the City of Laguna Niguel (per City “Gateway” conditions). The following sections describe the terms and conditions underlying OWNERS’ commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$605,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$676,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$270,400
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$270,400
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$135,200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

**Item No. 34** *Railroad Bridge Widening – Crown Valley Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$77,000 toward the costs of widening the railroad bridge located adjacent to Crown Valley Parkway in the City of Laguna Niguel (per City design). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said bridge widening improvements.

a. Extra Contribution. In addition to OWNERS’ Fair Share obligation, OWNERS shall contribute an extra \$651,000 toward the cost of accomplishing the bridge widening improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the bridge widening improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS’ Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$728,000. This aggregated amount shall be paid prior to COUNTY’s issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$291,200
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$291,200
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$145,600

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the railroad bridge widening improvements described above.

**Item No. 35** *Widening of Oso Parkway – Mission Viejo*

Oso Parkway currently exists as a 6-lane major arterial between I-5 and Marguerite Parkway. The Conditions obligate owners to tender a Fair Share contribution in the amount of \$2,741,000 toward the costs of improving/widening said right-of-way section to an 8-lane major arterial (*i.e.*, addition of one lane in each direction). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS’ commitment to provide supplemental funding for said improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$1,985,000 toward the cost of accomplishing the arterial widening improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the arterial widening improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$4,726,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$1,890,400
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$1,890,400
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$945,200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the arterial widening improvements described above.

**Item No. 36** *Extension of Avenida La Pata (Phase II)*

As indicted in Item No. 14, above, the Conditions obligate OWNERS to financially participate in the extension/improvement of Avenida La Pata to its ultimate configuration/geometry. Phase II of the project contemplates (i) the addition of a fourth lane extending from Ortega Highway to the Prima Deshecha Landfill and (ii) the widening and improvement of the entire length of Avenida La Pata to four-lane road standards. Pursuant to the Conditions, OWNERS are obligated to tender a Fair Share contribution of \$5,250,000 toward the construction of said Phase II improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of Phase II. The

following sections describe the terms and conditions underlying OWNERS’ commitment to provide supplemental funding for said Phase II.

a. Extra Contribution. In addition to OWNERS’ Fair Share obligation, OWNERS shall contribute an additional \$4,750,000 toward the cost of accomplishing the Phase II improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the Phase II improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS’ Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$10,000,000. This aggregated amount shall be paid prior to COUNTY’s issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$4,000,000
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$4,000,000
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$2,000,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the Phase II improvements described above.

**Item No. 37 Road Improvements– Junipero Serra at Interstate I-5**

The Conditions obligate OWNERS to tender a Fair Share contribution of \$160,000 toward the costs of making certain improvements to Junipero Serra at the Interstate I-5 interchange. Specifically, the improvements call for the modification of the existing eastbound/northbound lane to provide an additional eastbound through lane. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.



a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$160,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$64,000
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$64,000
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$32,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the roadway improvements described above.

**Item No. 38** *SR-241 Ramp Improvements*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$1,000 toward the costs of analyzing/implementing certain improvements to the SR-241 ramps. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$1,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$400
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$400
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the analysis/implementation of the ramp improvements described above.

## II. WATER RESOURCES

### *Item No. 39 Water Resources Facility*

As more fully discussed in the Program EIR, with the proposed mitigation measures, the change in storm flows to the mainstream of San Juan Creek resulting from the Project is reduced to a level of insignificance. Nonetheless, a series of mitigation measures have been established for the Project which provide for amelioration of all hydrological impacts associated with development of the Project. More specifically, these mitigation measures require OWNERS to construct certain facilities and improvements that will retain/detain/treat Project-related stormwater flows and nuisance flows that, in the absence of mitigation, would exceed the rate or volume of stormwater flows and water quality conditions occurring prior to development of the Project (*i.e.*, OWNERS must maintain pre-development rates of hydrologic flow and run-off and achieve consistency with the DAMP objectives and applicable 401 Permit requirements). These mitigation measures have been codified as Conditions for the Project.

In furtherance of these mitigation obligations, OWNERS have designed an integrated Flood Management Program that effectively addresses/minimizes impacts associated with development of the Project. However, studies indicate that areas located south of the Project area will continue to be impacted by nuisance and first flush flows generated by existing, non-Project development. Additionally, storm flows generated by and within the Coto de Caza residential community have historically impacted downstream environmentally sensitive areas (*e.g.*, the Gobernadora Ecological Restoration Area [GERA]) and the mainstream of San Juan Creek, and

have contributed to water quality and flooding problems in areas located downstream of the Project area.

In order to assist the County, Coto de Caza and the community-at-large in the abatement of this nuisance, OWNERS are willing to design and provide a water quality basin in Gobernadora Canyon that has the ability and capacity to capture nuisance and first-flush storm flows generated by the Coto de Caza residential community. Initial development and design plans for the facility indicate that the basin, in combination with potential future flood control facilities, will require approximately 35 acres of land to achieve full performance. OWNERS shall contribute this amount of acreage in furtherance of the public benefits to be achieved by implementation of the water quality basin and potential future flood control basin. Furthermore, OWNERS shall, in conjunction with Santa Margarita Water District and/or other partners, design and implement the water quality basin improvements in a manner that considers future flood control benefits that would result from a multi-purpose basin. Any and all facility design and implementation expenses incurred by OWNERS hereunder shall be in addition to any expenses that OWNERS will incur in implementing their Flood Management Program.

Subject to the issuance of appropriate permits and authorizations, contribution of the land and implementation of the basin improvements will occur concurrently with development activities initiated in any Planning Area other than Planning Area 1. Specifically, contribution of the land and implementation of the basin improvements will commence not later than the issuance of a permit for the first EDU for the Project area EXCLUSIVE OF (i) any permits issued for activities in Planning Area 1 and (ii) any permits issued for the construction of model homes. The basin improvements shall be completed not later than the issuance of a permit for the 500th EDU for the Project area EXCLUSIVE OF (i) any permits issued for activities in Planning Area 1 and (ii) any permits issued for the construction of model homes.

*Item No. 40 Provision of Funding for San Juan Creek Watershed Studies*

The San Juan Creek watershed encompasses a drainage area of approximately 176 square miles, extending from the Cleveland National Forest to the Pacific Ocean. The watershed contains several tributary streams and sub-basins, and is home to many different ecologies, geologic formations and biologic (as well as mineral) resources. The watershed is also an important source of sediment production/yield that influences the stability of alluvial stream systems and contributes to the replenishment of beach sand.

Over time, physical and biological conditions in the San Juan Creek watershed have been affected by both natural and anthropogenic forces. Natural events that have helped shape the current conditions in the watershed include wet and dry cycles, flooding and fires. Anthropogenic effects include changes in patterns of water use, urban development, mining, grazing and agriculture. These combined forces have created, and will continue to create, complex challenges and issues relative to the proper management and protection of the watershed. In order to meet and efficiently address these challenges, a systematic approach for evaluation, analysis and planning for the watershed is required.

In furtherance of COUNTY's interest in (i) achieving a better understanding of the San Juan Creek watershed and (ii) establishing a framework for the consideration of future planning

activities vis-à-vis the watershed, COUNTY and/or its assigns shall contract with an appropriate professional/firm for the preparation of specific studies which will analyze hydrology, river hydraulics, sedimentation and erosion within the San Juan Creek watershed assuming ultimate build-out/land uses. To facilitate the preparation of said studies (hereafter identified as the “Part I Studies”), OWNERS shall pay up to \$950,000 toward the costs and expenses associated with the preparation of the Part I Studies, provided that (i) the professional/firm selected to prepare the Part I Studies is mutually acceptable to both COUNTY and OWNERS and (ii) the terms of the contract negotiated by and between COUNTY and the professional/firm (the “Study Preparation Contract”) are acceptable to OWNERS. Within 60 days following COUNTY’s adoption of an ordinance approving this Development Agreement, COUNTY and OWNERS shall enter into an agreement (the “Watershed Study Agreement”) concerning, at a minimum, the form and content of the Study Preparation Contract, the identity of the mutually acceptable professional/firm, the scope of the Part I Studies, the schedule for performance and completion of the Part I Studies, and the timing of OWNERS’ obligations with respect to tendering (on a periodic basis) the specified financial contribution.

COUNTY and affected jurisdictions, agencies and other entities (collectively, the “Local Partners”) have participated in a study conducted by the U.S. Army Corps of Engineers (“ACOE”) in a multi-year analysis of San Juan Creek – *i.e.*, the “San Juan Creek Watershed Study”. In response to alternatives prepared under the San Juan Creek Watershed Study, the County and the Local Partners plan to provide focused analysis and feedback to ACOE to refine and define the scope and extent of a “Project of Federal Interest” in order to provide for significant Federal participation in a multi-purpose plan for the watershed. COUNTY and OWNERS intend and agree that the Part I Studies shall be utilized by COUNTY and all participating Local Partners in preparing a Locally Preferred Plan (“LPP”) for the San Juan Creek watershed. Specifically, the information contained in the Part I Studies shall be used to assist COUNTY and the Local Partners in developing and analyzing a series of LPP alternatives that will lead to the identification of a consensus LPP for future improvements within the mainstreams of San Juan Creek, Arroyo Trabuco Creek and Oso Creek. Furthermore, it is the intention of COUNTY and OWNERS that the consensus LPP will be used by ACOE in developing a Project of Federal Interest relative to the San Juan Creek watershed, and/or the evaluation of the results of any independent effort by ACOE to develop a project of federal interest. Notwithstanding any provision herein to the contrary, by virtue of having funded the Part I Studies, OWNERS shall not be obligated to contribute to the preparation of any studies, analyses or documents (collectively, the “Part II Studies”) leading to the identification and analysis of alternative LPPs or the selection of a consensus LPP. All costs and expenses associated with the preparation of the Part II Studies shall be borne exclusively by COUNTY and the non-OWNER Local Partners. All administration, direction and contracting obligations associated with the preparation of the Part II Studies shall be the sole and exclusive responsibility of COUNTY and the non-OWNER Local Partners.

The Conditions for the Ranch Plan Project obligate OWNERS to perform supplemental analyses for the hydrologic, hydraulic and water quality conditions of concern relative to implementation of the Ranch Plan Project (including evaluation of appropriate mitigation for identified significant effects within the Ranch boundaries). The results of these supplemental analyses (collectively, the “Part III Studies”) shall be used by OWNERS and COUNTY together

with the results of the Part I and Part II Studies in evaluating and determining the level of OWNERS' participation, if any, in the implementation of a LPP.

### III. TRAILS

The Conditions specify that prior to the recordation of individual subdivision maps within the Project area, each subdivider shall offer to COUNTY an easement that provides for any designated regional riding and hiking trail located within the subdivided area. The purpose underlying the Condition is to facilitate COUNTY's implementation of the 348-mile regional trail network described/identified in the COUNTY General Plan. However, full implementation of the regional trail network (as said network traverses the Project area) and accomplishment of COUNTY's trail system goals will require the establishment of supplemental easements and trail linkages that are in addition to those mandated by the Conditions.

In furtherance of the public interest in (i) achieving completion of COUNTY's regional trail network, (ii) providing connectivity between existing and proposed community trails and (iii) enhancing connectivity between regional recreational facilities, OWNERS are willing to implement and/or facilitate the establishment of additional trail improvements within the Project area. The following paragraphs identify and describe the supplemental trail improvements that OWNERS shall implement/facilitate, and the terms and conditions underlying said implementation/facilitation (*e.g.*, timing). In each instance, the supplemental improvements represent a net benefit to COUNTY that exceed OWNERS' obligations under the Conditions and the Agreement.

**NOTE:** In order to ensure public safety and minimize risk associated with potentially conflicting land uses, OWNERS and any subsequent trail area owner (*e.g.*, homeowners association(s)) shall have the right to limit public access to all trails consistent with reasonable need and practice. Any trail access restrictions imposed by OWNERS (including subsequent trail area owners) shall be reasonably tailored to promote OWNERS' community protection goals, and shall have a duration no longer than reasonably necessary to accomplish said protection goals.

**Item No. 41** *Trail Connection: General Thomas F. Riley Wilderness Park to Caspers Wilderness Park.*

In the interest of promoting the expansion of recreational opportunities in Orange County by enhancing linkages between existing wilderness parks, OWNERS shall dedicate to COUNTY an easement within the area proximately identified in the attached Exhibit D-1 as "Trail X" for the improvement and maintenance of a regional riding and hiking trail. As depicted, the Trail X Easement shall provide a critical connection between the existing Wagon Wheel Trail extending from General Thomas F. Riley Wilderness Park (located at the southern end of the Coto de Caza community) and the Ridge Top Trail located within Caspers Wilderness Park. The Trail X Easement shall be located upon existing RMV roads in an area easterly of Gobernadora Creek. OWNERS shall not be obligated to improve the Trail X Easement beyond its current state prior to dedication. OWNERS shall prepare and submit to COUNTY a written offer of dedication for the Trail X Easement upon the latter to occur of (i) COUNTY's issuance of a precise grading permit for the first residential unit to be developed within the Project Area or (ii) COUNTY's

completion of all necessary trail connections/improvements within the Thomas F. Riley Wilderness Park and Coto de Caza that will allow public utilization of the Trail X Easement. Should the aforesaid connections/improvements remain incomplete at the time that OWNERS are prepared to seek issuance of the first (or any subsequent) residential grading permit for the Ranch Plan project, COUNTY shall not withhold issuance of the requested grading permit(s) pending delivery of the written offer of dedication. Upon COUNTY's completion of the aforesaid connections/improvements (*i.e.*, following prior issuance of any precise residential grading permits for the Ranch Plan project), COUNTY shall notify OWNERS concerning said completion and OWNERS shall thereafter tender the written offer of dedication to COUNTY.

**Item No. 42** *Trail Connection: Community Connector Trail from Ladera Ranch Community Trail to San Juan Creek Regional Riding and Hiking Trail.*

In the interest of promoting the expansion of recreational opportunities in Orange County by connecting existing communities with proposed regional trail facilities, OWNERS shall design and implement a community trail within the area proximately identified in the attached Exhibit D-1 as "Trail Y." As depicted, Trail Y shall provide a desired community trail connection between the existing Ladera Ranch Community Trail and the proposed San Juan Creek Regional Riding and Hiking Trail. In furtherance of its obligations hereunder, OWNERS shall improve Trail Y as a community trail.<sup>1/</sup> Trail Y shall be maintained by OWNERS until such time as the underlying property (and all maintenance obligations pertaining thereto) are transferred to a master area association or similar property owners association. Trail Y shall be designed and established concurrent with development activities occurring within Planning Area 1, subject to the issuance of appropriate permits and authorizations. Specifically, construction of Trail Y will occur in stages based upon development activities occurring immediately adjacent to the proposed trail link. To wit, as development occurs in those portions of Planning Area 1 that are contiguous to the proposed Trail Y, the immediately adjoining portion(s) of Trail Y shall be implemented/established in accordance with the terms of this Agreement.

**Item No. 43** *Trail Connection: Wagon Wheel Community Connector Trail to San Juan Creek Class I Bikeway.*

In the interest of promoting the expansion of recreational opportunities in Orange County by connecting existing communities/anticipated regional trails with other proposed regional trail facilities, OWNERS shall design and implement a community trail within the area proximately identified in the attached Exhibit D-1 as "Trail Z." As depicted, Trail Z shall provide a desired regional connection between Coto de Caza and the proposed Wagon Wheel Community Connector Trail (*see* Section III.A, above) and the proposed San Juan Creek Class I Bikeway. As further depicted, Trail Z shall be located upon existing RMV ranch roads in an area easterly

<sup>1/</sup> For purposes of this Development Agreement and Exhibit D, "community trail" is defined as a recreational pathway suitable for pedestrian and off-road bicycle access. A community trail is not subject to County of Orange Regional Riding and Hiking Trail or Bikeway standards, and is not appropriate for equestrian use. Existing dirt roads may be utilized as community trails.

of Gobernadora Creek; Trail Z shall not be improved beyond its current ranch road condition. Trail Z shall be maintained by OWNERS until such time as the underlying property (and all maintenance obligations pertaining thereto) are transferred to a master area association or similar property owners association. The implementation schedule for Trail Z shall be the subject of a supplemental agreement between OWNERS and the Director, RDMD, in consultation with the Director, HB&P.

#### IV. PROVISION OF SITE(S) FOR AFFORDABLE HOUSING

The Housing Element of the Orange County General Plan (“Housing Element”) recognizes that an adequate supply of housing at affordable prices is critical to the long-term economic viability of Orange County. Specifically, “[a] shortage of housing at affordable levels makes it more difficult for businesses, government and universities to recruit new employees, and exacerbates traffic congestion and air quality problems as workers commute longer distances in search of housing.” Housing Element at X-145.

For many years, the County has experienced a significant shortage in the amount and availability of quality affordable housing to meet the needs of households of limited financial means. Demographic and market condition projections indicate that the number of Orange County households with limited incomes will continue to increase in the future. Notwithstanding, local housing opportunities available to meet the demands of these households will likely decrease as a result of, among other factors, higher housing costs, the elimination/displacement of existing affordable housing units, and reduction in the amount of land available for new affordable housing projects.

In an effort to directly confront these issues, the Housing Element establishes a five-year action plan (“5-Year Plan”) that establishes goals, strategies and actions for increasing the amount of quality affordable housing available in Orange County. Indeed, the Housing Element identifies the production of affordable housing as one of the County’s highest priorities, and specifies a planning horizon for achieving the housing mandates set forth in the Regional Housing Needs Assessment (“RHNA”) published by the Southern California Association of Governments (“SCAG”). Notably, the RHNA declares that Orange County’s fair share of new housing for Very Low income households in the Southern California region is 4,084 units (for the period beginning January 1, 1993 through June 30, 2005) and the County’s fair share of new housing for Low income households is 2,950 units (also for the period beginning January 1, 1993 through June 30, 2005). Tables VI-1 and VI-3 of the Housing Element reflect the County’s quantified objectives for accomplishing said housing mandate by 2005. Nevertheless, the Tables also reflect the difficulty of creating new housing opportunities for households of limited financial means – *e.g.*, only 43 new units for Very Low income households were constructed in the County between January 1998 and September 2000. Of particular note, Table VI-3 recognizes that the County’s Housing Opportunities Program is not projected to create any new housing opportunities for Very-Low Income households, but that the County’s Incentives Development Agreement Program is anticipated to create 150 new housing units for Very-Low Income households through private funding.

The 5-Year Plan identifies a number of actions designed to promote the production of new housing opportunities in Orange County. Of particular note, the 5-Year Plan suggests the

provision of incentives – such as tax exempt conduit financing and infrastructure financing assistance – to facilitate the production of more affordable units. *Id.* at X-147. For new large-scale development in the County, the 5-Year Plan suggests, in relevant part, that the County (i) review new planned communities for the possibility of providing adequate sites, or the means to acquire adequate sites, at appropriate densities for affordable housing and (ii) establish affordable housing at the Very-Low Income level as a priority in negotiating development agreements for new planned communities. *Id.* at X-148.

**Item No. 44** *Provision of Affordable Housing Site(s)*

To facilitate COUNTY's efforts and obligations in (a) satisfying its regional affordable housing requirements under the RHNA and (b) increasing the availability and supply of affordable housing units in Orange County pursuant to the 5-Year Plan, OWNERS are willing to provide to COUNTY certain land that may be used by COUNTY for the development, operation and management of rental housing for the benefit of Low and Very-Low Income households in the County. Specifically, within 12 months following COUNTY's adoption of an ordinance approving this Development Agreement, OWNER shall enter into an agreement with COUNTY concerning the provision of one or more sites that may be used by COUNTY for the development of affordable rental housing projects. The essential elements, terms and conditions of the agreement (hereafter the "Land Agreement") shall be as follows; lesser terms and conditions (including the final form of the Land Agreement) shall be negotiated and determined by mutual consent of the parties:

1. **Dedicated Land.** OWNERS shall provide to COUNTY one or more parcels of land with an aggregate size of 60 gross acres (inclusive of perimeter slope areas) with development pad(s) suitable for the purposes identified in Section 2, below. OWNERS shall have full authority and discretion to identify the location of the parcel(s) that will be conveyed to COUNTY (hereafter the "Dedicated Land"). *See* Section 3, below. Furthermore, OWNERS shall be entitled to relocate, adjust and/or reconfigure all or part of the Dedicated Land at any time prior to conveyance to COUNTY without the prior consent or approval of COUNTY. Notwithstanding any provision herein to the contrary, any and all Dedicated Land conveyed to COUNTY pursuant to the Land Agreement shall be located in an area(s) identified and evaluated in Program EIR No. 589 as a potential development area.

2. **Purpose of Dedicated Land.** COUNTY shall cause the Dedicated Land to be used solely and exclusively for the development, operation and management of one or more affordable housing rental complexes [ala apartment buildings] designed to meet the needs of Very-Low and Low Income households in Orange County (as said capitalized terms are generally defined by the U.S. Department of Housing and Urban Development, and specifically defined as households earning up to 50% and 80%, respectively, of the median income in Orange County). The Dedicated Land shall not be used for the development of single-family homes; nor shall the Dedicated Land be subdivided or otherwise parcelized for the purpose of facilitating the sale, transfer or conveyance of portions of the Dedicated Parcel for individualized ownership. The Land Agreement shall contain specific terms, obligations and conditions relative to the development of each portion of the Dedicated Land (including, but not limited to, the establishment of specific time periods within which COUNTY must (i) obtain necessary building



permit(s) for the development of the affordable housing improvement(s), (ii) commence construction of the affordable housing improvement(s) and (iii) complete construction of the affordable housing improvement(s)).

3. Identification, Improvement and Conveyance of Dedicated Land. The Dedicated Land shall be identified, improved and conveyed by OWNERS in accordance with (and subject to) the following terms, conditions and limitations:

a. Preparation of Master Area Plans; Identification of Dedicated Land Acreage. Implementation of the Ranch Plan Project contemplates the preparation and approval of a Master Area Plan for each development Planning Area located within the comprehensive Project area. Preparation of the individual Master Area Plans will occur over time as OWNERS proceed with the phased implementation of the Ranch Plan Project. For each Master Area Plan prepared, OWNERS shall identify the amount of Dedicated Land (if any) located within the relevant Planning Area that will be available for conveyance to COUNTY pursuant to the terms of the Land Agreement. Upon preparing a Master Area Plan and identifying the Dedicated Land acreage located within the relevant Planning Area, OWNERS shall provide written notice to COUNTY concerning (i) the location of the Dedicated Land acreage, (ii) the size of the Dedicated Land acreage, and (iii) such other information concerning the Dedicated Land acreage that is in the possession of OWNERS and that OWNERS consider relevant concerning the identified Dedicated Land acreage.

b. Preparation and Submission of COUNTY Development Plan/Program. Within 120 days following OWNERS' delivery of a written notice described in Section 3.a., above, or prior to the expiration of such other period that is mutually acceptable to COUNTY and OWNERS, COUNTY shall prepare and deliver to OWNERS a plan describing COUNTY's intended development program with respect to the Dedicated Land acreage located within the relevant Planning Area. The plan shall include, at a minimum, (i) preliminary renderings and/or depictions of the proposed affordable housing development, (ii) an identification of the number of affordable housing units that COUNTY intends to cause to be built upon the Dedicated Land acreage, (iii) a conceptual site plan identifying the size and approximate location of the structure(s) to be developed on the Dedicated Land acreage, and (iv) a preliminary development and construction schedule describing the proposed commencement, operation and completion schedule for the proposed affordable housing project(s). In the event that COUNTY elects to engage the assistance or participation of a partner, affiliate or benefactor in developing the affordable housing project(s) (e.g., non-profit public housing organization), COUNTY shall also provide OWNERS with written information concerning the identity of the entity/organization, its prior development activities, its resources, its proposed relationship with COUNTY relative to development of the project(s), and any other information that OWNERS may reasonably request.

c. Review of COUNTY Development Plan/Program. Within 45 days following OWNERS' receipt of the development plan/program described in Section 3.b., above, OWNERS shall review same and shall either approve or reject COUNTY's development plan/program by delivering written notice thereof to COUNTY. OWNERS shall have the right to approve or disapprove any proposed partner, affiliate, benefactor, schedule or arrangement

that is offered by COUNTY relative to development of the project(s); notwithstanding, OWNERS' rejection of the development plan/program (or any element thereof) shall be reasonable. In the case of rejection, OWNERS shall specify the basis for the rejection. Upon receipt of any rejection notice, COUNTY may prepare and submit a revised development plan/program at any time within the three month period following OWNERS' delivery of the rejection notice. Should COUNTY elect not to submit a revised development plan/program, or should OWNERS' reasonably reject the resubmitted development plan/program, OWNERS' obligations under the Land Agreement with respect to the Dedicated Land acreage located within the relevant Planning Area(s) shall abate, and the amount of acreage identified in the notice specified in Section 3.a., above, shall be subtracted from OWNERS' aggregate obligation to provide 60 gross acres of land for affordable housing projects pursuant to this Development Agreement and the Land Agreement.

d. Irrevocable Offer of Dedication; Acceptance of Offer. In the event that OWNERS approve the development plan/program submitted by County for the identified Dedicated Land acreage, OWNERS shall submit a written offer of dedication to COUNTY concerning the proposed conveyance of the identified Dedicated Land acreage, coupled with a draft form of Deed (*see* Section 4.a., below). Notwithstanding any provision herein to the contrary, the terms of the offer of dedication shall expressly state that COUNTY may not exercise the option rights specified therein until such time as (i) OWNERS complete the grading and access improvements specified for the identified Dedicated Land acreage (*see* Section 5, below), and (ii) COUNTY demonstrates, to the satisfaction of OWNERS, that (a) the approved development plan/program remains viable and (b) COUNTY is prepared to obtain (or caused to be obtained) a building permit or permits for the proposed improvements within the time periods identified in the Land Agreement. Notwithstanding any provision herein to the contrary, OWNERS shall not be obligated to manufacture or otherwise improve the identified Dedicated Land acreage in advance of OWNERS' schedule for the conduct of development activity within the affected Planning Area. Upon completion of the grading and access improvements identified for the Dedicated Land acreage (*see* Section 5, below), OWNERS shall provide written notice to COUNTY concerning the completion thereof. COUNTY shall have 45 days following the delivery of said written notice of completion to accept the offer of dedication by complying with the terms of said offer. Should COUNTY elect or otherwise fail to exercise its rights under the offer of dedication, OWNERS' obligations under the Land Agreement with respect to the Dedicated Land acreage located within the relevant Planning Area(s) shall abate, and the amount of acreage identified in the notice specified in Section 3.a., above, shall be subtracted from OWNERS' aggregate obligation to provide 60 gross acres of land for affordable housing projects pursuant to this Development Agreement and the Land Agreement.

e. Conveyance of Deed. Upon COUNTY's acceptance of the irrevocable offer of dedication (all in accordance with the provisions of Section 3.d., above), OWNERS shall execute and deliver to COUNTY a Deed for the identified Dedicated Land acreage (*see* Section 4.a., below).

4. Interest Conveyed

a. Deed Provisions. Subject to the conditions precedent identified in Section 3, above, OWNERS shall grant to COUNTY a fee simple interest in the Dedicated Land. Specifically, conveyance of the Dedicated Land shall be accomplished through the execution and delivery of one or more deeds pertaining to the relevant portion(s) of the Dedicated Land. Each deed (“Deed”) shall contain an express restriction that limits the use of the Dedicated Land acreage to the purposes described in Section 2, above. Furthermore, each Deed shall provide OWNERS with the right (but not the obligation) to reacquire the identified Dedicated Land acreage upon the occurrence of any event identified in Section 10, below. The Land Agreement shall provide a fixed formula for valuing the cost of any portion of the Dedicated Land that OWNERS elect to reacquire under the stated conditions; *i.e.*: (a) For unimproved land (*i.e.*, land on which COUNTY has not caused to be constructed any improvements), COUNTY shall reconvey the property to OWNERS without charge; (b) for improved land (*i.e.*, land on which COUNTY has caused to be constructed actual, physical improvements), OWNERS shall pay to COUNTY an amount equal to the costs and expenses actually incurred by, or on behalf of, COUNTY in designing and constructing the existing physical improvements, less an amount equal to 20 percent for depreciation, reconveyance expenses and other costs.

b. Other Restrictions. In addition to the foregoing, all portions of the Dedicated Land shall be subject to any and all zoning ordinances, land use requirements, covenants, conditions and restrictions applicable to or otherwise recorded against the Dedicated Land, including, but not limited to, the terms and conditions of the *Ranch Plan Planned Community Text and Program* established and adopted for the Project area.

5. Improvements. Each portion of the Dedicated Land conveyed by OWNERS to COUNTY (vis-à-vis execution and delivery of a Deed in accordance with the provisions of Sections 3 and 4, above) shall be improved as follows:

a. Grading. Each development pad shall be graded to 1% sheet standards with a 2:1 ratio (maximum) for perimeter slopes. The pad(s) shall conform to all civil and geotechnical verifications for the subject property, and shall be subject to approval and release via a preliminary grading plan/permit. COUNTY shall not require the submission or approval of a subdivision map or other parcelization map as a condition of issuance of a preliminary grading permit for the Dedicated Land acreage. Interim erosion control shall be provided for each site.

b. Access. OWNERS shall provide appropriate public access to the relevant Dedicated Land acreage by designing and installing all right-of-way improvements contemplated and committed for the relevant Planning Area(s) such that COUNTY may obtain access to an improved public right-of-way from the Dedicated Land. OWNERS shall not be responsible for installing any right-of-way improvements on the Dedicated Land; nor shall OWNERS be responsible for constructing any right-of-way improvements between the Dedicated Land and the improved public road identified as the access route for the Dedicated Land.

c. Utilities. OWNERS shall provide COUNTY with the opportunity to obtain utility service (ala water, sewer, electricity, gas, telephone and cable) for the Dedicated Land acreage by (i) installing such utility lines as are designated on the Master Area Plan for the relevant Planning Area(s) and (ii) facilitating the creation of such supplemental easements as are necessary to convey utility service from the relevant Master Area Plan lines/easements to the Dedicated Land acreage. OWNERS shall not be responsible for constructing any utility lines, extensions or related improvements within these supplemental easements for the benefit of the Dedicated Land acreage; all utility connections and related infrastructure improvements shall be the responsibility of COUNTY.

d. Completion of Improvements. Any grading, access and utility service improvements for which OWNERS are expressly responsible hereunder shall be completed in accordance with OWNERS' development schedule for the relevant Planning Area(s). In no event shall OWNERS be obligated to design, prepare or otherwise install said improvements in advance of OWNERS' development schedule for the relevant Planning Area(s). COUNTY shall use its best efforts to timely review and approve all necessary permits to facilitate said grading and related improvements. COUNTY agrees that in no event shall issues pertaining to the grading of the Dedicated Land acreage (or the provision of supplemental easements/improvements related thereto) preempt, hinder or otherwise delay the processing, approval and/or development of the remaining portions of the relevant Planning Area (specifically) or the Ranch Plan Project (generally).

6. Permitting and Supplemental Environmental Analysis. COUNTY shall, at its sole cost and expense, obtain or cause to be obtained any and all necessary permits and approvals for development of affordable housing units/apartments upon the Dedicated Land. Furthermore, COUNTY shall, at its sole cost and expense, perform or cause to be performed any supplemental environmental analysis(es) that may be required prior to the commencement of any development activities upon a portion of the Dedicated Land, and shall fully comply with all relevant provisions of the California Environmental Quality Act (CEQA) and other regulatory statutes and ordinances. OWNERS shall not be obligated to contribute any funding or other resources toward COUNTY's permitting and supplemental analysis obligations; notwithstanding, OWNERS shall reasonably cooperate with COUNTY in obtaining any necessary permits and performing any supplemental environmental analyses. COUNTY shall reimburse OWNERS for any costs and expenses incurred by OWNERS in providing said cooperation and assistance.

7. No Reduction in Approved Dwelling Units/Development Acreage for the Ranch Plan Project; No Effect upon (or Expansion of) OWNERS' Obligations. The approved Ranch Plan Project authorizes OWNERS to develop up to 14,000 dwelling units within an approved Project development area of 7,683 acres (aggregated). These units and development acres are distributed between Planning Areas 1 through 9 in accordance with the *Ranch Plan Planned Community Statistical Summary*. In no event shall the number of dwelling units approved for the Ranch Plan Project or the individual Planning Areas be reduced to accommodate for, or otherwise offset, the number of affordable housing units/apartments that may be developed by COUNTY pursuant to the terms of the Land Agreement. Furthermore, in no event shall the 60 gross acres of Dedicated Land identified and conveyed pursuant to the Land

Agreement reduce or otherwise count against the 7,683 gross development acres approved for the Ranch Plan Project. Any affordable housing units/apartments developed by COUNTY shall not be counted for purposes of calculating OWNERS' development obligations under any provision of the Development Agreement, the Conditions, or any other entitlement program or document relative to the Ranch Plan Project. Additionally, COUNTY's development of the affordable housing units/apartments shall not expand or otherwise increase OWNERS' mitigation obligations relative to development of the Ranch Plan Project. By way of example only, and not as an exclusive list, development of the affordable housing units/apartments shall not:

- Trigger any milestone performance obligation for OWNERS established pursuant to this Development Agreement (*see, e.g.*, Section I of this Exhibit D concerning SCRIP fee contributions) or any other Project element or program.
- Count toward any unit cap or development threshold established for the Ranch Plan Project.
- Count toward any cumulative impact figures relative to OWNERS' current and/or future obligations for mitigating study area impacts.
- Require OWNERS to contribute additional funding or construct supplemental improvements to mitigate traffic and circulation impacts associated with development of the affordable housing units/apartments.
- Result in the delay, hindrance or revocation of any permit necessary for the development of any element or component of the Ranch Plan Project.

8. Mitigation for Affordable Housing Units. COUNTY shall be responsible for mitigating, at its sole cost and expense, any and all impacts associated with the development of the affordable housing units/apartments authorized by the Land Agreement. Said mitigation shall include, but not be limited to, the reduction and elimination of any and all traffic and circulation impacts, water resource impacts, and other adverse environmental effects occurring as a result of implementing the affordable housing project(s). To the extent that the affordable housing project compromises or otherwise reduces the efficiency of any mitigation measures established or implemented for the Ranch Plan Project, COUNTY shall, at its sole cost and expense, supplement and/or enhance the Ranch Plan mitigation measures in order to restore the adequacy and sufficiency of same. By way of example only, and not as an exclusive list, should implementation of the affordable housing project(s) generate traffic counts in excess of the figures calculated and estimated for the Ranch Plan Project, COUNTY shall:

- Arrange for the design, permitting, construction and funding (as appropriate) of any and all transportation and circulation system improvements necessary to correct the traffic capacity imbalance (*e.g.*, street widening, intersection improvements and/or SCRIP fee contributions).
- Indemnify and hold harmless OWNERS against any claims arising out of the traffic capacity imbalance (including the provision of additional improvements and contributions necessary to mitigate said imbalance).

9. Infrastructure Financing District. Government Code Sections 53395 *et seq.* provide for the establishment of infrastructure financing districts ("IFDs") to finance, in

relevant part, the purchase and construction of regional improvements that are of community-wide significance. The roadways and other infrastructure facilities contemplated for the Project area constitute improvements that will benefit the larger South Orange County community. Of particular note, the provision of public roadways and the extension of utility service within the Project area will facilitate access to and utilization of the Dedicated Land for the contemplated affordable housing project(s). COUNTY acknowledges that the provision of additional affordable housing opportunities within Orange County represents a proper goal for which the establishment of an IFD is proper. Specifically, utilization of IFD financing to purchase and construct regional improvements which are necessary to access and utilize the Dedicated Land for affordable housing is consistent with State law and County policies regarding infrastructure financing for public improvements. Accordingly, COUNTY shall cooperate with OWNERS in the establishment of an IFD that will allow OWNERS to recover the costs incurred in (i) providing the infrastructure necessary to support access to, and use of, the affordable housing project(s) to be developed on the Dedicated Land and (ii) grading, preparing and conveying the Dedicated Land to County in accordance with the provisions hereof.

10. Right of Reversion. Unless otherwise mutually agreed upon (in writing) by OWNERS and COUNTY, in the event that COUNTY:

(i) fails to timely satisfy any term, condition or obligation set forth in the Land Agreement concerning COUNTY's obligation to obtain permits for, construct and complete the relevant affordable housing development improvement(s);

(ii) desires to liquidate or terminate its interest in the identified Dedicated Land acreage;

(iii) proposes to transfer, use, or encumber the identified Dedicated Land acreage in contravention of the express terms or limitations of the Land Agreement; or

(iv) violates any term or condition appearing in the Land Agreement that is intended to ensure the continuing use and availability of the identified Dedicated Land acreage for affordable rental housing projects;

OWNERS shall have the right, but not the obligation, to demand that COUNTY reconvey all or a portion of the identified Dedicated Land acreage to OWNERS. Upon receipt of a written demand from OWNERS, COUNTY shall promptly execute and record any and all documentation necessary to effectuate the reconveyance. Upon completion of such reconveyance, the terms of the Land Agreement shall expire as to any portion of the Dedicated Land that is reconveyed. Following reconveyance, OWNERS shall be entitled to use the reconveyed Dedicated Land for any purpose or use that is consistent with all applicable laws, regulations and ordinances, free of any restrictions or reservations otherwise appearing in the individual Deed or the Land Agreement.

## V. DEFINITION OF TERMS

Unless otherwise indicated, the terms used in this Exhibit D shall be defined as provided in the Development Agreement to which this Exhibit D is attached.

VI. TIMING OF DEVELOPMENT AND BENEFITS

There is no requirement under this Agreement, including any exhibit attached hereto, that OWNERS must initiate or complete Development of any phase of the Project nor that Development be initiated or completed within any period of time. Furthermore, notwithstanding any other provision of this Agreement and any exhibit attached hereto to the contrary, OWNERS' obligation and duty to provide those Public Facilities and other public benefits described in Sections I through IV above, which are tied to a specific development milestone, shall be contingent on the occurrence of that development milestone. OWNERS shall have no obligation to provide any specific component of said Public Facilities or other public benefits unless and until the development milestone triggering OWNERS' responsibility for that specific component of the Public Facilities and other public benefits occurs.

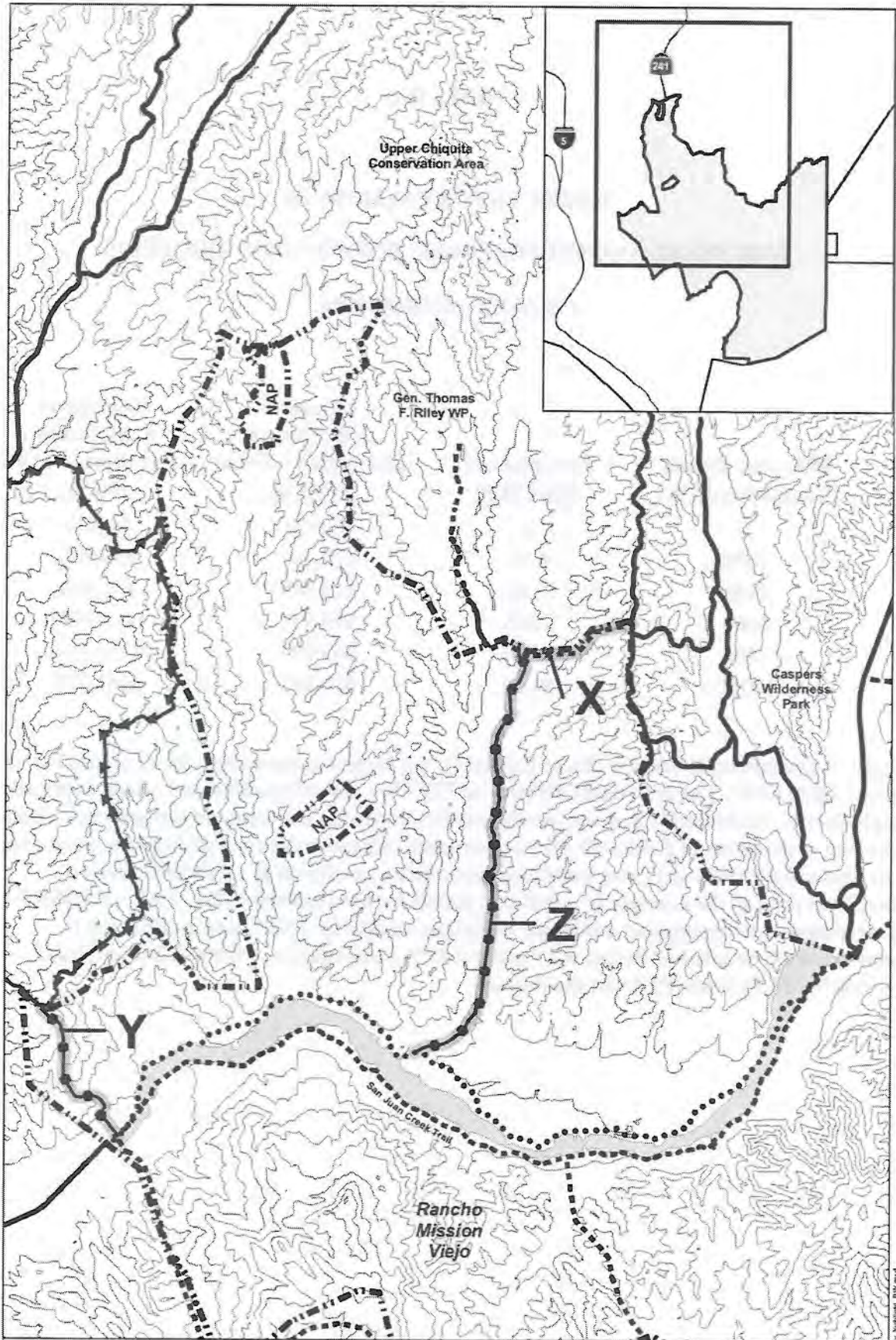


Exhibit D-1

- Regional, Constructed
- Regional, Proposed
- Community, Constructed
- Community, Proposed
- Biking, Proposed

  
 Scale: 1" = 3,000'  
 Date: November 15th 2004

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TABLE D-2

SCHEDULE FOR PAYMENT OF  
FAIR SHARE AND EXCESS/PUBLIC BENEFIT CONTRIBUTIONS  
(TRAFFIC MITIGATION)

Milestone Events (Cumulative EDU)	Percentage of Total EDU	Milestone Contributions (Fair Share + Extra) (000's)	Cumulative Contributions (Fair Share + Extra) (000's)
0	0	\$8,570	\$8,570
1000	8.41	\$17,467	\$26,037
2500	21.03	\$18,949	\$44,986
5000	42.05	\$34,991	\$79,977
7500	63.08	\$53,637	\$133,614
10000	84.10	\$10,161	\$143,775

**Note:** As discussed in Section I.B. of Exhibit D, the Project contemplates the development of up to 11,890 EDU. [As previously defined, an EDU is a unit of measurement which expresses single-family, multi-family and non-residential development on a common trip generation basis.] Pursuant to the terms of Exhibit D, all transportation mitigation fees and dedications (including Fair Share obligations and extra contributions/dedications offered by OWNERS) must be completed prior to the issuance of a building permit for the 10,000th EDU. Thus, OWNERS' comprehensive transportation mitigation obligations under the Conditions and Exhibit D, Section I, shall be satisfied before the Project is 85% complete (*i.e.*, 10,000 EDU threshold – divided by- 11,890 total EDU for the Project).

EXHIBIT E

**Transportation Improvement Phasing Plan**

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions	
0 EDU - 1 EDU (Except for Model Homes)	1.	Offer of Dedication of La Pata ROW including Slopes (Width to be determined per Project Report)	(TBD)	(TBD)	100%				County	
	2.	Fund Preliminary Designs, Env. Studies for Select Projects (25% of Admin/Contingency Amount)		\$12,200	0%	0	\$7,320	\$4,880	All	
	3.	Oso Parkway Widening in Unincorporated County (e/o Las Flores)	\$2,500	(INC)	50%	\$1,250	\$1,250	\$1,250	County	
1 EDU - 1000 EDU	4.	<b>Pico/I-5 Interchange Improvements (See Note 1)</b>	\$4,082	<b>Note 2.</b>	14%	\$571	\$571	\$3,511	Caltrans/San Clemente	
	5.	<b>I-5 SB Ramps @ Oso Parkway (See Note 1)</b>	\$13,311	<b>Note 2.</b>	31%	\$4,126	\$4,126	\$9,185	Caltrans/Mission Viejo	
	6.	Widen Ortega Highway - Antonio Parkway to west of San Juan Creek (including bridge)	\$15,000	<b>Note 2.</b>	40%	\$6,000	\$6,000	\$9,000	Caltrans/County	
	7.	Crown Valley Parkway and Marguerite Parkway	\$795	\$99	19%	\$170	\$894	\$0	Mission Viejo	
	8.	Oso Parkway and Felipe	\$779	\$97	37%	\$324	\$876	\$0	Mission Viejo	
	9.	Flex Funds for Roadway Improvements (Part I)					\$5,000	(\$5,000)		
	1001 EDU - 2500 EDU	10.	I-5/Crown Valley Parkway (ramp improvements for SB off-ramp)	\$6,000	<b>Note 2.</b>	4%	\$240	\$240	\$5,760	Caltrans/Laguna Niguel
		11.	Crown Valley Parkway/I-5 Bridge Widening	\$2,875	\$250	4%	\$109	\$109	\$3,016	Caltrans/Mission Viejo
		12.	I-5/Ortega Highway Interchange	\$40,000	<b>Note 2.</b>	34%	\$13,600	\$13,600	\$26,400	Caltrans/SJC
		13.	Flex Funds for Roadway Improvements (Part II)					\$5,000	(\$5,000)	

Exhibit E  
-1-

I-1R/404304.8

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions
2501 EDU - 5000 EDU	14.	La Pata Avenue - Phase 1 (Two Lane Ext. from Landfill s'ly to Vista Hermosa)	\$25,000	(INC)	21%	\$5,250	\$15,000	\$10,000	County/San Clemente
	15.	Avenida La Pata and Avenida Vista Hermosa	\$331	\$41	14%	\$52	\$372	\$0	San Clemente
	16.	Camino Vera Cruz and Avenida Vista Hermosa	\$833	\$104	7%	\$66	\$937	\$0	San Clemente
	17.	Ortega Highway and Rancho Viejo Road	\$830	\$104	40%	\$374	\$374	\$561	Caltrans/SJC
	18.	Ortega Highway and La Novia	\$491	\$61	45%	\$248	\$248	\$303	Caltrans/SJC
	19.	Camino Capistrano and Del Obispo	\$300	(INC)	18%	\$54	\$54	\$246	Caltrans/SJC
	20.	San Juan Creek Road and Valle Road	\$3,000	(INC)	10%	\$300	\$300	\$2,700	Caltrans/SJC
	21.	Ortega Highway 4-Lane Widening (Context Sensitive Design) in SJC	\$10,000	<b>Note 2.</b>	40%	\$4,000	\$4,000	\$6,000	Caltrans/SJC
	22.	Antonio Parkway and Oso Parkway	\$1,789	\$224	32%	\$644	\$1,349	\$664	County
	23.	Antonio Parkway and Crown Valley Parkway	\$404	\$51	30%	\$137	\$305	\$150	County
	24.	Antonio Parkway and Ortega Highway	\$557	\$70	48%	\$301	\$420	\$207	RMV/County
	25.	Avery Parkway Interchange	\$1,725	\$150	8%	\$152	\$152	\$1,723	Caltrans/LN/MV
	26.	Park and Ride Facility	\$1,200	(INC)	50%	\$600	\$600	\$600	Caltrans/RMV
	27.	Fund Preliminary Designs, Env. Studies for Transportation Projects (25% of Admin/Contingency Amount)		\$12,200	0%	0	\$4,880	\$7,320	All
	28.	Flex Funds for Roadway Improvements (Part III)					\$6,000	(\$6,000)	

Exhibit E  
-2-

I-IR/404304.8

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions	
5001 EDU – 7500 EDU	29.	Saddleback/I-5 Connectors	\$70,000	<b>Note 2.</b>	10%	\$7,000	\$7,000	\$63,000	Caltrans/Mission Viejo	
	30.	Extend Cow Camp Road easterly to existing Ortega	\$48,000	(INC)	67%	\$32,160	\$32,160	\$15,840	TCA/RMV	
	31.	Antonio Parkway Widening	\$11,000	(INC)	67%	\$7,370	\$7,370	\$3,630	RMV/County	
	32.	Crown Valley Parkway and Cabot Road	\$2,699	\$235	4%	\$103	\$977	\$1,957	Laguna Niguel	
	33.	Crown Valley Parkway and Forbes	\$1,866	\$162	4%	\$71	\$676	\$1,353	Laguna Niguel	
	34.	Widen Railroad Bridge along Crown Valley Parkway	\$2,013	\$175	4%	\$77	\$728	\$1,459	Laguna Niguel	
	35.	Oso Parkway Widening in Mission Viejo-Marguerite to I-5	\$8,262	\$1,190	29%	\$2,741	\$4,726	\$4,726	Mission Viejo	
	--	Allocate 50% of Remaining Admin/Contingency		\$24,400	0%	\$0	\$0	\$24,400	All	
	7501 EDU – 10000 EDU	36.	La Pata Avenue - Phase 2	\$25,000	(INC)	21%	\$5,250	\$10,000	\$15,000	County
		37.	Road Improvements to Junipero Serra At I-5 Interchange	\$4,000	<b>Note 2.</b>	4%	\$160	\$160	\$3,840	Caltrans/SJC
38.		Ramp Improvements to SR 241	\$10	(N/A)	7%	\$1	\$1	\$9	TCA	
--		Extend FTC-South or Arterial Connector (Cow Camp Road to FTC at Oso) (Contingency Project)	(TBD)		(TBD)				County/TCA/RMV	
<b>Totals</b>			\$304,652	\$51,813		\$93,500	\$143,775	\$212,690		
<b>Grand Total</b>				\$356,465						
<b>Contribution in Excess of Fair Share</b>								\$50,275		

**NOTES:**

- 1 These projects are fully funded by OCTA/CALTRANS. Project's Fair Share assumed to be available for re-allocation to other State Highway projects
- 2 Caltrans Support Costs/Overhead (inc design) is not included and is assumed to be the total responsibility of Caltrans as administrator of State Highway system

EXHIBIT F

PARTICULAR CONDITIONS AND MITIGATION MEASURES  
CONTAINED IN THE LAND USE REGULATIONS, DEVELOPMENT  
APPROVALS AND MITIGATION MONITORING PROGRAMS WHICH  
ARE SATISFIED OR PARTIALLY SATISFIED THROUGH ADOPTION  
AND IMPLEMENTATION OF THE DEVELOPMENT AGREEMENT

Listed below are the conditions of approval and mitigation measures which are satisfied or partially satisfied through adoption and implementation of the Development Agreement together with a brief explanation of how the conditions and mitigations measures have been fulfilled. Conditions or mitigations not addressed herein are to be satisfied consistent with the provisions as established in Resolution No. 04-290 (certifying EIR 589), and Ordinance No. 04-014 (adopting the Ranch Plan Planned Community Program Text), which were approved/certified in conjunction with adopting this Project.

1. MM 4.6-1:

Table 4.6-26 and Table 4.6-27 [of the Draft Program EIR] identify the transportation improvement program proposed as mitigation for the Ranch Plan project for year 2025 and year 2010, respectively. The improvements differ depending on whether the SR-241 southerly extension is assumed. The project applicant shall participate on a fair share basis for improvements associated with cumulative impacts. Funds shall be paid to the County of Orange pursuant to the SCRIP.

The South County Road Improvements Program (“SCRIP”) Fee Program is being proposed by the County of Orange in conjunction with planning efforts aimed at accelerating completion of critical links in the south County arterial highway system. The County would approve an Action Plan which includes a list of highway and intersection improvements. The SCRIP Program is proposed as a comprehensive method of implementing the Action Plan to ensure the timely phasing and financing of the highway improvements and intersection improvements in the Action Plan. The SCRIP Program is to be prepared pursuant to Government Code Section 66484.3 and the Orange County Codified Ordinance Section 7-9-316 to finance construction of the highway gaps, intersection improvements, and traffic signals identified in the Action Plan. The “area of benefit” would, at a minimum, include the Rancho Mission Viejo Ranch Plan Area and off-site highway links and intersections included in the Action Plan. The improvements, costs, and fees may be divided into zones depending on land uses and phasing. The SCRIP Fee Program is intended to complement, not replace, the existing road fee programs in the south County area. It is proposed for adoption by the County prior to or concurrent with the County’s action on the proposed Ranch Plan project.

Fulfillment of MM 4.6-1: With this Development Agreement, the OWNERS have formalized their commitment to participate in the SCRIP fee program. The Development Agreement commitment includes the payment of OWNERS’ fair share obligation for on-site and off-site transportation improvements as required

by MM 4.6-1 and certain additional assistance to the COUNTY all as more fully set forth in Exhibit D to this Development Agreement.

2. PDF 4.12-4: The project provides for trail linkages between the Ladera Ranch and the Ranch Plan community trails, which provides connection to the regional trail system.

Fulfillment of PDF 4.12-4: This Development Agreement formalizes, and provides more specific information regarding, the OWNERS' commitment as reflected in PDF 4.12-4 to provide for trail linkages between the Ladera Ranch and the Ranch Plan community trails, and connection to the regional trail system. See Exhibit D-1, attached to Exhibit D to this Development Agreement.

3. MM 4.12-1: In conjunction with approval of the first Master Area Plan, the applicant shall develop a Master Trail and Bikeways Implementation Plan for the Ranch Plan that would establish viable routes for trails and bikeways to provide connectivity to community trails and bikeways in adjacent developments and with existing and proposed recreational facilities. The Master Trail and Bikeways Implementation Plan shall meet with the approval by the Director of PSD in consultation with the Manager, Harbors, Beaches & Parks Program Management.

Fulfillment of MM 4.12-1: As described in Exhibit D (and shown on Exhibit D-1) to this Development Agreement, the OWNERS have provided for certain trails and trail linkages which will be incorporated into the Master Trail and Bikeways Implementation Plan, thus partially meeting the requirements of MM 4.12-1.

4. MM 4.5-1 (Runoff Management Plan): Prior to the approval of the first Area Plan, or other planning level approval, for any part of the Ranch, the applicant shall prepare a detailed Runoff Management Plan ("ROMP") that shall be approved by the Manager, Flood Control Division, and the Manager, Watershed and Coastal Resources Division, and that meets the following standards and specifications: [Note: The standards and specifications are set forth in subparagraphs (a) through (n) of this mitigation measure. They are not repeated here but may be viewed in their entirety at pages 4.5-85 through 4.5-87 of the Draft Program EIR.]

PC Condition of Approval 4: Prior to the approval of the first Master Area Plan the applicant shall:

- a. Prepare a Runoff Management Plan (ROMP) satisfactory to Manager Flood Control Division and Manager, Watershed and Coastal Resources Division.
- b. . . .

PC Condition of Approval 5: Prior to the recordation of the first Final Tract Map, except for financing purposes, within each Planning Area the applicant shall set aside all land necessary to implement the ROMP . . . in a manner satisfactory to Manager Flood Control Division and Manager, Watershed and Coastal Resources Division.

Fulfillment of MM 4.5-1 and PC Conditions Nos. 4.a. and 5.: By virtue of OWNERS' commitment to (i) contribute funding toward the preparation of the Part I Studies and (ii) utilize the information appearing in the Part I Studies and Part II Studies in preparing and evaluating the Part III Studies (as described in Item 40 in Section II of Exhibit D), and in light of the additional facts and findings set forth below, COUNTY has determined that the provisions in Mitigation Measure 4.5-1 and corresponding provisions in Conditions of Approval 4.a. and 5 in the Ranch Plan Planned Community (PC) Program Text shall not be applicable to the development of Planning Area 1 of the Ranch Plan project area. Specifically, COUNTY has determined that OWNERS may proceed with the development of Planning Area 1 without first preparing the Runoff Management Plan (ROMP) described in the aforementioned measure and conditions. The additional facts and findings supporting COUNTY's determination are as follows:

- The calculated contribution, under developed conditions, of un-mitigated peak flow and increase in volume to the mainstream of San Juan Creek from Planning Area 1 is insignificant (>0.5% increase).
- OWNERS and COUNTY concur that there is adequate land to provide mitigation measures, as required, to offset the effects of development of Planning Area 1.
- Issues related to ownership and maintenance responsibilities for the mainstream of San Juan Creek and related improvements adjacent to, and part of, Planning area 1 will be resolved as part of the approval of Planning Area 1, including provisions of all applicable regulatory permits.
- The development of Planning Area 1 shall be considered in the cumulative analysis of the effects of the development of the Ranch Plan in assessing the fair-share (if any) requirements to participate in the implementation of a LPP.
- OWNERS shall complete the Runoff Management Plan (ROMP) for the entire Ranch Plan Project area (including Planning Area 1) prior to the approval of any other Master Area Plans, subdivision map (except for financing purposes only) or site development permits.
- OWNERS shall, in connection with the preparation and approval of the ROMP described above, demonstrate how the continuity of responsibility for required improvements is to be accomplished, especially as it relates to ownership changes, for compliance with the monitoring mitigation measures, and any necessary remediation that may result from such monitoring.

EXHIBIT G

Assignment and Assumption Agreement (Form)

[\*\* NOTE: This form is for NON-PUBLIC entities. \*\*] [Intentionally Omitted]

RECORDING REQUESTED BY:

(Specify Assigning OWNER)

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC

12811 Ortega Highway

San Juan Capistrano, California 92675

Attn: \_\_\_\_\_

ASSIGNMENT NUMBER: \_\_\_\_\_

ASSIGNOR: (Specify Assigning OWNER) \_\_\_\_\_

ASSIGNEE: \_\_\_\_\_

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and among (specify assigning OWNER) (collectively "Assignor"), \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"), and the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY").

RECAPITULATION OF FACTS

The Agreement is entered into based upon the following facts:

- A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein.
- B. [Collective OWNER] and COUNTY entered into the certain Development Agreement dated \_\_\_\_\_, 20\_\_ which was recorded in the official records of COUNTY on \_\_\_\_\_, 20\_\_ as document number 200-\_\_\_\_\_. ("Development Agreement")
- C. Assignor is the owner of the Transferred Lands described in Exhibit 1 hereto, which Transferred Lands are described and bounded by the provisions of the Development Agreement.



EXHIBIT H-1

Assignment and Assumption Agreement (Form)

**[\*\* NOTE: This form to be used for assignments to NON-PUBLIC entities. \*\*]**

RECORDING REQUESTED BY:

[Specify Assigning OWNERS]

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC  
28811 Ortega Highway  
San Juan Capistrano, California 92675  
Attn: \_\_\_\_\_

ASSIGNMENT NUMBER:

ASSIGNOR: [Specify Assigning OWNERS]

ASSIGNEE: \_\_\_\_\_

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and among [specify assigning OWNERS], (collectively “Assignor”), \_\_\_\_\_, a \_\_\_\_\_ (“Assignee”), and the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”).

RECITALS OF FACT

This Agreement is entered into based upon the following facts:

- A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein;
- B. [Collective OWNERS] and COUNTY entered into that certain Development Agreement dated \_\_\_\_\_, 200\_\_, which was recorded in the official records of COUNTY on \_\_\_\_\_, 200\_\_ as document number 200\_\_ - \_\_\_\_\_ (“Development Agreement”);
- C. Assignor is the owner of the Transferred Lands described in Exhibit I hereto, which Transferred Lands are benefited and burdened by the provisions of the Development Agreement;

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

D. Concurrently with or prior to the taking effect of this Agreement, Assignor has transferred and conveyed to Assignee the Transferred Lands;

E. Pursuant to and in accordance with Section 6 of the Development Agreement, Assignor desires to assign and transfer certain of the rights and interests and to delegate certain of the duties and obligations of OWNERS under the Development Agreement subject to and in accordance with the terms of this Agreement and the Development Agreement;

F. As a condition precedent to said assignment and transfer pursuant to and as set forth in Section 6 of the Development Agreement, Assignee is willing to assume those certain OWNERS' Obligations described in Paragraph 4 of this Agreement, including those obligations under the Development Agreement which are listed on Exhibit II hereto;

G. In connection with said assignment and transfer, Assignor, Assignee and COUNTY desire to provide in certain respects for the allocation of certain burdens and benefits with respect to development under the Development Agreement between the Transferred Lands and the other lands within the Property pursuant to Section 6.1 of the Development Agreement; and

H. As provided in Paragraph 7 of this Agreement in connection with said assignment and transfer, Assignor desires to be released from certain of its obligations and duties under the Development Agreement with respect to the Transferred Lands and COUNTY is willing to release Assignor in accordance with and subject to the provisions of this Agreement and in accordance with the provisions of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals of fact, the consent and approval of COUNTY to the form of this assignment and assumption pursuant to the Development Agreement, the covenants, conditions, actions and undertakings set forth herein, and other consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree and do as follows;

1. Assignment; Effectiveness.

a. Assignment of Rights. Assignor hereby assigns, transfers and conveys to Assignee all of its rights and interests in and under the Development Agreement which are appurtenant and pertain to the Transferred Lands.

b. Effective Date. This Agreement and any Release contained herein shall not become effective unless and until recordation in the official Records of COUNTY of this Agreement and of the transfer and conveyance referred to in Paragraph D of the Recitals hereinabove of the Transferred Lands from Assignor to Assignee.

2. Allocation of [Units/Non-Residential Square Footage/Other]

a. [Units/Non-Residential Square Footage/Other]; Milestones. For purposes of Sections 6.1b and 8.2c of the Development Agreement, Assignor assigns and allocates to Assignee its rights under the Development Agreement in and to the [number of units/amount of non-residential square footage/other] and development set forth on Exhibit IV

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(“Allocation of Milestones”) with respect to the completion of the milestones indicated thereon, and said [numbers of units/amount of non-residential square footage/other] and development shall be deducted from and reduce the amounts thereof available under Section 4.1b and Section 8.2c of the Development Agreement to Assignor hereafter.

b. Title; No Prior Transfer. Assignor represents and warrants to Assignee that Assignor presently holds and has not previously transferred or allocated the rights under the Development Agreement, including, but not limited to, Section 8.2c of the Development Agreement, which are to be transferred and allocated to Assignee as provided in this Paragraph 2.

c. No County Assurance. COUNTY makes no representation or warranty hereunder or otherwise with respect to the [number of units/amount of non-residential square footage/other] or the amount of development as to which Assignor presently has any rights under Section 4.1b and Section 8.2c of the Development Agreement or otherwise or the rights with respect thereto which have been previously assigned by Assignor to others.

3. Rights and Interests Subject to Development Agreement. Assignee shall hold the rights and interests assigned subject to the terms and conditions of the Development Agreement, except as set forth in this Paragraph 3.

a. Amendment. With respect to Section 9 of the Development Agreement, the Development Agreement may be amended as to the Transferred Lands by a writing executed by COUNTY and Assignee without the consent of Assignor or Assignor’s predecessor in interest.

b. Defaults and Remedies. With respect to Section 11 of the Development Agreement:

(1) Termination. The termination of the Development Agreement with respect to the Property other than the Transferred Lands based on a default or failure to perform or observe any of the covenants or conditions required to be performed or observed by OWNERS under the Development Agreement shall not terminate the Development Agreement with respect to the Transferred Lands and, notwithstanding any such termination, the Development Agreement shall continue in full force and effect as to the Transferred Lands during the stated term; provided, however, that said termination is not based upon:

(i) Project-Wide Obligations. The default or failure in the full or punctual performance of those certain project-wide obligations set forth on Exhibit V hereto (“Project-Wide Obligations”); or

(ii) Assumed Obligations. A material default or failure by Assignee in the performance of any of the Assumed Obligations (as that term is defined below).

(2) Continuation – Transferred Lands. In the event that the Development Agreement is terminated as to the Transferred Lands for any reason other than those set forth in Paragraph 3b.(1)(i) and 3b.(1)(ii) hereinabove, the Development Agreement

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shall continue in effect as to the Transferred Lands and as provided in Section 8.2c of the Development Agreement but only to the extent of the [number of units/amount of non-residential square footage/other] allocated to the Transferred Lands determined in accordance with and as provided in Paragraph 2 of this Agreement and shall thereafter terminate.

(3) Continuation Property. The termination of the Development Agreement as to the Transferred Lands as the result of the default of Assignee under the Development Agreement shall not terminate the Development Agreement as to the remainder of the Property not transferred or assigned to Assignee with reference to this Agreement.

(4) Assumption of Obligations. In addition to the acceptance by Assignee of the assignment of rights and interests hereunder subject to the terms and conditions of the Development Agreement, Assignee assumes and agrees to fully and punctually perform for the benefit of Assignor and COUNTY the following obligations of OWNERS under the Development Agreement (collectively, the "Assumed Obligations"):

a. Exhibit II Obligations. Those OWNERS' Obligations set forth in Exhibit D of the Development Agreement which are listed in Exhibit II hereto;

b. Additional Obligations. All other obligations of OWNERS under the Development Agreement which relate to the Transferred Lands, which other obligations include but are not limited to the following:

(1) Public Facilities. The obligations of OWNERS under Section 3 of the Development Agreement relating to the Transferred Lands;

(2) Financing Districts. The obligations of OWNERS under Section 3.6a. of the Development Agreement to cooperate in the formation of a Financing District;

(3) Density. The obligations of OWNER under Section 4.1e. of the Development Agreement regarding no further applications for density increases with respect to the Transferred Lands;

(4) Reservations of Authority. The obligations of OWNER under Section 4.4 of the Development Agreement with respect to the Transferred Lands;

(5) Periodic Reviews. The obligations of OWNERS under Article 5 of the Development Agreement with respect to the Annual Monitoring Review and the Five-Year General Plan Review; provided, however, that in connection with the Annual Monitoring Review, Assignee shall provide the necessary information with respect to the Transferred Lands to Assignor (or the then-current OWNERS of the remaining Property) in a timely and complete manner and Assignor (or the then-current OWNERS of the remaining Property) shall compile the information provided together with information regarding the remainder of the Property and deliver a completed Annual Monitoring Review to COUNTY;

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(6) Transfers and Assignments. The obligations of OWNERS under Article 6 of the Development Agreement with respect to any further transfers and assignments as such transfers and assignments relate to the Transferred Lands or a portion thereof;

(7) Development Regulations. The obligation to comply with any and all provisions of the existing General Plan, the Development Plan and the Existing Development Approvals that relate to or are in connection with the construction of residential structures on the Transferred Lands, including but not limited to compliance with any and all conditions of approval, zoning ordinances or map requirements; and

(8) Land Use Regulations. The obligation to comply with any and all existing or future Land Use Regulations or other rules or regulations applicable to the Transferred Lands (as described in Section 4.3 of the Development Agreement).

(c) Allocation of Burdens. In any case where the obligations to be assumed with respect to the Transferred Lands require the allocation of burdens or obligations between the Transferred Lands and other lands within the Property, such allocation shall be as determined by the Director, RDMD of COUNTY (or his successor or designee) at his sole discretion.

5. Dedication of Rights-of-Way and Prepayment of Fees. In accordance with Section 6.1a of the Development Agreement, Assignee hereby agrees:

a. Dedication of Rights-of-Way. Concurrent with and as a condition precedent to the effectiveness of this Agreement, Assignee or Assignor shall have delivered to COUNTY and recorded in the official records of COUNTY an irrevocable offer of dedication for all rights-of-way and lands (and improvements, as applicable) necessary to complete the Public Facilities described in Exhibit II hereto within the Transferred Lands, or, if provided by Exhibit II, by entering into this Agreement, Assignee shall have assumed and agreed to fully and punctually perform the obligations of OWNERS with respect to the dedication of all rights-of-way and lands necessary to complete the Public Facilities within the Transferred Lands. As provided in said Exhibit II hereto, said offer of dedication shall satisfy the obligations of Assignor and Assignee with respect thereto under the Development Agreement; and

b. Prepayment of Fees. Concurrent with and as a condition precedent to the effectiveness of this Agreement, Assignor or Assignee shall have prepaid all of the fees described in Exhibit II hereto attributable to the Transferred Lands or, if provided by Exhibit II, by entering into this Agreement, Assignee shall have agreed to prepay, upon the request of COUNTY and at a time designated by COUNTY therein, all such fees in accordance with and subject to Exhibit D and the other Provisions of the Development Agreement.

6. Security. As a condition precedent to the release of Assignor by COUNTY pursuant to Paragraph 7 hereinbelow, Assignee shall transfer, convey and otherwise provide to COUNTY the security, if any, described in Exhibit II hereto ("Security"), securing the performance by Assignee of those certain duties and obligations of the Assignor assumed and to be performed by Assignee under Paragraph 4 hereinabove or which pertain to the Transferred

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Lands under the Development Agreement. Such security and the documents with respect thereto shall be in a form and amount approved by COUNTY.

7. Release Of Assignor. Upon the taking effect of this Agreement and provided that the Security, if any, required by Paragraph 6 hereinabove, is in a form and amount acceptable to COUNTY, in its sole discretion, and has been transferred and conveyed to COUNTY as provided therein, Assignor and OWNERS shall thereupon be released from performing the Assumed Obligations, including those certain obligations and duties set forth in Exhibit III hereto and the obligation to provide to or maintain with COUNTY the security, if any, listed in Exhibit III hereto.

8. Notices. Notwithstanding the assignment and transfer to Assignee under Paragraph 1 hereinabove, notices by COUNTY for purposes of Section 17.16 of the Development Agreement shall continue to be effective if mailed to OWNERS as provided therein and Assignee shall arrange with OWNERS for the receipt of such notices.

9. Continued Effectiveness of Development Agreement. Nothing herein shall be construed or interpreted to affect or reduce the obligations of OWNERS under the Development Agreement. Except as expressly provided herein and in any prior assignment executed by OWNERS and COUNTY (including, but not limited to, any release contained therein), the Development Agreement shall remain in full force and effect in accordance with its terms. Except as expressly set forth herein or in any prior assignment executed by OWNERS and COUNTY, OWNERS shall continue to be obligated to fully perform the obligations of OWNERS under and with respect to the Development Agreement.

10. Default and Remedies

a. Limitations; Damages. In addition to the terms and conditions of Section 11 of the Development Agreement, it is further acknowledged by the parties that COUNTY would not have entered into this Agreement or consented to the provisions hereof if it were to be liable in damages under or with respect to this Assignment and Assumption Agreement or the application thereof.

b. Acknowledgement. Each of the parties hereto agrees that COUNTY shall not be liable in damages to Assignor, Assignee or any assignee or transferee of a party to this Agreement or any other person and Assignor and Assignee and each of them covenants not to sue COUNTY for or claim any damages against COUNTY: (1) for any breach of, or which arise out of, this Agreement or the Development Agreement; (2) with respect to the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant to the Development Agreement; or (3) arising out of or connected with any dispute controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement.

11. Miscellaneous Provisions.

a. Recordation of Agreement. This Agreement may be recorded in the Official Records of COUNTY by any party hereto. The original recorded document shall be retained by the County of Orange, Planning & Development Services Department. Copies of the

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recorded document shall be distributed by County to Assignor, Assignee, Clerk of the Board, and jurisdiction of record if different than the County of Orange.

b. Entire Agreement. This Agreement sets forth and contains the entire understanding of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants, shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement. Nothing in this Agreement or the Assignee's execution hereof shall be construed to waive or limit any rights in connection with development of the Transferred Lands which are assigned to Assignee hereunder pursuant to the Development Agreement and the Existing Land Use Regulations, including any rights Assignee may have under any vesting tentative map applicable to the Transferred Lands.

c. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

d. Third Party Beneficiaries. The only parties to this Agreement are Assignor, Assignee and COUNTY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

e. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

f. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided however, that no further assignment of the rights or interests or delegation of the duties set forth herein to any person not a party to this Agreement shall be made except in accordance with the provisions of Section 6 of the Development Agreement.

g. Reimbursement of Costs. Upon the written request of COUNTY, Assignor and Assignee, jointly and severally, shall pay and reimburse or advance to COUNTY the costs incurred by COUNTY (including attorneys fees) in reviewing and approving this form of assignment.

h. Indemnity of COUNTY Regarding Assignment. Assignor and Assignee, jointly and severally, shall indemnify and hold COUNTY harmless from and against all claims, costs and damages of COUNTY arising out of or connected with the assignment and transfer set forth in Paragraph 1 hereinabove including, but not limited to, the effectiveness or character of any rights and interests purported to be assigned or transferred thereby or any claim or dispute regarding the allocation of units under Paragraph 2 hereinabove; provided, however, that nothing herein shall be construed to obligate Assignor or Assignee to indemnify COUNTY for the willful or negligent acts, or omissions to act, of COUNTY or its employees, agents or contractors and provided further that nothing herein shall be construed to permit COUNTY to

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seek from Assignor the performance of any of the obligations listed in Exhibit III from which Assignor has been released hereunder.

i. Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument. The signature pages of said counterparts may be accumulated and attached to a single instrument as if all of the parties had executed same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

ASSIGNOR:

[Identify Specific OWNERS/Assignor]

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

ASSIGNEE:

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_



COUNTY:

THE COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California

By: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 200\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and seal.

\_\_\_\_\_  
Signature

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 200\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and seal.

\_\_\_\_\_  
Signature

EXHIBIT I  
TO  
ASSIGNMENT AND ASSUMPTION AGREEMENT  
“Transferred Lands”

Legal Description:

Lot \_\_ of Tract No. \_\_\_\_\_ as shown on a map recorded in the Official Records of Orange County, California on \_\_\_\_\_ in Book \_\_\_\_, Pages \_\_\_\_ through \_\_\_\_, inclusive, of Miscellaneous Maps.

The described parcel contains \_\_\_\_ acres more or less.

EXHIBIT II  
TO  
ASSIGNMENT AND ASSUMPTION AGREEMENT

“Assumed Obligations”

A. The OWNERS’ Obligations set forth in Exhibit D to the Development Agreement and herein which are assumed by Assignee include the following:

1. \_\_\_\_\_.

B. The following fees are to be prepaid and the following lands are to be offered for dedication concurrent with and as a condition precedent to the effectiveness of the subject assignment:

1. All fees and payments referred to as Building Permit Milestones numbered \_\_\_\_\_ in Exhibit E to the Development Agreement.

C. The following fees or payments due under the Development Agreement with respect to the Transferred Lands have been paid by Assignor or Assignor’s predecessor in interest prior to the Effective Date of this Agreement:

1. All fees and payments referred to as Building Permit Milestones \_\_\_\_\_ in Exhibit E to the Development Agreement.

D. Payment of the following fees by Assignee or the full satisfaction of the Assumed Obligation to pay said fees by drawing upon the Security listed in Paragraph E below (whether by judicial order or otherwise) is a condition precedent to the issuance of any building permit within the Transferred Lands after a demand by COUNTY for payment or prepayment of said fees in accordance with the provisions of Section 3 and Exhibit D to the Development Agreement:

1. \_\_\_\_\_.

E. Concurrently, Assignee has conveyed and provided the following Security to COUNTY as a condition precedent to the effectiveness of the subject assignment and release of Assignor pursuant to Section 6 of the Development Agreement:

1. \_\_\_\_\_.

Security in the form of a Letter of Credit in the amount of \$ N/A has been provided by Assignee to COUNTY concurrent herewith.

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EXHIBIT III

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Released Obligations”

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached, Assignor and OWNERS shall be released from the following specific obligations under the Development Agreement:

1. \_\_\_\_\_.

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached and at the request of Assignor, COUNTY shall release and reconvey to Assignor and OWNERS or reduce the amount of security held by COUNTY under Assignment No. DA N/A between Assignor/OWNERS and COUNTY in the aggregate amount of \$                      N/A. COUNTY shall release said security provided by Assignor/OWNERS under Assignment No. DA N/A in recognition of the security provided hereunder in the amount of \$ N/A and the previous satisfaction of secured obligations through payments in the amount of \$ N/A consisting of N/A.

EXHIBIT IV

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Allocation of Milestones”

For purposes of Sections 6.1b and \_\_\_\_\_ of the Development Agreement, the [numbers of units/amount non-residential square footage/other] and development allocated to Assignee upon completion of each listed Milestone and subtracted from the amounts thereupon available to Assignor/OWNERS thereupon under the Development Agreement are as follows:

\_\_\_\_\_ dwelling units upon completion of Milestone number \_\_\_\_\_ listed (as well as all preceding Milestones) in Exhibit E of the Development Agreement.

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EXHIBIT H-2

Assignment and Assumption Agreement (Form)

**[\*\* NOTE: This form to be used for assignments to PUBLIC entities. \*\*]**

RECORDING REQUESTED BY:

[Specify Assigning OWNERS]

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC  
28811 Ortega Highway  
San Juan Capistrano, California 92675  
Attn: \_\_\_\_\_

ASSIGNMENT NUMBER:

ASSIGNOR: [Specify Assigning OWNERS]

ASSIGNEE: \_\_\_\_\_

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among [specify assigning OWNERS], (collectively “Assignor”), \_\_\_\_\_, a \_\_\_\_\_ (“Assignee”), and the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”).

RECITALS OF FACT

This Agreement is entered into based upon the following facts:

A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein;

B. [Collective OWNERS] and COUNTY entered into that certain Development Agreement dated \_\_\_\_\_, 200\_\_, which was recorded in the official records of COUNTY on \_\_\_\_\_, 200\_\_ as document number 200\_\_ - \_\_\_\_\_ (“Development Agreement”);

C. Assignor is the owner of the Transferred Lands described in Exhibit I hereto, which Transferred Lands are benefited and burdened by the provisions of the Development Agreement;

D. Concurrently with or prior to the taking effect of this Agreement, Assignor has transferred and conveyed to Assignee the Transferred Lands;



E. Pursuant to and in accordance with Section 6 of the Development Agreement, Assignor desires to assign and transfer certain of the rights and interests and to delegate certain of the duties and obligations of OWNERS under the Development Agreement subject to and in accordance with the terms of this Agreement and the Development Agreement;

F. As a condition precedent to said assignment and transfer pursuant to and as set forth in Section 6 of the Development Agreement, Assignee is willing to assume those certain OWNERS' Obligations described in Paragraph 4 of this Agreement, including those obligations under the Development Agreement which are listed on Exhibit II hereto;

G. In connection with said assignment and transfer, Assignor, Assignee and COUNTY desire to provide in certain respects for the allocation of certain burdens and benefits with respect to development under the Development Agreement between the Transferred Lands and the other lands within the Property pursuant to Section 6.1 of the Development Agreement; and

H. As provided in Paragraph 4 of this Agreement in connection with said assignment and transfer, Assignor desires to be released from certain of its obligations and duties under the Development Agreement with respect to the Transferred Lands and COUNTY is willing to release Assignor in accordance with and subject to the provisions of this Agreement and in accordance with the provisions of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals of fact, the consent and approval of COUNTY to the form of this assignment and assumption pursuant to the Development Agreement, the covenants, conditions, actions and undertakings set forth herein, and other consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree and do as follows;

1. Assignment; Effectiveness.

a. Assignment of Rights. Assignor hereby assigns, transfers and conveys to Assignee all of its rights and interests in and under the Development Agreement which are appurtenant and pertain to the Transferred Lands.

b. Effective Date. This Agreement and any Release contained herein shall not become effective unless and until recordation in the official Records of COUNTY of this Agreement and of the transfer and conveyance referred to in Paragraph D of the Recitals hereinabove of the Transferred Lands from Assignor to Assignee.

2. Rights and Interests Subject to Development Agreement. Assignee shall hold the rights and interests assigned subject to the terms and conditions of the Development Agreement, except as set forth in this Paragraph 2.

a. Amendment. With respect to Section 9 of the Development Agreement, the Development Agreement may be amended as to the Transferred Lands by a writing executed by COUNTY and Assignee without the consent of Assignor or Assignor's predecessor in interest.

Exhibit H-2

-2-

b. Defaults and Remedies. With respect to Section 11 of the Development Agreement:

(1) Termination. The termination of the Development Agreement with respect to the Property other than the Transferred Lands based on a default or failure to perform or observe any of the covenants or conditions required to be performed or observed by OWNERS under the Development Agreement shall not terminate the Development Agreement with respect to the Transferred Lands and, notwithstanding any such termination, the Development Agreement shall continue in full force and effect as to the Transferred Lands during the stated term; provided, however, that said termination is not based upon:

(i) Project-Wide Obligations. The default or failure in the full or punctual performance of those certain project-wide obligations set forth on Exhibit IV hereto (“Project-Wide Obligations”); or

(ii) Assumed Obligations. A material default or failure by Assignee in the performance of any of the Assumed Obligations (as that term is defined below).

(2) Continuation -- Property. The termination of the Development Agreement as to the Transferred Lands as the result of the default of Assignee under the Development Agreement shall not terminate the Development Agreement as to the remainder of the Property not transferred or assigned to Assignee with reference to this Agreement.

3. Assumption of Obligations. In addition to the acceptance by Assignee of the assignment of rights and interests hereunder subject to the terms and conditions of the Development Agreement, Assignee assumes and agrees to fully and punctually perform for the benefit of Assignor and COUNTY the following obligations of OWNERS under the Development Agreement (collectively, the “Assumed Obligations”):

a. Exhibit II Obligations. Those OWNERS’ Obligations set forth in Exhibit D of the Development Agreement which are listed in Exhibit II hereto;

b. Additional Obligations. Those specific obligations of OWNERS which are set forth in the Development Agreement and more particularly described as follows:

(1) Public Facilities. **[\*\*AS APPROPRIATE\*\*]** The obligations of OWNERS under Section 3 of the Development Agreement relating to the Transferred Lands;

(2) Financing Districts. **[\*\*AS APPROPRIATE\*\*]** The obligations of OWNERS under Section 3.6a. of the Development Agreement to cooperate in the formation of a Financing District;

(3) Reservations of Authority. **[\*\*AS APPROPRIATE\*\*]** The obligations of OWNER under Section 4.4 of the Development Agreement with respect to the Transferred Lands;

Exhibit H-2

(4) Transfers and Assignments. [**AS APPROPRIATE**] The obligations of OWNERS under Article 6 of the Development Agreement with respect to any further transfers and assignments as such transfers and assignments relate to the Transferred Lands or a portion thereof; and

(5) Land Use Regulations. [**AS APPROPRIATE**] The obligation to comply with any and all existing or future Land Use Regulations or other rules or regulations applicable to the Transferred Lands (as described in Section 4.3 of the Development Agreement).

4. Release Of Assignor. Upon the taking effect of this Agreement, Assignor and OWNERS shall thereupon be released from performing the Assumed Obligations, including those certain obligations and duties set forth in Exhibit III hereto and the obligation to provide to or maintain with COUNTY the security, if any, listed in Exhibit III hereto.

5. Notices. Notwithstanding the assignment and transfer to Assignee under Paragraph 1 hereinabove, notices by COUNTY for purposes of Section 17.16 of the Development Agreement shall continue to be effective if mailed to OWNERS as provided therein and Assignee shall arrange with OWNERS for the receipt of such notices.

6. Continued Effectiveness of Development Agreement. Nothing herein shall be construed or interpreted to affect or reduce the obligations of OWNERS under the Development Agreement. Except as expressly provided herein and in any prior assignment executed by OWNERS and COUNTY (including, but not limited to, any release contained therein), the Development Agreement shall remain in full force and effect in accordance with its terms. Except as expressly set forth herein or in any prior assignment executed by OWNERS and COUNTY, OWNERS shall continue to be obligated to fully perform the obligations of OWNERS under and with respect to the Development Agreement.

7. Default and Remedies

a. Limitations; Damages. In addition to the terms and conditions of Section 11 of the Development Agreement, it is further acknowledged by the parties that COUNTY would not have entered into this Agreement or consented to the provisions hereof if it were to be liable in damages under or with respect to this Assignment and Assumption Agreement or the application thereof.

b. Acknowledgement. Each of the parties hereto agrees that COUNTY shall not be liable in damages to Assignor, Assignee or any assignee or transferee of a party to this Agreement or any other person and Assignor and Assignee and each of them covenants not to sue COUNTY for or claim any damages against COUNTY: (1) for any breach of, or which arise out of, this Agreement or the Development Agreement; (2) with respect to the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant to the Development Agreement; or (3) arising out of or connected with any dispute controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement.

8. Miscellaneous Provisions.

a. Recordation of Agreement. This Agreement may be recorded in the Official Records of COUNTY by any party hereto. The original recorded document shall be retained by the County of Orange, Planning & Development Services Department. Copies of the recorded document shall be distributed by County to Assignor, Assignee, Clerk of the Board, and jurisdiction of record if different than the County of Orange.

b. Entire Agreement. This Agreement sets forth and contains the entire understanding of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants, shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement. Nothing in this Agreement or the Assignee's execution hereof shall be construed to waive or limit any rights in connection with development of the Transferred Lands which are assigned to Assignee hereunder pursuant to the Development Agreement and the Existing Land Use Regulations, including any rights Assignee may have under any vesting tentative map applicable to the Transferred Lands.

c. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

d. Third Party Beneficiaries. The only parties to this Agreement are Assignor, Assignee and COUNTY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

e. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

f. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided however, that no further assignment of the rights or interests or delegation of the duties set forth herein to any person not a party to this Agreement shall be made except in accordance with the provisions of Section 6 of the Development Agreement.

g. Reimbursement of Costs. Upon the written request of COUNTY, Assignor and Assignee, jointly and severally, shall pay and reimburse or advance to COUNTY the costs incurred by COUNTY (including attorneys fees) in reviewing and approving this form of assignment.

h. Indemnity of COUNTY Regarding Assignment. Assignor and Assignee, jointly and severally, shall indemnify and hold COUNTY harmless from and against all claims, costs and damages of COUNTY arising out of or connected with the assignment and transfer set forth in Paragraph 1 hereinabove including, but not limited to, the effectiveness or character of any rights and interests purported to be assigned or transferred thereby or any claim

Exhibit H-2

-5-

or dispute regarding the allocation of units under Paragraph 2 hereinabove; provided, however, that nothing herein shall be construed to obligate Assignor or Assignee to indemnify COUNTY for the willful or negligent acts, or omissions to act, of COUNTY or its employees, agents or contractors and provided further that nothing herein shall be construed to permit COUNTY to seek from Assignor the performance of any of the obligations listed in Exhibit III from which Assignor has been released hereunder.

i. Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument. The signature pages of said counterparts may be accumulated and attached to a single instrument as if all of the parties had executed same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

ASSIGNOR:

[Identify Specific OWNERS/Assignor]

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

ASSIGNEE:

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

COUNTY:

THE COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California

By: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 200\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and seal.

\_\_\_\_\_  
Signature

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 200\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and seal.

\_\_\_\_\_  
Signature



EXHIBIT I  
TO  
ASSIGNMENT AND ASSUMPTION AGREEMENT  
“Transferred Lands”

Legal Description:

Lot \_\_ of Tract No. \_\_\_\_\_ as shown on a map recorded in the Official Records of Orange County, California on \_\_\_\_\_ in Book \_\_\_\_, Pages \_\_\_\_ through \_\_\_\_, inclusive, of Miscellaneous Maps.

The described parcel contains \_\_\_\_ acres more or less.

EXHIBIT II  
TO  
ASSIGNMENT AND ASSUMPTION AGREEMENT

“Assumed Obligations”

A. The OWNERS’ Obligations set forth in Exhibit D to the Development Agreement and herein which are assumed by Assignee include the following:

- 1. \_\_\_\_\_.

B. **[\*\*AS APPROPRIATE/RELEVANT\*\*]** The following fees are to be prepaid and the following lands are to be offered for dedication concurrent with and as a condition precedent to the effectiveness of the subject assignment:

- 1. \_\_\_\_\_.

C. **[\*\*AS APPROPRIATE/RELEVANT\*\*]** The following fees or payments due under the Development Agreement with respect to the Transferred Lands have been paid by Assignor or Assignor’s predecessor in interest prior to the Effective Date of this Agreement:

- 1. \_\_\_\_\_.

EXHIBIT III

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Released Obligations”

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached, Assignor and OWNERS shall be released from the following specific obligations under the Development Agreement:

I. \_\_\_\_\_.

[\*\*AS APPROPRIATE\*\*] Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached and at the request of Assignor, COUNTY shall release and reconvey to Assignor and OWNERS or reduce the amount of security held by COUNTY under Assignment No. DA N/A between Assignor/OWNERS and COUNTY in the aggregate amount of \$                     N/A                    . COUNTY shall release said security provided by Assignor/OWNERS under Assignment No. DA N/A in recognition of the previous satisfaction of secured obligations through payments in the amount of \$ N/A consisting of N/A.

EXHIBIT IV

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Project-Wide Obligations”

The OWNERS’ Obligations required to be performed by Assignor/OWNERS, failure of the performance of which may be the basis of the termination of the Development Agreement with respect to the Transferred Lands, include the following:

1. **[\*\*AS APPROPRIATE\*\*]**

**Attachment 7 -  
Yorba Linda Certificate of Completion**

232

**RECORDING REQUESTED BY:**  
ORANGE COUNTY LOCAL AGENCY  
FORMATION COMMISSION

**AND WHEN RECORDED MAIL TO:**  
ORANGE COUNTY LAFCO  
2677 N. MAIN ST.  
SUITE 1050  
SANTA ANA, CA 92705

Recorded in Official Records, Orange County  
Hugh Nguyen, Clerk-Recorder



\* \$ R 0 0 1 1 3 6 2 4 1 7 \$ \*  
2019000535236 12:22 pm 12/20/19  
232 407A C16 223  
0.00 0.00 0.00 0.00 666.00 0.00 0.000.000.00 0.00

THIS SPACE FOR RECORDER'S USE ONLY

**CERTIFICATE OF COMPLETION**

**LAFCO**

*Orange County Local Agency Formation Commission*

*Pursuant to Government Code Section 27383, because the Local Agency Formation Commission is a government agency, no filing fee shall be charged for the filing of this document.*

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of Orange County, California.

1. The short-term designation, as determined by LAFCO, is:  
  
City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)
2. The name of each district or city involved in this change of organization and the kind of type of change of organization ordered for each city or district as follows:  
  
CITIES/COUNTY: City of Yorba Linda / County of Orange  
TYPE OF CHANGE: Annexation
3. The above listed cities and district are located within the following county:  
County of Orange
4. A description of the boundaries of the above cited change of organization is shown on the attached map and legal (See Attachment A) and by this reference incorporated herein.
5. The territory is uninhabited.

**R E C E I V E D**  
DEC 28 2019

LOCAL AGENCY FORMATION COMMISSION

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

6. The County and City respectively approved the “Cooperative Agreement” (Attachment B), which allows the County to continue to exercise permit and approval processing functions necessary to facilitate the development of the subject territory commonly known as the Cielo Vista Development.
7. The City and the North County BRS Project, LLC entered into a “Pre-Annexation Agreement” (Attachment C) that outlines the terms and conditions between the agencies.
8. The Yorba Linda Water District (YLWD) and North County BRS Project, LLC entered into the “Cielo Vista Project Water and Sewer Facilities Agreement between Yorba Linda Water District and North County BRS Project, LLC” (Attachment D) which outlines the terms, conditions and each party’s responsibilities relative to water and wastewater service provision.
9. The resolution (CA 19-03) ordering this annexation subject to the following terms and conditions, was adopted on November 13, 2019, by the Local Agency Formation Commission (Attachment E).
  - a) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Yorba Linda, except for those properties to be retained by the County and specifically listed by these conditions.
  - b) Upon annexation of the territory, the City of Yorba Linda shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Yorba Linda shall also be responsible for regulatory oversight of the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Yorba Linda.
  - c) Upon the effective date of annexation, the City of Yorba Linda shall do the following: (1) assume ownership and maintenance responsibilities for all County Owned drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; and (2) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area.

- d) The Commission waives protest proceedings in accordance with Government Code Section 56662.
- e) Payment by the applicant of State Board of Equalization fees.
- f) The applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.
- g) The effective date shall be the date of recordation.

I hereby certify that I have examined the resolution cited above, including any terms and conditions, and that they are true and complete copies.

  
\_\_\_\_\_  
Carolyn Emery  
Executive Officer

Date: 12/20/2019

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



# Attachment A

Attachment A

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

1 THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED  
2 TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A  
3 PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP  
4 ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8,  
5 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES  
6 COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH  
7 PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS  
8 OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
9 COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH,  
10 RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
11 OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE,  
12 DESCRIBED AS FOLLOWS:

13  
14 **BEGINNING** AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE  
15 CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY  
16 OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369  
17 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT  
18 RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID  
19 COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF  
20 THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH  
21 77°50'17" EAST 880.17";

22  
23 THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF  
24 YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET  
25 TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY  
26 OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN  
27 BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH  
28 OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE  
29 NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

30  
31 THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE  
32 CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21  
33 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST  
34 BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN  
35 BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF  
36 THE COUNTY RECORDER OF SAID ORANGE COUNTY;

37  
38 THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE  
39 GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-  
40 156 THROUGH THE FOLLOWING THREE COURSES;

41  
42 SOUTH 00°56'08" EAST 2863.76 FEET;

43  
44 SOUTH 86°40'40" EAST 619.50 FEET;

EXHIBIT A  
LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

45  
46 SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY  
47 BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-  
48 02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A  
49 RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS,  
50 NORTH 15°20'27" WEST;  
51  
52 THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND  
53 ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:  
54  
55 SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL  
56 ANGLE OF 12°07'13";  
57  
58 SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE  
59 CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;  
60  
61 WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
62 OF 39°35'11";  
63  
64 NORTH 77°52'29" WEST 119.29 FEET;  
65  
66 NORTH 00°56'08" 25.66 FEET;  
67  
68 NORTH 77°52'29" WEST 880.23 FEET TO THE **POINT OF BEGINNING**.  
69  
70 CONTAINING: 84.812 ACRES MORE OR LESS.

71  
72  
73  
74 AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE  
75 MADE A PART HEREOF.  
76

77  
78 PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
79  
80 DATED THIS 10TH DAY OF JULY, 2019

81  
82  
83   
84  
85 \_\_\_\_\_  
86 KURT R. TROXELL, L.S. 7854  
87 FUSCOE ENGINEERING  
88



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

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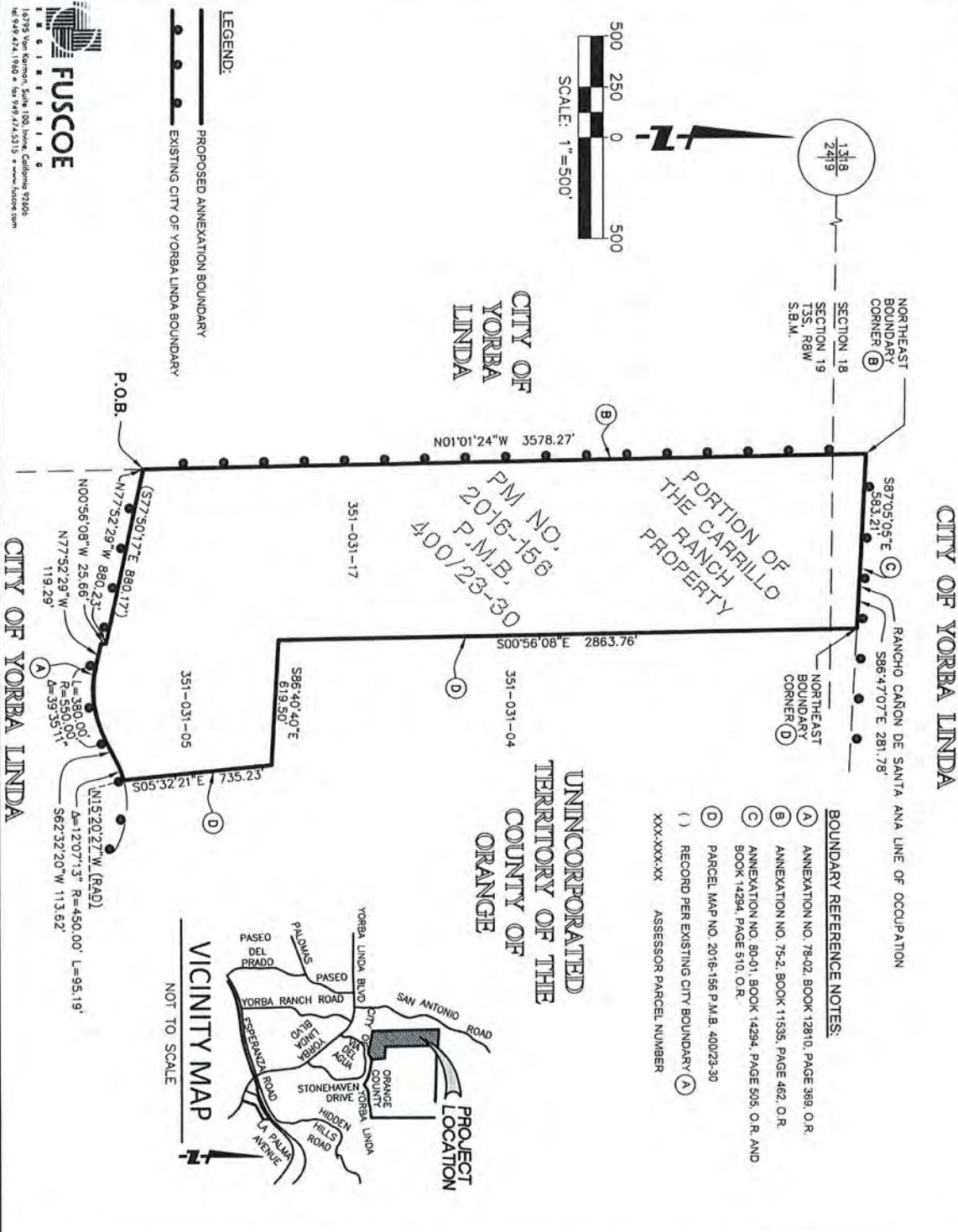
THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION DOES MEET THE APPROVAL OF THE ORANGE COUNTY SURVEYOR'S OFFICE.

DATED THIS 12<sup>TH</sup> DAY OF JULY, 2019

KEVIN R. HILLS, COUNTY SURVEYOR  
L.S. 6617

LILY M. N. SANDBERG, DEPUTY COUNTY SURVEYOR  
L.S. 8402





**FUSCO**  
 16735 Von Karman, Suite 100, Irvine, California 92606  
 Tel: 949.474.1949 • Fax: 949.474.5315 • www.fusco.com

MapInfo: \298\001\AFCO\298-001\AFCO.DWG (07-10-19)

**CITY OF YORBA LINDA**

**CITY OF YORBA LINDA**

**UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE**



- BOUNDARY REFERENCE NOTES:**
- (A) ANNEXATION NO. 78-02, BOOK 12810, PAGE 369, O.R.
  - (B) ANNEXATION NO. 75-2, BOOK 11535, PAGE 462, O.R.
  - (C) ANNEXATION NO. 80-01, BOOK 14294, PAGE 505, O.R. AND BOOK 14294, PAGE 510, O.R.
  - (D) PARCEL MAP NO. 2016-156 P.M.B. 400/23-30
  - ( ) RECORD PER EXISTING CITY BOUNDARY (A)
  - XXX-XXX-XX ASSESSOR PARCEL NUMBER

**EXHIBIT "B"**

CITY OF YORBA LINDA ANNEXATION OF  
 CIELO VISTA DEVELOPMENT  
 (CA 19-03)

**NOTE:**  
 THIS ANNEXATION IS COMPRISED OF 84.812 ACRES  
 BEARINGS AND DISTANCES SHOWN HEREON ARE BASED  
 ON PARCEL MAP NO. 2016-156 P.M.B. 400/23-30

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION:  
  
 KURT R. TROXELL, L.S. 7854  
 7/10/2019



THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION  
 DOES MEET THE APPROVAL OF THE ORANGE COUNTY  
 SURVEYORS OFFICE.  
 DATED THIS 12<sup>TH</sup> DAY OF JULY 2019  
 KEVIN R. HILLS, COUNTY SURVEYOR  
 L.S. 8617  
 BY:   
 LILY M. NUNEZ SANDBERG, DEPUTY SURVEYOR  
 P.L.S. 8402



# Attachment B

## COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“**Agreement**”), dated *October 22, 2019* for purposes of identification, between the COUNTY OF ORANGE (“**County**”) and the CITY OF YORBA LINDA (“**City**”) (collectively referred to as the “**Parties**” herein) is based on the following:

### RECITALS

WHEREAS, the City is in the process of annexing approximately 84 acres of property commonly known as Cielo Vista (“**Property**”). The Property, which is described in Exhibit A and depicted in Exhibit B, is currently in the unincorporated area of County. North County BRS Project, LLC, a Delaware limited liability company has an option to purchase the Property.

WHEREAS, the County has, for several years, planned for the development and use of the Property and related infrastructure on the Property.

WHEREAS, the North County BRS Project, LLC has obtained approvals from the County to develop the Property with an 80-unit residential subdivision called “Cielo Vista” (“**Project**”).

WHEREAS, the Property is subject to that certain Cielo Vista Project Alternative 5 Area Plan with 80 units (“**Cielo Vista Alternative 5 Area Plan**”) and Environmental Impact Report No. 615 (“**EIR**”), which were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Property is also subject to the Vesting Tentative Tract Map No. 17341 approved by the Orange County Board of Supervisors on September 12, 2017, which was not judicially challenged, thereby conferring vested rights to the Project. Finally, the Property is subject to the Pre-Annexation Agreement between the City and North County BRS Project, LLC (“**Pre-Annexation Agreement**”).

WHEREAS, City and County are public entities possessing the common power to review and approve applications for administrative and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property (“**Implementing Approvals**” as defined herein).

WHEREAS, Government Code Sections 51300 *et seq.* authorize a county to contract with a city for a term of up to five (5) years, and renewable thereafter for additional five-year periods upon mutual consent of the city and county, for the performance of municipal functions common to both agencies. This Agreement fully complies with all State statutory and constitutional provisions related to the transfer of municipal functions from a city to a county.

WHEREAS, the Development Approvals (as defined below) for the Property prepared by or on behalf of the County represent an extremely complex and integrated plan for the preservation and development of the Property.

WHEREAS, City and North County BRS Project, LLC have entered into that certain Pre-Annexation Agreement, to ensure that annexation of the Property does not prevent or delay development of the Property to the full extent permitted by the Development Plan and Development Approvals.

WHEREAS, the City intends, by way of this Agreement and pursuant to California Government Code section 53100 *et seq.*, to contract with the County for the performance of certain City functions, as more specifically described herein, upon annexation of the Property, for the term set forth herein and not to exceed the limitations set forth in California Government Code section 53102. Subject to this Agreement, the County will assume the authority for Implementing Approvals, as defined herein, including but not limited to land use services until the point in time when the Property is Fully Improved, as defined herein. Implementing Approvals do not include actions on Units, Common Areas, Conservation Area, and Public Improvements on the Property once such area of the Property is Fully Improved.

WHEREAS, this Agreement achieves the objectives of the Parties, such as the efficient implementation and administration of the Development Approvals and Development Plan, by authorizing the County to exercise permit and approval processing functions of the City necessary to facilitate development consistent with the Development Plan and Development Approvals relative to each Unit, Common Areas, Conservation Area, and Public Improvements, upon annexation and until such Units, Common Areas, and Public Improvements are Fully Improved, as defined herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. DEFINITIONS AND EXHIBITS
  - 1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, or all letters capitalized, when used in the Agreement. The defined terms include the following:
    - 1.1.1 “**Agreement**” means this Cooperative Agreement.
    - 1.1.2 “**Annexation**” means annexation of the Property to the City of Yorba Linda pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000 et seq.).
    - 1.1.3 “**Area Plan**” means the Cielo Vista Project Alternative 5 Area Plan.
    - 1.1.4 “**City**” means the City of Yorba Linda.
    - 1.1.5 “**Common Area(s)**” means any real property owned in fee simple by any homeowner association, or under the control of any such homeowner



association by way of easement, lease, encroachment, permit or license or other agreement, as defined in Section 1351(b) of the California Civil Code, including but not limited to private streets, private parks, and other areas.

- 1.1.6 **“Conservation Area”** means the northern portion of the Property which North County BRS Project, LLC is required to preserve as open space pursuant to the Cielo Vista Alternate 5 Area Plan and related approvals.
- 1.1.7 **“County”** means the County of Orange, a political subdivision of the State of California.
- 1.1.8 **“Development”** whether or not capitalized means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project. The term development includes grading, the construction of infrastructure and public facilities related to the Project located on the Property, the construction of buildings and structures and the installation of landscaping and park facilities and improvements. The term **“Development”** does not include any Project-related building or grading activity after the Property is Fully Improved, as defined herein, and annexed to the City.
- 1.1.9 **“Development Approvals”** means all permits, licenses, consents, inspections rights, privileges, agreements and other actions that:
- (i) are approved by County; or
  - (ii) are subject to approval or issuance by County.

The term **“Development Approvals”** includes (including any modifications or amendments as described above), but is not limited to, the following Development Approvals in furtherance of the Project:

- (a) Tentative and final subdivision and parcel maps, including, without limit, Vesting Tentative Tract Map No 17341;
- (b) Cielo Vista Alternative 5 Area Plan (PA 10004) approved by the County on December 13, 2016;
- (c) Environmental Impact Report No. 615 for the Cielo Vista Project Alternative 5 Area Plan approved by the County on December 13, 2016;
- (d) Grading and building permits; and
- (e) Habitat Management Plan

Development Approvals do not include actions on Units, Common Areas, Conservation Area, or Public Improvements once such respective properties are Fully Improved.

- 1.1.10 **“Development Plan”** means the plan for Development of the Property, including the planning and zoning standards, regulations, and criteria for the Development of the Property contained in and consistent with the Development Approvals.
- 1.1.11 **“Fully Improved”** means, in relation to Units, that the County has issued certificates of occupancy (or similar evidence that all structures have received all inspections and fully comply with all laws such that there is no further unmet condition to occupancy) for any Unit pursuant to the Development Approvals and Development Plan. “Fully Improved” with respect to Common Areas shall mean the issuance of a certificate of use or similar evidence that all structures and improvements have received all inspections and fully comply with all laws such that there is no further unmet condition to the use of such structures and improvements. Fully Improved with respect to the Conservation Area shall mean that the Conservation Area is in compliance with the requirements of the Development Plan, the Development Approvals, all conditions of approval and any regulatory requirements. With respect to all Public Improvements within the Property, “Fully Improved” means a notice of completion or like certificate has been issued and the improvements accepted by a governmental entity and signed off as complete by that entity.
- 1.1.12 **“Implementing Approvals”** means the common law power to review and approve applications for administrative, discretionary and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property and the power to review, inspect, approve and issue certificates of completion for improvements constructed pursuant to any and all such permits for areas of the Project within the Property. All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements. For example, portions of any roadways constructed in the City not within the Property shall be processed in accordance with City requirements.
- 1.1.13 **“Land Use Regulations”** means all ordinances, resolutions, codes, rules, regulations and official policies governing Development and use of land applicable to the Property pursuant to the Development Approvals, the Development Plan, and this Agreement. The term “Land Use Regulations” also includes ordinances, resolutions, rules, regulations and official policies related to permitted use of land, development fees, exactions, impositions, the density or intensity of use, subdivision requirements and the maximum height and size of proposed buildings. The term “Land Use Regulations” also includes ordinances, resolutions, rules, regulations and official policies

governing the reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable on the effective date of this agreement, to the Development of the Property, which are not in conflict with the Development Approvals.

1.1.14 **“Project”** means the Development of the Property consistent with the Area Plan, Development Approvals, Land Use Regulations and/or Development Plan.

1.1.15 **“Property”** means the real property described in Exhibit A and shown on Exhibit B to this Agreement.

1.1.16 **“Public Improvements”** means all public streets, storm drains, street lighting, public parks and other improvements required and/or constructed pursuant to the Area Plan and Development Approvals located on the Property.

1.1.17 **“Unit”** means with respect to a single family residence, the legal lot or parcel and the residential housing unit located thereon but shall not include any exterior landscaping.

1.2 Exhibits: The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit A - Legal Description of the Property

Exhibit B - Map of the Property.

Exhibit C – Fees and Obligations

1.3 Construction. The word “include” or any form of the word “include” shall be construed and interpreted to add the phrase “without limitation “

## 2. OBJECTIVES AND INTENT

2.1 Objectives. The objectives of this Agreement are to:

2.2 Ensure that, following annexation of the Property to City, the Property is timely developed in substantial compliance with, and to the full extent permitted by, the Development Approvals and the Development Plan, and that Development Approvals are timely issued so as to avoid any unnecessary delays in the planning and permitting process for the Project while continuing to meet all public safety requirements.

2.2.1 Ensure that development of the Property proceeds in a manner that preserves the public benefits associated with the Development Approvals and Development Plan.

- 2.2.2 Effect a contract temporarily conveying responsibility for certain municipal functions as specified in section 3 1.1 below from the City to the County upon annexation and within the term authorized by Government Code Sections 51301 and 51302.
- 2.2.3 To provide a process for the transfer of documents necessary to County's assumption of City functions and a mechanism for facilitating County's right to monitor development as provided in this Agreement.
- 2.3 Intent. The Parties, through this Agreement, intend that the County shall have and exercise after annexation the same power, right and control over the administration, approval and implementation of the Development Approvals, Development Plan, and Implementing Approvals over the Property during the development of the Property as the County exercised before annexation. The Parties intend that the County will assume City functions regarding the Development Approvals, Development Plan, and Implementing Approvals over any Unit, Common Areas, Conservation Area, and Public Improvements, until the date that the Unit, Common Areas, Conservation Area and/or Public Improvements become Fully Improved. This Agreement shall be administered, implemented, construed and interpreted in a manner that is consistent with the Development Approvals, the Development Plan and the "intent" and "purpose" provisions of this Agreement.
3. AUTHORITY TRANSFERRED TO THE COUNTY
- 3.1 Performance of Municipal Functions.
- 3.1.1 Responsibility for Certain Municipal Functions. Pursuant to Government Code section 51300, et seq., the City hereby conveys to the County, upon annexation, and for the five (5) year period allowed under Government Code section 51302, the responsibility for the Implementing Approvals as defined in section 1.1.12 herein ("**Implementing Approval Authority**") over the Property on the terms within this Agreement. The term of this Agreement shall automatically be extended for one additional five (5) year period as provided in Government Code section 51302 unless any of the Parties, upon sixty (60) days notice to the other Party, elects to terminate this Agreement as of the end of the initial five (5) year period. Such election shall be based on "good cause" for such termination, and the notice of termination shall specify the facts and circumstances upon which the alleged "good cause" is predicated.
- 3.1.2 Conditions. The County shall exercise Implementing Approval Authority in substantial compliance with: (i) the provisions of the Development Approvals and Development Plan; (ii) conditions imposed by any State or local agency; and (iii) legally enforceable restrictions and limitations on development of the Property.

- 3.1.3 City Authority Following Areas Fully Improved. Once a Unit, a Common Area, the Conservation Area, or a Public Improvement is Fully Improved, the County's authority over the respective Unit, Common Area, Conservation Area or Public Improvement shall cease in its entirety. For example, once a certificate of occupancy has been issued for a Unit, the next permit issued for the Unit (for example, without limitation, a permit for a patio cover) shall be processed and issued by the City.
- 3.2 Term. Following annexation, County shall retain Implementing Approval Authority for the term set forth in Section 3 1.1 herein. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property. The maximum term of this Agreement is 5 years, unless extended for up to an additional 5 years for a maximum term of 10 years as outlined in Section 3.1.1.
- 3.3 Fees. City and County shall be entitled to collect and keep those fees as indicated on Exhibit C attached hereto. It is understood that once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.
- 3.4 Exoneration of Bonds. County shall be solely responsible for the inspection of any subdivision improvements installed within or outside the Project boundaries if the permits for which were issued by County. County shall be solely responsible for determining the extent to which any and all such improvements have been completed in accordance with all subdivision improvement agreements executed with the County and whether applicable subdivision bonds should be released. County has no authority over improvements constructed within the City and such improvements are subject to the processing, review, and approval of the City. Bonds for improvements within the City outside the Property shall be subject to the requirements of the City. Improvements for the purpose of this section shall include streets, storm drains, and other improvements constructed in the City but not on the Property. For example, roads constructed within the City outside the Property shall be bonded in a manner satisfactory to the City consistent with applicable City regulations and requirements.
- 3.5 Law Enforcement and Fire Protection Services. The City shall provide law enforcement, fire and emergency protection services to a Unit, Common Area, Conservation Area or Public Improvement once such area is Fully Improved or the County's authority over such Unit, Common Area, Conservation Area or Public Improvement ceases pursuant to the terms of this Agreement.

#### 4. SPECIAL PROVISIONS

- 4.1 City Ordinance. City has, prior to the Effective Date of this Agreement, adopted Ordinance No. 2018-1055 regarding the City's rezoning for the Property consistent with the Development Approvals and Development Plan. The City Council has also authorized the execution of this Agreement by the City Manager and determined that this Agreement is fully consistent with the authority of the City and City Council pursuant to law.
- 4.2 City Commitments. Other than has outlined in this Agreement, the City does not waive any authority as to actions that occur within the jurisdictional boundaries of the City outside the Property or as to an Unit, Common Area, Conservation Area or Public Improvement once Fully Improved. Specifically, the City retains all authority over any roadway or other improvements within the jurisdiction of the City outside the Property.
- 4.3 County Consideration. County shall be entitled to charge, receive, and retain all fees for processing the Development Approvals.
- 4.4 County Officers. The County Executive Officer (CEO) shall designate the County officers and employees that are to perform the services contemplated by, and exercise the authority transferred pursuant to, this Agreement. The Parties contemplate that the CEO will designate the same officers and employees that have, prior to the effective date of this Agreement, been performing services or exercising powers related to the County's Implementing Approval Authority.
- 4.5 Transfer of Park Fees. The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

#### 5. COOPERATION

- 5.1 Cooperation. City and County shall mutually provide any assistance reasonably requested by the other Party with respect to the implementation and administration of the Development Approvals, the Development Plan and this Agreement. City and County shall cooperate with one another relative to any action necessary to ensure that County retains the authority to perform the functions required by, or to achieve the objectives of this Agreement.
- 5.2 Records. County shall provide the City the County records that would facilitate the City's assumption of City functions being performed by County, including Implementing Approval Authority, after any Unit, Common Area(s), Conservation Area, or Public Improvement is Fully Improved.

#### 6. MISCELLANEOUS PROVISIONS

- 6.1 **Term of Agreement.** Subject to the extension provisions of Article 3, this Agreement shall continue in full force and effect with respect to the Property for a period of five (5) years following the date of the annexation of the Property to the City unless continued for an additional five (5) years pursuant to Section 3.1.1. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property.
- 6.2 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants outside the contents of this Agreement shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.
- 6.3 **Severability.** If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.
- 6.4 **Interpretation and Governing Law.** This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties. The rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement since all Parties have been represented by counsel.
- 6.5 **Indemnification.** City shall defend, indemnify with counsel approved in writing by County pursuant to Government Code section 25203, and hold harmless the County, and its respective members, officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by City or its officers, employees or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement. County shall defend, indemnify, and hold harmless the City, and its respective officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by County or its officers, employees, or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement.
- 6.6 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

- 6.7 Singular and Plural. As used herein, the singular of any word includes the plural.
- 6.8 Waiver. The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure of a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, any other Party's strict compliance with the terms of this Agreement.
- 6.9 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.
- 6.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.
- 6.11 Specific Performance. The Parties acknowledge that monetary damages may be inadequate to remedy any breach of this Agreement by any other Party. Accordingly, the Parties agree that any breach of this Agreement shall also entitle any non-breaching Party to file an action for specific performance in a court of competent jurisdiction.
- 6.12 Counterparts. This Agreement may be executed by the parties and counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.
- 6.13 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.
- 6.14 Further Actions and Instruments. All of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of any party at any time, the other Parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement.
- 6.15 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of the Parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this



Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters.

- 6.16 Authority to Execute. Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he/she has the authority to execute this Agreement on behalf of his/her agency/entity and to bind that agency/entity to the performance of its obligations pursuant to this Agreement.
- 6.17 Notice. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Yorba Linda  
 4845 Casa Loma Avenue  
 City Manager's Office  
 Yorba Linda, CA 92886


All notices, demands, requests or approvals to COUNTY shall be addressed to:

Director of Planning and Development Services  
 County of Orange  
 601 N. Ross St.  
 Santa Ana, California 92701

- 6.18 Effective Date. This Agreement shall become effective upon authorized execution by all necessary parties.

WITNESS THEREOF, the parties hereto have executed this Agreement on the date set forth above


**COUNTY OF ORANGE,**  
a political subdivision of the State of California

By:   
Chairwoman of the Board of Supervisors  
County of Orange, California

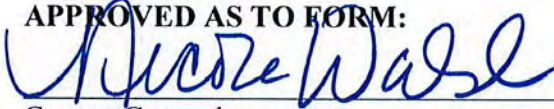


SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD PER G.C. SECTION  
25103, RESOLUTION 79-1535

**Attest:**

By:   
Robin Stieler, Clerk of the Board  
of Supervisors

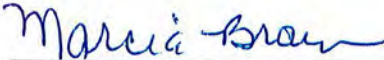
**APPROVED AS TO FORM:**

  
County Counsel

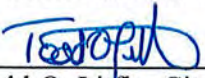
**THE CITY OF YORBA LINDA,**  
a California municipal corporation

By:   
Beth Haney, Mayor Pro Tem

**Attest:**

By:   
Marcia Brown, City Clerk

**APPROVED AS TO LEGAL FORM:**

  
Todd O. Litfin, City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)**

1 THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED  
2 TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A  
3 PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP  
4 ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8,  
5 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES  
6 COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH  
7 PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS  
8 OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
9 COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH,  
10 RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
11 OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE,  
12 DESCRIBED AS FOLLOWS:  
13

14 **BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE**  
15 **CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY**  
16 **OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369**  
17 **WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT**  
18 **RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID**  
19 **COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF**  
20 **THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH**  
21 **77°50'17" EAST 880.17";**  
22

23 **THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF**  
24 **YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET**  
25 **TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY**  
26 **OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN**  
27 **BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH**  
28 **OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE**  
29 **NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;**  
30

31 **THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE**  
32 **CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21**  
33 **FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST**  
34 **BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN**  
35 **BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF**  
36 **THE COUNTY RECORDER OF SAID ORANGE COUNTY;**  
37

38 **THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE**  
39 **GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-**  
40 **156 THROUGH THE FOLLOWING THREE COURSES;**  
41

42 **SOUTH 00°56'08" EAST 2863.76 FEET;**

43 **SOUTH 86°40'40" EAST 619.50 FEET;**  
44

1 OF 2

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EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

45  
 46 SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY  
 47 BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-  
 48 02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A  
 49 RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS,  
 50 NORTH 15°20'27" WEST;  
 51  
 52 THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND  
 53 ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:  
 54  
 55 SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL  
 56 ANGLE OF 12°07'13";  
 57  
 58 SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE  
 59 CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;  
 60  
 61 WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
 62 OF 39°35'11";  
 63  
 64 NORTH 77°52'29" WEST 119.29 FEET;  
 65  
 66 NORTH 00°56'08" 25.66 FEET;  
 67  
 68 NORTH 77°52'29" WEST 880.23 FEET TO THE POINT OF BEGINNING.  
 69  
 70 CONTAINING: 84.812 ACRES MORE OR LESS.

71  
 72  
 73  
 74 AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE  
 75 MADE A PART HEREOF.  
 76

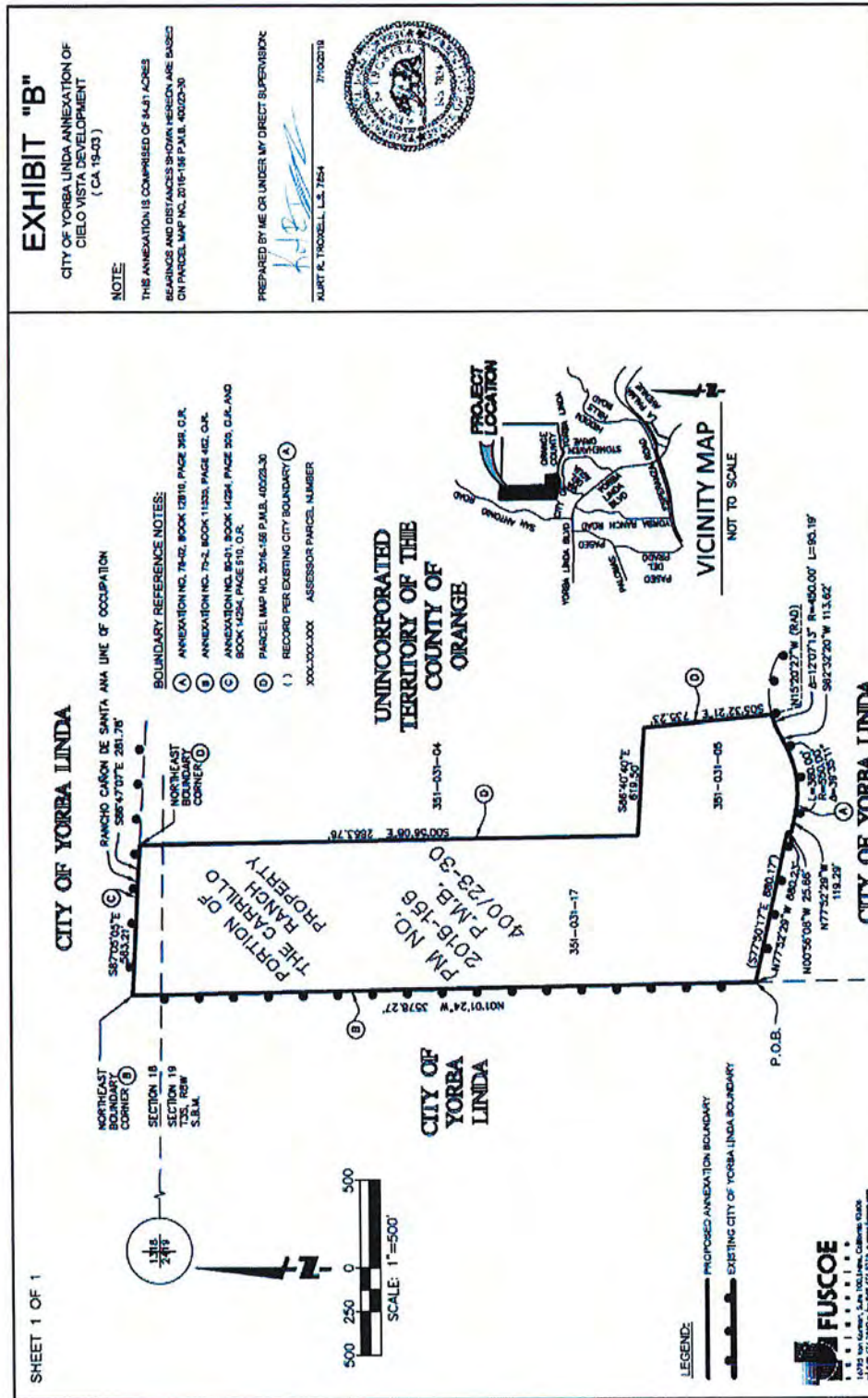
77  
 78 PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
 79  
 80 DATED THIS 10<sup>TH</sup> DAY OF JULY, 2019

81  
 82  
 83  
 84  
 85  


86 KURT R. TROXELL, L.S. 7854  
 87 FUSCOE ENGINEERING  
 88



EXHIBIT B



## EXHIBIT C

### Fees and Obligations

#### **Fees Retained By County**

Unless otherwise specified herein, County shall retain fees and obligations from the Development Approvals.

#### **Fees Retained By City**

The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

Prior to the issuance of building permits, to satisfy the requirement that North County BRS Project, LLC shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, North County BRS Project, LLC shall pay \$250.00 per residential unit within the Project to the City of Yorba Linda for a total of \$20,000.00. The fee shall be paid to the City on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum.

The City shall receive the Public Benefit Contribution from North County BRS Project, LLC as outlined in the Pre-Annexation Agreement by and among the City of Yorba Linda a California Municipal Corporation and North County BRS Project, LLC, a Delaware Limited Liability Company.

Once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements and the City shall retain all fees related thereto.

The City shall retain applicable Master Plan of Drainage fees charged by the City on the Project.

North County BRS Project, LLC shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR at the intersection of Via del Agua Street and Yorba Linda Boulevard. The traffic signal shall be installed prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of the traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then North County BRS Project, LLC shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal.

# Attachment C

PRE-ANNEXATION AGREEMENT

by and among

THE CITY OF YORBA LINDA  
a California Municipal Corporation,

and

NORTH COUNTY BRS PROJECT, LLC,  
a Delaware Limited Liability Company

[Dated as of 10/24/19 for reference purposes only]



## ARTICLE 1. PARTIES AND EFFECTIVE DATE

**1.1 Parties.** This Pre-Annexation Agreement ("Agreement") is entered into by and among (i) The City of Yorba Linda (the "City"), a California municipal corporation and North County BRS Project, LLC (the "Company"), a Delaware limited liability corporation. The City and the Company are sometimes referred to herein individually as a "Party" and collectively as the "Parties." This Agreement is dated as of 10/21/19, for reference purposes only and will not become effective until the "Effective Date" defined in Section 1.2 below.

**1.2 Effective Date.** This Agreement will not become effective until the date ("Effective Date") on which all the following have occurred: (i) this Agreement has been approved by the Company, executed by its legally authorized officers, and delivered to the City; (ii) this Agreement has been approved by the City Council and executed by the City; and (iii) all applicable statutes of limitation and appeal periods relating to the annexation of the Property have lapsed without a legal challenge.

**1.3 Property Owner Consent.** The property owners of the different properties constituting the Property irrevocably consent to the annexation of the Property into the City and authorize the Company to act on their behalf in connection with the annexation. The property owners include The Travis Ranch Trusts and the Virginia Richards Revocable Intervivos Trust dated May 1, 1986.

## ARTICLE 2. RECITALS

**2.1** The Company holds options to approximately 84 acres, the legal description of which is attached hereto as Exhibit "A" (the "Property"). The Property is shown on County of Orange Vesting Tentative Tract Map 17341. The Property is located in an unincorporated area of Orange County, California (the "County") within the City's sphere of influence. Policies of the Orange County Local Agency Formation commission favor the annexation of unincorporated areas so as to encourage the orderly and efficient provision of municipal services. (See,

e.g., OC LAFCO Legislative Policy Guidelines C and D from its 2019 Bylaws, Policies and Procedures).

**2.2** The Company has obtained approvals from the County to develop the Property with an 80-unit residential subdivision (alternatively referred to herein as "Cielo Vista" or the "Project").

**2.3** The Project's entitlements (including the Cielo Vista Project Alternative 5 Area Plan ["Cielo Vista Area Plan"]) and Environmental Impact Report ("EIR") were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Project's Vesting Tentative Tract Map was approved by the Orange County Board of Supervisors on September 12, 2017 and was not judicially challenged.

**2.4** On November 20, 2018, the City Council approved Zone Change 2018-02 to "pre-zone," or establish a pre-annexation zoning designation, for the Property, as permitted by California Government Code § 65859. In Ordinance No. 2018-1055 the City pre-zoned the Property to "PD (Planned Development) – Cielo Vista" to allow for development of the Property at a density of up to 1 dwelling unit per acre and to establish development standards consistent with the density and character of the surrounding single-family residential neighborhoods. The "PD (Planned Development) – Cielo Vista" designation implements and is consistent with the Cielo Vista Area Plan.

**2.5** The Cielo Vista Area Plan approved by the County of Orange constitutes the City's "development plan" to guide physical development of the Property in compliance with Chapter 18.16, Article II of the City's Zoning Code.

**2.6** Annexation of the Property into the City (collectively, the "Annexation") is contemplated by the Parties upon the terms and conditions set forth in this Agreement. Proceedings to implement the Annexation will be undertaken by the Orange County Local Agency Formation Commission ("OC LAFCO"). The City has submitted an application to OC LAFCO for the annexation

of the Property to the City referenced as City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03) ("Annexation Application").

2.7 The Parties understand that the Annexation is essential to the plan for providing services required by OC LAFCO in its consideration of the annexation application.

2.8 The Company desires that the development and annexation of the Property occurs in a manner that preserves the vested rights and entitlements that the Company has received from the County.

2.9 The City desires any and all pre-annexation and post-annexation development to occur harmoniously and without disruption or discord to the City and its existing communities and inhabitants and without detriment to the City's infrastructure and/or City service providers. The City further desires to be assured that Company will continue to process its current application for annexation under the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration for the promises and mutual covenants set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE 3. TERMS**

**3.1 City Obligations.**

3.1.1 **Processing Review.** In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process encroachment permits, license agreements, discretionary and non-discretionary actions, and all other legally cognizable documents consistent with the Project's entitlements and the City's zoning and other legal requirements to the extent necessary to facilitate the Project's implementation, including its connection to Via del Agua. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

**3.1.2 Processing Roads.** In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process all applications for construction of the Project's roads and infrastructure within its jurisdiction (including Street "A" on Tract Map 17341) and attendant landscaping, signage, striping, and monumentation, substantially consistent with the Cielo Vista Area Plan. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

**3.1.3 Consent To Annexation.** The City hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and shall cooperate in the annexation process for the Property.

**3.1.4 Traffic Control Device.** Consistent with Mitigation Measure 4.14-2 of the Project's EIR and to the extent consistent with legal requirements and within the City's legal authority, if the Company constructs the traffic control devices at Via Del Agua and Yorba Linda Boulevard then the City shall require the developer of the Esperanza Hills residential project (Yorba Linda Estates, LLC, or its successor or assign) to make a pro-rata reimbursement to the Company for all expenses associated with the construction of the traffic control devices at Via Del Agua and Yorba Linda Boulevard as part of the first City-issued discretionary or ministerial approval for the Esperanza Hills project where the City can legally impose such a condition. The amount of such reimbursement shall be in proportion to the number of County-approved residential units at the Cielo Vista and Esperanza Hills residential projects. For example, if the Esperanza Hills project is approved by the County at 340 units, then the Cielo Vista project shall be responsible for 80/420ths of the cost of the traffic control devices at Via Del Agua and Yorba Linda Boulevard. Using the figures in that example for reference only, the City would condition the developer of the Esperanza Hills residential project to reimburse the Company for 340/420ths of said cost as part of the first City-issued approval for the Esperanza Hills project.

### **3.2 Company Obligations.**

**3.2.1 Pursue Annexation.** The Company shall continue to diligently pursue the approval of the Annexation Application the City filed with OC LAFCO for the annexation of the Property into the City.

**3.2.2 Notice Of Grading.** The Company shall provide no less than sixty (60) days' notice to the City prior to commencement of mass grading for the Project.

**3.2.3 Consent To Annexation.** The Company hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and the Annexation Application submitted pursuant to Section 3.2.1. The Company covenants for itself, the Property owners, its agents, employees, contractors, heirs, successors and assigns who obtain title to the Property or portions or parcels thereof ("Successors"), to diligently pursue annexation of the Property to the City consistent with the terms of this Agreement. The Company and its Successors shall cooperate in every reasonable way with the requests of the City, OC LAFCO or any other public agency in any proceeding to annex the Property to the City. Said cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, OC LAFCO or any public agency at Company's sole cost and expense.

**3.2.4 Internal Project Roads.** The Company shall design and construct its internal roads to City standards at its sole expense.

**3.2.5 Library.** Prior to the issuance of building permits, to satisfy the requirement that the Company shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, Company shall pay Two Hundred Fifty Dollars (\$250.00) per residential unit within the Project to the City of Yorba Linda for a total, if 80 units, of \$20,000.00. The fee shall be paid to the City

on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the fee be less than 69 units, and if there are less than 69 units developed on the Property then the total remaining fee shall be paid upon the issuance of the building permit for the last residential unit.

**3.2.6 Bonds.** The Company shall post subdivision completion bonds (the "Bonds") as required by the County prior to issuance of a grading permit, and shall agree that the City may either be named as a beneficiary under the Bonds, or may be named as a party who could make demand on the County to enforce the Bonds in the event of default by the Company. Furthermore, the Company shall post separate bonds for all work performed by Company and its agents on any City property or easements to the extent that such bonds are customarily required by the City in connection with such work.

**3.2.7 Public Benefit Contribution.** Upon the approval of annexation by OC LAFCO as provided herein, the Company agrees to pay the sum of Sixteen Thousand Seven Hundred Sixteen dollars (\$16,716.00) per dwelling unit (the "Public Benefit Contribution") to the City as agreed reimbursement for annexation into the City of the Property and subject to the timing provisions of this paragraph. Subject to the satisfaction of the contingencies set forth in this paragraph, the Public Benefit Contribution shall be paid to the City on a per-residential unit basis upon the County's issuance of a Certificate of Occupancy for each unit—and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the Public Benefit Contribution be less than 69 units, resulting in a total Public Benefit Contribution at the \$16,716 per unit rate of One Million One Hundred Fifty Three Thousand Four Hundred and Four dollars (\$1,153,404.00), and if there are less than 69 units developed on the Property then the total remaining Public Benefit Contribution shall be paid upon the issuance of the certificate of occupancy for the last residential unit. In the event that the City approves a Public Benefit Contribution of less than \$16,716 per dwelling unit as part of a pre-annexation agreement for the Esperanza Hills project (the "Esperanza Contribution"), it shall reduce the

Company's per-unit Public Benefit Contribution to equal the Esperanza Contribution for any unpaid Public Benefit Contribution made after the date that the City approves the Esperanza Contribution.

**3.2.8 Payment of City Fees and Costs.** Company shall pay City all of City's costs and expenses pertaining to the annexation of the Property, including but not limited to costs associated with the Project's encroachment permit, grading, traffic signal design review, or other engineering plan check services related to the Project's entrance roadway. Company shall pay all City processing, permitting and other fees for work that is performed by the City pertaining to any aspect of the Project including but not limited to work performed on City Property. Company shall pay all of City's attorney's fees, consultant costs (including but not limited to environmental consultants and CEQA consultants) and other reasonable costs related to the City's actions pertaining to the annexation of the Property from the Effective Date of this Agreement. Company shall bear all City costs of the processing of the annexation proceedings to be conducted by OC LAFCO including the recordation fees for required by the State Board of Equalization. Company further agrees to pay the cost of any other regulatory activities pertaining to the annexation of the Property. The Parties agree that that the City's Master Plan of Drainage fee of Fourteen Thousand Dollars (\$14,000.00) per acre shall apply to the Project but that Company shall receive a credit for drainage facilities constructed off the Property resulting in a City Master Plan of Drainage fee of Two Hundred Thirty-One Thousand and Four Hundred and Twenty Six Dollars (\$231,426.00) owed by the Company. The City's Master Plan of Drainage fee shall be paid prior to tract map recordation.

**3.2.9 Indemnity.** Company agrees to indemnify, defend, and hold harmless City and its elected and appointed boards, commissions, officers, agents, and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorney's fees and costs) which: 1) may arise, directly or indirectly, from the acts, omissions, or operations of Company's or Company's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement; 2) pertain to the

City's approval of this Agreement or related agreements and permits pertaining or related to the Project or the Property; 3) pertain to the location of the access road and bridge generally referenced as Street A on Tract Map 17341 that connects to Via Del Agua; or 4) pertain to any alleged interference with any alleged third party property rights pertaining to the access road and bridge generally referenced as Street A on Tract Map 17341 that connect to Tract Map 17341. City shall provide Company with notice of the pendency of any such action and request that Company defend such action. If Company fails to do so, City may defend the action and Company shall pay the cost thereof.

**3.2.10 Traffic Control Device.** Company shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR. The traffic signal shall be installed by Company prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of Company's traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer, consistent with Section 3.1.4 of this Agreement. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then Company shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal, consistent with Section 3.1.4 of this Agreement.

**3.2.11 LMAD.** Company agrees to annex the Property into the City's Street Lighting and Landscaping Maintenance District ("LMAD") in accordance with the procedural legal requirements (including but not limited to the requirements of Article XIII D of the California Constitution and the Landscaping and Lighting Act of 1972) for the annexation of the Property into the LMAD. The annexation of the Property into the LMAD shall include annexation into the LMAD's applicable Arterial Landscaping Zone, Local Landscaping Zone, Arterial Lighting Zone, Local Lighting Zone, and Traffic Signal Zone. The annexation shall include approval of assessments up to the maximum amount of the allowable assessment, including a yearly increase based on CPI, on property within the City LMAD that neighbors the Property in City LMAD Local Landscaping Zone L-2K.



**3.2.12 Trails.** Consistent with Mitigation Measure 4-13.2 and Tract Map Condition No. 33, Company shall coordinate with the City trail alignments through the Project. The Parties have agreed on the location of the trail alignments as shown on Exhibit B and said trail alignments shall be dedicated to the City in a location and in a manner acceptable to the City.

**3.2.13 Entry Way Into Project.** Company shall be responsible for all costs pertaining to construction, operation, and future maintenance of the entry road and bridge into the Property and Project, and any retaining walls related thereto, and its connection to Via Del Aqua in the City (Street A as referenced on Tract Map 17341). Company shall be responsible for all future maintenance, repairs, and other matters pertaining to the entry road and bridge into the Property and any retaining walls related thereto. This obligation shall remain in full force and effect indefinitely in perpetuity unless and until this obligation is terminated by mutual written agreement of the Parties.

Company may assign this obligation to a potential future homeowner's association covering the Property or a portion of the Property or a future owner of the Property. The assignment requires the consent of the City, which consent shall not be unreasonably withheld. Upon the assignment of Company of its obligations under this section, the assignee shall enter into an agreement with the City agreeing to the terms and conditions of this section of the Agreement.

**3.3 Agreement Not to Challenge or Support Challenge.** The Parties shall not file lawsuits or directly or indirectly support litigation filed by others, either as a party, through financial contributions, providing staff support, or by failing to aggressively defend such litigation, that challenges the adequacy of the Cielo Vista Final EIR or any addenda to that EIR, the approval by the County of the Vesting Tentative Tract Map or the Final Map for the Project, the City's approval of the Pre-zone of the Property, or any other permits, entitlements, or approvals received in connection with the Project through the County or the City. The section only

pertains to the Project as entitled and any substantial changes to the Project or new projects are not covered by this Section.

#### **ARTICLE 4. ANNEXATION**

**4.1 Timing.** Upon recordation of the Final Map and approval of the annexation by OC LAFCO, the Property shall be automatically annexed into the City. Notwithstanding anything in this agreement, or any other Agreement, in no event shall a Certificate of Occupancy for any structure on the Property be issued prior to the recordation by OC LAFCO of a Certificate of Completion for the annexation.

#### **ARTICLE 5. DAMAGES**

**5.1 Remedies.** Subject to the limitations herein, in the event of a breach of the Agreement, the non-breaching party may at its option institute legal action to cure, correct, or remedy such breach, enjoin any threatened or attempted violation, or enforce the terms of this Agreement by specific performance. In the event of any breach of this Agreement, the non-breaching party shall have the right to pursue against the breaching party any and all remedies that are available at law or at equity for breach of a contractual obligation, provided however, that in no event shall Company have the right to sue City or any City officials, employees, contractors or agents for damages or monetary relief arising out of City's default of its obligations set forth in this Agreement, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Company's sole and exclusive judicial remedy. The prevailing party in any such litigation shall be entitled to its attorney's fees and costs.

#### **ARTICLE 6. GENERAL PROVISIONS**

**6.1 Duration.** This Agreement shall be effective on the date it is executed by both Parties and shall remain in effect until the later of (a) all of the obligations of the Parties contained herein are satisfied, or (b) the tenth (10<sup>th</sup>) anniversary of the Effective Date ("Anniversary"). If the Annexation is not recorded by the Anniversary, OC LAFCO may record the Annexation. Obligations that will

continue until satisfied or in perpetuity include but are not limited to the obligation of Company to pay the Public Benefit Contribution in Section 3.2.7, the obligation to maintain the Entry Way into the Project in Section 3.2.13, and the indemnity obligation in Section 3.2.9.

**6.2 Attorney’s Fees.** In the event that any Party brings any legal action to interpret or enforce any provision of this Agreement, the prevailing Party in that action shall be entitled to receive, in addition to all other available relief, costs of litigation and reasonable attorneys’ fees, including expert witness fees, costs and fees incurred on appeal and in enforcing any judgment which may be rendered on the underlying action.

**6.3 No Third Party Beneficiaries.** Except as provided by Section 6.11, the City and the Company expressly acknowledge that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. Except as provided by Section 6.11, no person or entity not a signatory to this Agreement will have any rights or causes of action against the City or the Company, or any combination thereof, arising out of or due to the City’s or the Company’s entry into this Agreement.

**6.4 Governing Law.** This Agreement shall be interpreted and enforced in accordance with the provisions of California law, without regard to conflicts of laws. Any litigation shall be held in a court of competent jurisdiction located in Orange County, California.

**6.5 Notice.** Unless otherwise permitted by this Agreement, all notices to be given shall be in writing and may be made by personal delivery, certified mail, postage prepaid and return receipt requested. Mailed notices shall be addressed to the Parties at the addresses listed below, but each party may change the address by written notice in accordance with this paragraph. Receipt will be deemed made as follows: notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated on receipt or rejection.

**If to the City:**  
City of Yorba Linda  
c/o City Manager  
4845 Casa Loma Ave.  
Yorba Linda, CA 92886

**With a Copy to:**  
Todd Litfin  
Rutan & Tucker, LLP  
611 Anton Blvd., 14<sup>th</sup> Floor  
Costa Mesa, CA 92661

**If to the Company:**  
Rory Ingels  
North County BRS Project, LLC  
c/o BlackRock  
4400 MacArthur Blvd #700  
Newport Beach, CA 92660

**With a Copy to:**  
Sean Matsler  
Cox, Castle & Nicholson LLP  
3121 Michelson Drive, Suite 200  
Irvine, CA 92612

**6.6 Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original.

**6.7 Entire Agreement.** This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either written or oral, express or implied.

**6.8 Further Acts.** The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

**6.9 Waiver.** The failure of any Party to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or any Party's waiver of any breach hereunder unless in writing, shall not

relieve any other Party of any of obligations hereunder, whether of the same or similar type. The foregoing shall be true whether the waiving Party's actions are intentional or unintentional.

**6.10 Authorization to Execute.** The signatories to this Agreement warrant that they have been lawfully authorized by their respective Parties to execute this Agreement on their behalf. Upon request, the Company shall deliver to the City copies of all applicable bylaws, resolutions or other documents evidencing the signatories' legal authority to execute this Agreement on behalf of the respective Parties.

**6.11 Binding On Heirs, Successors and Assigns.** The benefits and obligations described herein will inure to the benefit of and be binding upon the Company and any assignee or successor in interest of the Company to the Property, the City and its respective heirs, successors, grantees, transferees and permissible assigns.

**6.12 Recordation.** A memorandum of this Agreement shall be recorded as an encumbrance against the Property within ten days of the last signature required by this Agreement.

**6.13 Warranties and Representations.** The Company represents and warrants to the City that the Company has a valid and enforceable option to acquire the Property, and has due authority to enter into this Agreement. Furthermore, the individuals signing this Agreement on behalf of Company are authorized to sign on Company's behalf.

**6.14 Severability.** If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are declared to be severable.

**6.15 Compliance with other Rules and Regulations.** The Company and its Successors shall comply with all other applicable rules and regulations of the City, the County and all other public agencies having jurisdiction over the Property. This Agreement does not abrogate, limit or modify any other of the City's rights which are provided by common law, statute, ordinance or regulation.

**6.16 Non-liability of City Officials.** No officer, official, employee, agent, attorney or representative of the City shall be personally liable to the Company or any successor in interest to the Company, in the event of any default or breach by the City.

**6.17 Covenants Running with the Land.** The terms and conditions of this Agreement shall constitute covenants running with the Property and binding on the Company and Company's successors and assigns to the Property and burdening the Property and benefiting the City and adjacent City streets.

**6.18 Lack Of Annexation.** In the event that the Property is not annexed into the City, the Parties are not bound by the obligations of this Agreement and the Parties retain any of their respective pre-existing rights pertaining to the Project, the Property and the City Property. In the event that the Property is not annexed into the City but the Parties desire for the City to provide public services to the Property, OC LAFCO's approval must be obtained prior to the date City services are provided to the Property. If OC LAFCO approval is not secured, the County shall be the service provider.

**6.19 Assignment.** Company may not assign this Agreement or any interest in it without the prior written consent of the City, which consent shall not be unreasonably withheld.

**6.20 Development And Other Fees.** The City may enter into an agreement, formally or informally, with the County whereby County imposed fees, otherwise potentially payable to the County as a condition of the issuance of development approvals for the Project, would be paid to the City by Company or

County, as the case may be, upon annexation of the Property to the City. Annexation shall not be contingent upon such an agreement.

**THE CITY OF YORBA LINDA**, a  
California municipal corporation

By: Beth Haney  
Beth Haney, Mayor Pro Tem

Attest:

Marcia Brown  
Marcia Brown, City Clerk

Approved as to Legal Form:

Todd Litfin  
Todd Litfin, City Attorney

**North County BRS Project, LLC**,  
a Delaware limited liability corporation

By: \_\_\_\_\_  
\_\_\_\_\_

Consent:

**The Travis Ranch Trusts**

**The Travis Ranch Trusts for the  
benefit of Amos A. Travis**

By: \_\_\_\_\_  
**AMOS A. TRAVIS**, as Trustee of The  
Travis Ranch Trusts for the benefit of  
Amos A. Travis created under an  
Agreement of Trust dated May 8,  
1995, by Amos Travis, as Trustor, as  
to an undivided one fourth(1/4th)  
interest



**THE CITY OF YORBA LINDA, a**  
California municipal corporation

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest:

\_\_\_\_\_  
Marcia Brown, City Clerk

Approved as to Legal Form:

\_\_\_\_\_  
Todd Litfin, City Attorney

**North County BRS Project, LLC,**  
a Delaware limited liability corporation

By: *Ray G Ingels*  
Ray G Ingels  
Authorized Signatory

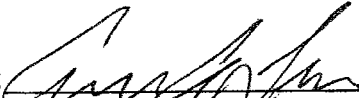
Consent:

**The Travis Ranch Trusts**

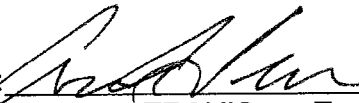
**The Travis Ranch Trusts for the**  
**benefit of Amos A. Travis**

By: *Amos A. Travis*  
**AMOS A. TRAVIS**, as Trustee of The  
Travis Ranch Trusts for the benefit of  
Amos A. Travis created under an  
Agreement of Trust dated May 8,  
1995, by Amos Travis, as Trustor, as  
to an undivided one fourth(1/4th)  
interest


**The Travis Ranch Trusts for the benefit of J. Coleman Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of William H. Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of Ann Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )

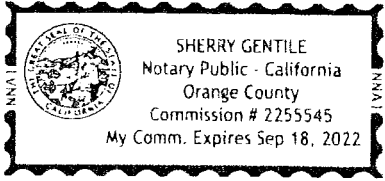
On 10/21/19, before me, Sherry Gentile  
(insert name and title of the officer)

Notary Public, personally appeared Amos A. Travis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

**I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.**

WITNESS my hand and official seal.

Signature Sherry Gentile



(Seal)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

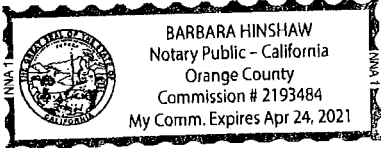
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On October 30, 2019 before me, Barbara Hinshaw, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Rory G. Ingels  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public  
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

**The Travis Ranch Trusts for the benefit of J. Coleman Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of William H. Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of Ann Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

**Virginia Richards Revocable Intervivos Trust dated May 1, 1986**

By: *Linda M. Rodger, Co-Trustee*  
**LINDA M. RODGER**, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: *Nancy Ann Maggio, Co-Trustee*  
**NANCY ANN MAGGIO**, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )
County of Orange )

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared LINDA M. RODGER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins (signature)
Holly Hutchins



NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )
County of Orange )

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared NANCY ANN MAGGIO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins (signature)
Holly Hutchins



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

1 THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED  
2 TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A  
3 PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP  
4 ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8,  
5 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES  
6 COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH  
7 PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS  
8 OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
9 COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH,  
10 RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
11 OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE,  
12 DESCRIBED AS FOLLOWS:

13  
14 BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE  
15 CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY  
16 OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369  
17 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT  
18 RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID  
19 COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF  
20 THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH  
21 77°50'17" EAST 880.17";

22  
23 THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF  
24 YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET  
25 TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY  
26 OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN  
27 BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH  
28 OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE  
29 NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

30  
31 THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE  
32 CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21  
33 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST  
34 BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN  
35 BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF  
36 THE COUNTY RECORDER OF SAID ORANGE COUNTY;

37  
38 THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE  
39 GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-  
40 156 THROUGH THE FOLLOWING THREE COURSES;

41  
42 SOUTH 00°56'08" EAST 2863.76 FEET;


43  
44 SOUTH 86°40'40" EAST 619.50 FEET;

1 OF 2

M:\Mapping\1296\0314\AFCD\1296-001\_LAFCD.docx

EXHIBIT A

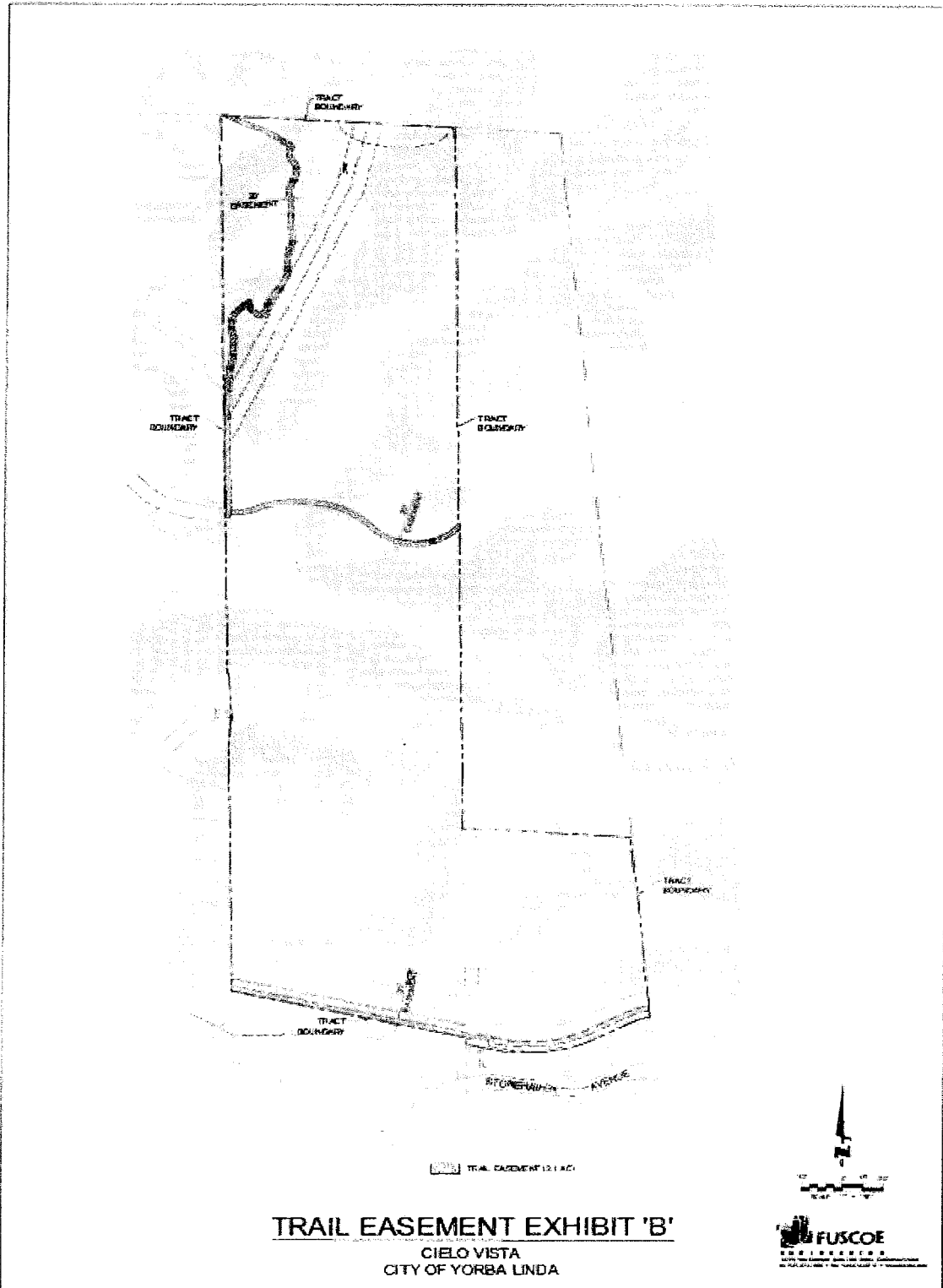
LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

45 SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY  
 46 BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-  
 47 02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A  
 48 RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS,  
 49 NORTH 15°20'27" WEST;  
 50  
 51 THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND  
 52 ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:  
 53  
 54  
 55 SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL  
 56 ANGLE OF 12°07'13";  
 57  
 58 SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE  
 59 CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;  
 60  
 61 WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
 62 OF 39°35'11";  
 63  
 64 NORTH 77°52'29" WEST 119.29 FEET;  
 65  
 66 NORTH 00°56'08" 25.66 FEET;  
 67  
 68 NORTH 77°52'29" WEST 880.23 FEET TO THE POINT OF BEGINNING.  
 69  
 70 CONTAINING: 84.812 ACRES MORE OR LESS.  
 71  
 72  
 73  
 74 AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE  
 75 MADE A PART HEREOF.  
 76  
 77  
 78 PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
 79  
 80 DATED THIS 10TH DAY OF JULY, 2019  
 81  
 82   
 83  
 84  
 85  
 86 KURT R. TROXELL, L.S. 7854  
 87 FUSCOE ENGINEERING  
 88





# EXHIBIT "B" TRAIL ALIGNMENTS



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

# Attachment D

**FIRST AMENDMENT TO  
CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT  
BETWEEN  
YORBA LINDA WATER DISTRICT  
AND  
NORTH COUNTY BRS PROJECT, LLC**

This FIRST AMENDMENT to Cielo Vista Project Water and Sewer Facilities Agreement ("First Amendment") is made and entered into, effective this 27th day of August 2019, by and between the Parties.

**RECITALS**

A. The Parties previously entered into the Agreement titled Cielo Vista Project Water and Sewer Facilities Agreement, which has an Agreement Date of August 1, 2018 ("Agreement"), a copy of which is attached hereto. Capitalized terms used in this First Amendment, without being separately defined herein, shall have the same meaning as defined in the Agreement.

B. Pursuant to Section 17, all amendments to the Agreement must be in writing and signed by the Parties.

C. Certain water facility improvements that will benefit both Developer and Yorba Linda Estates, LLC, who is the developer of the Esperanza Hills Estates ("EHE") project, will be connected to the water main in Stonehaven Drive and other Existing Offsite Facilities and will be designed and constructed as listed in Exhibit "M" and illustrated on Exhibit "N", which are attached to this First Amendment ("Shared Facility Improvements"). The Parties intend for the rights and obligations as to the Subdivision Facilities in Subsections A(i), (iii), and D through F in Section 3 of the Agreement to apply to the Shared Facility Improvements.

D. The Shared Facility Improvements (1) were originally part of the EHE project memorialized in a separate agreement between YLWD and Yorba Linda Estates, LLC, dated October 13, 2016, (2) are subject to cost sharing between Developer and Yorba Linda Estates, LLC, as documented in a separate agreement between those parties, and (3) caused significant changes to the Cielo Vista Project Subdivision Facilities Plans. YLWD incurred significant time to review these design concept and improvement plans along with legal fees for the EHE project and previously invoiced Yorba Linda Estates, LLC for this time in YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of \$14,324.19. The invoice amount of \$14,324.19 has been fully paid by Developer. The expenses incurred by YLWD associated with revisions to the Subdivision Facilities Plans have greatly exceeded the fees previously paid by Developer on May 22, 2018. Reimbursement for all outstanding and future YLWD Administrative Costs as defined in both the Agreement and herein shall be paid by Developer to YLWD out of the Administrative Costs Account.

E. Pursuant to Section 2 of the Agreement, the Effective Date term for Developer to provide proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map was August 1, 2019, and the Parties desire to extend the Effective Date term for an additional three hundred sixty-five (365) day period to August 1, 2020. The extension of the Effective Date term will cause the Project milestones in Exhibit "J" and the schedule in Exhibit "K" to be modified.

F. Pursuant to Section 5.D. of the Agreement, Developer shall reimburse all YLWD Administrative Costs related to the Project. The Parties desire to amend this Section to (1) amend the use of the term "Administrative Costs" in Section 5.D to mean YLWD staff and attorney time and costs related to the Project, the Agreement as amended from time to time, and "Developer Improvements" defined collectively as: (i) the Subdivision Facilities, (ii) the Existing Offsite Facility Improvements and (iii) the Shared Facility Improvements; and (2) require Developer to reimburse YLWD for all fees and costs associated with consultant(s) and/or contractor(s) hired by YLWD for the Developer Improvements.

G. Since the Agreement Date, Subdivision Facilities Plans have been modified and the scope of Developer's design/work has been amended to include the Shared Facility Improvements.

H. Pursuant to Section 5.F of the Agreement, YLWD will construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities. Developer agreed to pay \$40,000 to YLWD for the tower and signal collection equipment as part of the AMI. So YLWD does not have to wait another year for payment, the Parties agreed to amend Section 5.F so the \$40,000 is not to be deposited into the Existing Offsite Facility Improvements Escrow and instead Developer will pay the \$40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment.

I. The Parties acknowledge that it is industry standard for a developer and a public agency to procure a surety bond for the facilities to be constructed by Developer and dedicated to the public agency. Moreover, the Parties acknowledge that it is industry standard for a developer to provide closing forms listed in Subsection 1.D below for, and access to, such facilities to the public agency, and to indemnify YLWD for damages and charges to Existing Offsite Facilities caused by Developer. Lastly, the Parties acknowledge that it is industry standard for Developer to comply with public agency rules and regulations for water and sewer service when constructing water and sewer facilities. These industry standards were not memorialized in the Agreement so the Parties desire to obligate Developer to these industry standards.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. The Agreement is amended as follows:

A. To reflect the addition of the Shared Facility Improvements, Exhibits "M" and "N" attached hereto are added and made a part of the Agreement.

B. Section 2 of the Agreement is hereby amended and replaced in its entirety with the following language:

“Except for Sections 5.D. and 5.F., which the Parties’ rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties’ rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner’s transfer of ownership of the Property to Developer and (b) recordation of the Project’s final map (“Effective Date”). If YLWD is not provided written proof and notice of both transfer of ownership from Property Owner to Developer and recordation of the Project’s final map by August 1, 2020, then YLWD may provide written notice to Developer that the Agreement, as amended from time to time, is null and void; at which time the Agreement and any amendments will be null and void.”

C. Subsections A(i), (iii), and D through F of Section 3 is amended to include the Shared Facility Improvements wherever “Subdivision Facilities” are mentioned.

D. The following language is added as a new Subsection H within Section 3 of the Agreement:

“H. Developer’s Bond and Warranty Period Obligations. At Developer’s sole expense, Developer shall furnish surety bond(s) to YLWD for the Subdivision Facilities and Shared Facility Improvements before commencing work on the Subdivision Facilities and Shared Facility Improvements. Developer shall not commence work on the Subdivision Facilities and Shared Facility Improvements until it has procured, and YLWD has approved, the surety bond(s), which shall continue in force from the date of YLWD’s Final Acceptance of the Subdivision Facilities and Shared Facility Improvements for a warranty period of one (1) year. The surety bond(s) shall be in an amount equal to one hundred (100) percent of the Engineer’s Estimate of the cost of construction of the Subdivision Facilities and Shared Facility Improvements. YLWD shall review the Engineer’s Estimate and determine the amount of the surety bond(s). At the end of the one-year warranty period for the Subdivision Facilities and Shared Facility Improvements, YLWD will release the surety bond(s) to Developer.

When defects in Subdivision Facilities and Shared Facility Improvements are discovered within the warranty period, Developer shall start work to remedy any such defects within five (5) calendar days of written or electronic notice by YLWD and shall promptly complete such work. In emergencies, where damages may result from delay and where loss of service may result, corrections may be made by YLWD upon discovery, in which case the cost thereof shall be borne by Developer. In the event Developer does not commence and/or accomplish corrections within the time specified, the work may be accomplished by YLWD at its option, and the cost thereof shall be paid by Developer within thirty (30) days of receipt by Developer of an itemized invoice for such cost.

Pursuant to Section 8 of the Agreement, Developer shall indemnify YLWD for any expenses incurred by YLWD resulting from defects in Developer's work, including actual damages, costs of materials and labor expended by YLWD in making repairs and the cost of engineering, inspection and supervision by YLWD."

E. The following language is added as a new Subsection I within Section 3 of the Agreement:

"I. Closing Forms:

- i. Notice(s) of Completion: Developer agrees that the Notice(s) of Completion prepared by YLWD and signed by the Developer for the Subdivision Facilities and Shared Facility Improvements shall be recorded by YLWD with the County Recorder's office of Orange County, California, at Developer's expense.
- ii. Statement of Cost of Construction: Developer agrees to provide YLWD with a report of the actual costs of the Subdivision Facilities and Shared Facility Improvements on the standard reporting form of YLWD and to substantiate such report with invoices and receipts acceptable to YLWD.
- iii. Certification and Waiver of Lien Rights: Developer agrees that upon final payment of the contractor constructing or installing the Subdivision Facilities and Shared Facility Improvements, 35 or more days after date of recording of the Notice(s) of Completion with the County Recorder, Developer will obtain from the contractor(s) a Certification and Waiver of Lien Rights in favor of the Developer and YLWD, and that the original of said Certification and Waiver of Lien Rights shall be delivered to YLWD.
- iv. Bill of Sale: Developer agrees that upon expiration of said 35 days, Developer will execute and deliver a proper Bill of Sale, on the standard form of YLWD, for the Subdivision Facilities and Shared Facility Improvements to YLWD."

F. The following language is added as a new Subsection J within Section 3 of the Agreement:

"J. Inspections. During construction, YLWD shall have the right to inspect the Subdivision Facilities and Shared Facility Improvements during normal business hours and upon reasonable advanced written or electronic notice to Developer."

G. The following language is added as a new Subsection K within Section 3 of the Agreement:

"K. Damage to YLWD Facilities. Developer hereby agrees that, pursuant to Section 8 of the Agreement, it will indemnify YLWD for damages and charges to Existing Offsite

Facilities caused by Developer's construction of the Subdivision Facilities and Shared Facility Improvements, and any person, firm or corporation working for, on behalf of, or by direction of Developer."

H. The following language is added as a new Subsection L within Section 3 of the Agreement:

"L. YLWD's Acceptance of Shared Facilities Improvements. Completion of the Shared Facilities Improvements described in Exhibits M and N may pre-date the EHE Project's readiness to hook up. YLWD's acceptance of the Shared Facility Improvement shall not be conditioned or otherwise dependent on the EHE Project readiness to hook up; however, YLWD is not obligated to accept the Shared Facility Improvements either for any reason stated in Sections 3.D through 3.F of the Agreement or until both the Shared Facility Improvements and Subdivision Facilities are operational.

I. Section 5.D. of the Agreement is hereby amended as to the first sentence, only, to read:

"Both before and after the Agreement Date until issuance of the last building permit, Developer shall reimburse all YLWD staff and attorney time and costs, and all fees and costs associated with consultants and contractors hired by YLWD, related to either the Agreement, as amended from time to time, or the Project, including the Developer Improvements ("YLWD Administrative Costs").

The remainder of Section 5.D of the Agreement is unchanged.

J. Subsection F within Section 5 of the Agreement is hereby amended and replaced in its entirety with the following language:

"F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer agreed to pay \$40,000 to YLWD for its share of the AMI."

K. To reflect the omission of Developer's \$40,000 deposit into the Existing Offsite Facility Improvements Escrow, Exhibit "G" to the Agreement is hereby amended and replaced by Exhibit "G.1" attached hereto.

L. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project milestones, Exhibit "J" to the Agreement is hereby amended and replaced by Exhibit "J.1" attached hereto.

M. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project schedule, Exhibit “K” to the Agreement is hereby amended and replaced by Exhibit “K.1” attached hereto.

N. Section 15 is hereby amended and replaced in its entirety with the following language:

“15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts both consistent with the District’s Rules and Regulations For Water Service and Sewer Service and in any commercially reasonable manner as may be necessary to implement the intent of this Agreement, as set forth in the Recitals, and the terms of the Agreement as amended from time to time.”

O. The following language is added as new Section 27:

“27. Relationship of Parties. Nothing in this Agreement shall be deemed to create any form of business organization between the Parties, without limitation, a joint venture or partnership. Developer, in constructing and installing the Subdivision Facilities and Shared Facility Improvements, is not acting as an agent or employee of YLWD.”

2. Pursuant to Section 5.D., as amended, YLWD Administrative Costs include (1) YLWD outstanding and future expenses associated with the Developer Improvements, and (2) the YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of \$14,324.19 owed by Yorba Linda Estates, LLC. On August 6, 2019, YLWD received and deposited a check from Developer dated July 31, 2019 in the amount of \$14,324.19 so Developer’s payment obligation for invoice no. 2012-06 is satisfied. Developer’s payment of YLWD’s outstanding expenses related to the Developers Improvements will be deducted from Developer’s Administrative Costs Account after this First Amendment is signed by YLWD.

3. Pursuant to Section 5.F. of the Agreement as amended, Developer agrees to pay \$40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment. Developer’s failure to deliver this check in the amount of \$40,000 to YLWD within 30 calendar days will nullify this First Amendment.

5. This First Amendment and the attached Agreement shall be recorded with the Orange County Recorder’s Office.

6. The Agreement shall remain in full force and effect in accordance with its terms and provisions except as amended by this First Amendment. The Parties hereby confirm and ratify each of the provisions of the Agreement as amended by this First Amendment. This First Amendment may be executed in one or more counterparts, all counterparts shall be valid and binding on the Party executing them and all counterparts shall together constitute one and the same document for all purposes.



**IN WITNESS WHEREOF**, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: Marc Marcantonio

By: Sign in Counterpart

Print: Marc Marcantonio

Print: \_\_\_\_\_

Title: General Manager

Title: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

By: Andrew B. Gagen

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On September 3, 2019 before me, Annie Alexander, Notary Public  
*Date Here Insert Name and Title of the Officer*  
personally appeared Marc Marcantonio  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.



Signature Annie Alexander  
*Signature of Notary Public*

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document** Amendment to Cielo Vista  
Title or Type of Document: Project Agreement Document Date: August 27, 2019  
Number of Pages: 14 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Marc Marcantonio Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  Partner —  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: General Manager  Other: \_\_\_\_\_  
Signer Is Representing: YLWD Signer Is Representing: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

*sign in counterpart*  
By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: *Philip Mader*

Print: *Philip Mader*

Title: *Managing Director*

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: \_\_\_\_\_

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

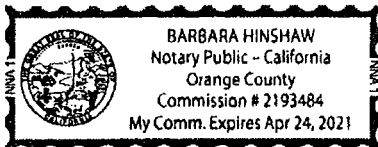
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California \_\_\_\_\_ )  
County of Orange )  
On September 4, 2019 before me, Barbara Hinshaw, Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared Philip Mader  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public  
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: *sign in counterpart*  
\_\_\_\_\_

By: *sign in counterpart*  
\_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

By: \_\_\_\_\_

By: *Michele Staples*

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

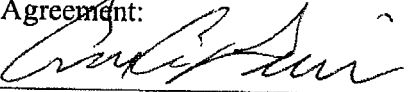
By: \_\_\_\_\_

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:



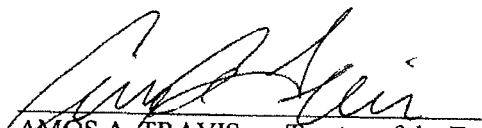
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

*Linda M. Rodger Trustee*

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

*Nancy Ann Maggio Trustee*

NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

On 23rd September 2019 before me, MARYANNE SCARPONI, NOTARY PUBLIC personally  
(insert name and title of the officer),

Appeared Amos A. Travis  
\_\_\_\_\_  
\_\_\_\_\_, who

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~  
subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same  
in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Maryanne Scarpone  
Signature

(Seal)



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**NOTARY ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )  
County of Orange )

On Sept 13, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER** and **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Holly Hutchins



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: Marc Marcantonio By: \_\_\_\_\_

Print: Marc Marcantonio Print: \_\_\_\_\_

Title: General Manager Title: \_\_\_\_\_

Date: 10/30/19 Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: Andrew B. Gagen  
Andrew B. Gagen, General Counsel

By: Michele Staples  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On October 30, 2019 before me, Annie Alexander, Notary Public  
*Date Here Insert Name and Title of the Officer*  
personally appeared Marc Marcantonio  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Annie Alexander  
*Signature of Notary Public*

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document** 1st Amendment to Cielo  
Title or Type of Document: Vista Water and Sewer Agreement Document Date: August 27, 2019  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**  
Signer's Name: Marc Marcantonio Signer's Name: \_\_\_\_\_  
 Corporate Officer -- Title(s): \_\_\_\_\_  Corporate Officer -- Title(s): \_\_\_\_\_  
 Partner --  Limited  General  Partner --  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: General Manager  Other: \_\_\_\_\_  
Signer Is Representing: Yorba Linda Water District Signer Is Representing: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

By: Rory G. Ingels

Print: \_\_\_\_\_

Print: Rory G. Ingels

Title: \_\_\_\_\_

Title: Director + Authorized Signatory

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: \_\_\_\_\_  
Andrew B. Gagen, General Counsel

By: \_\_\_\_\_  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

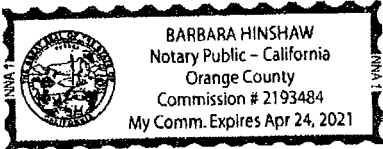
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On October 30, 2019 before me, Barbara Hinshaw, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Rory G. Ingels  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ (her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public  
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

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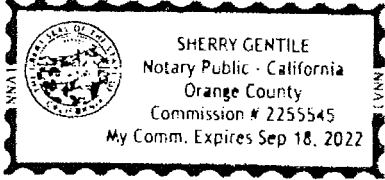
State of California )  
County of Orange )

On October 29, 2019, before me, **SHERRY GENTILE**, Notary Public, personally appeared **AMOS A. TRAVIS**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

**I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.**

WITNESS my hand and official seal.

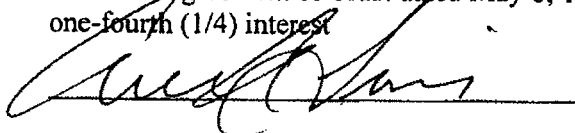
Signature *Sherry Gentile*



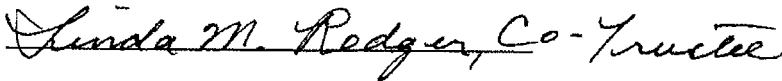
(Seal)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986



NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986



[Notary Acknowledgments on next pages]



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STATE OF CALIFORNIA  
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins  
(here insert name and title of the officer)

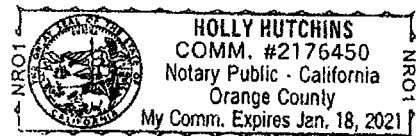
personally appeared Linda M. Rodger

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Signature (Seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins  
(here insert name and title of the officer)

personally appeared Nancy Ann MAGGIO

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Signature (Seal)



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: *Andrew B. Gagen*  
Andrew B. Gagen, General Counsel

By: *Michele Staples*  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_ By: \_\_\_\_\_

Print: \_\_\_\_\_ Print: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: \_\_\_\_\_  
Andrew B. Gagen, General Counsel

By: Michele Staples  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT**

**(attached)**

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT  
BETWEEN  
YORBA LINDA WATER DISTRICT  
AND  
NORTH COUNTY BRS PROJECT, LLC**

This WATER AND SEWER FACILITIES AGREEMENT (“Agreement”) is entered into on August 1, 2018 (“Agreement Date”), by and between YORBA LINDA WATER DISTRICT, a public agency, created and operating under authority of Division 12 of the California Water Code (“YLWD”), and NORTH COUNTY BRS PROJECT, LLC, a Delaware limited liability company (“Developer”); LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; and AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest (collectively referred to as “Property Owner”). For purposes of this Agreement, YLWD, Property Owner, and Developer may be referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

A. As of the Agreement Date, Developer is the master developer of, and controls, approximately 84.8 acres of real property (“Property”), located within the unincorporated area of the County of Orange (“County”). As of the Agreement Date, Property Owner owns the Property. The vicinity location of the Property is shown in the diagram attached hereto and marked **Exhibit “A”**, which is incorporated herein by this reference. The Property is described in the legal description attached hereto and marked **Exhibit “B”**, which is incorporated herein by this reference.

B. Approximately 40.1 acres of the Property are to be developed with no more than 80 single-family residential dwellings, along with associated common areas, and onsite infrastructure improvements (the “Project”) pursuant to the approved Vesting Tentative Tract Map 17341 for the Project (“Map”). The Project is commonly referred to as the Cielo Vista subdivision.

C. The County certified the Project’s Final Environmental Impact Report No. 615 and approved the Map on September 12, 2017.

D. YLWD provides retail municipal water and sewer service to land within its boundaries. The Property has been annexed into the YLWD jurisdictional boundaries and YLWD’s water and sewer service area boundaries approved by the Orange County Local

Agency Formation Commission. However, the annexation fee payment to YLWD discussed in Section 4(A) below is outstanding.

E. YLWD currently owns and operates existing offsite water and sewer facilities (collectively, the “Existing Offsite Facilities”). The onsite water and sewer facilities to be constructed by Developer as part of the Project and conveyed to YLWD according to this Agreement (collectively referred to herein as the “Subdivision Facilities”) are shown on Developer’s improvement plans incorporated herein by reference, titled “Water and Sewer Improvement Plans for Cielo Vista Tract No. 17341”, to be approved by YLWD and maintained on file with YLWD (“Subdivision Facilities Plans”). Collectively, the Existing Offsite Facilities with proposed improvements, and Subdivision Facilities will have the capability to serve the Property via gravity-feed from a reservoir in the 1000 Zone or higher.

F. The Parties intend, by this Agreement, to provide access to water and sewer service through YLWD for the benefit of the Project and the future occupants thereof, including access to water for Project grading and all phases of Project construction, water service to enable the lumber drop for Project framing, and water and sewer service for model homes and for issuance of certificates of occupancy for all of the Project’s 80 single-family residential dwellings. However, the Parties acknowledge that protection of health, safety, and property require that framing and occupancy of residential structures cannot proceed prior to the availability of water service and that the Subdivision Facilities must be developed in a logical order.

G. As part of YLWD’s approved Water Facilities Master Plan, YLWD identified certain operational improvements to the Existing Offsite Facilities that will preserve or enhance water quality, provide additional redundancy, and provide more reliable water service to the YLWD service area in the vicinity of the Project, which include installing a water main in Stonehaven listed in **Exhibit “G”** and illustrated on **Exhibit “H”**, and upgrading and expanding the pumping capacity of the existing Hidden Hills Pump Station listed in **Exhibit “G”** and illustrated on **Exhibit “I”** (collectively referred to herein as the “Existing Offsite Facility Improvements”). The Hidden Hills Pump Station is existing equipment within public right-of-way attached to a pipeline, and the water pipeline extension in Stonehaven is less than one mile in length within public right-of-way. The Existing Offsite Facility Improvements are exempt from the California Environmental Quality Act (“CEQA”, Public Resources Code sections 21000-21189.57) under CEQA sections 21080.21 and 21080.23 and under the CEQA Guidelines (Title 14, California Code of Regulations sections 15000-15387) sections 15062, subd. (b)(1), (2) and (3), and 15282, subd. (k).

H. Under the terms of this Agreement, Developer intends to install the Subdivision Facilities at its sole expense, pay its fair share of the Existing Offsite Facilities, and pay for the Existing Offsite Facility Improvements; and YLWD intends to timely complete the Existing Offsite Facility Improvements, provide access to water for Project development according to the schedule set forth herein, and provide access to water and sewer service to the Property and the future occupants thereof.

I. The Parties acknowledge that the Subdivision Facilities have been planned at certain sizes in order to serve the number of residential dwelling units, or equivalent dwelling units identified in the Map, and that changes in land use, especially increased density of dwelling

units per land area, may change water and sewer system planning and facilities sizing. The total number of residential dwelling units shall not exceed 80. The Parties acknowledge further that once the Subdivision Facilities are installed, it may not be possible to increase land use density without providing additional water and/or sewer infrastructure at additional cost to the Developer.

## AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are true and correct and incorporated into this Agreement.

2. Effective Date of Parties' Rights and Obligations. Except for Section 5.D., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map within one year of the Agreement Date, then YLWD may provide written notice to Developer that this Agreement is null and void; at which time this Agreement will be null and void.

3. Parties' Obligations for Subdivision Facilities.

A. Developer shall cause Subdivision Facilities to be constructed as necessary and transferred to YLWD. All Subdivision Facilities shall be constructed:

- (i) at no expense to YLWD;
- (ii) within the easement areas dedicated to YLWD on the face of the Map ("Easements") as such Easements may be amended by Developer from time to time; and
- (iii) in substantial conformance with the Subdivision Facilities Plans to be approved by YLWD and in substantial conformance with any variances, exceptions, or modifications approved in writing by the Parties.

B. The Subdivision Facilities Plans may be subject to modifications by the mutual written consent of the Parties due to engineering, site development, or marketing considerations that may arise in the future. The Parties wish to provide a mechanism for future amendments of the Subdivision Facilities Plans without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree to discuss in good faith adjustments or modifications to facilities identified in the Subdivision Facilities Plans, and if such modifications are approved in writing by both Parties, the revised Subdivision Facilities Plans may be substituted in this Agreement and will be effective for subsequent development.

C. Developer shall provide an easement grant deed in favor of YLWD, conveying to YLWD rights to access, operate, and maintain the Subdivision Facilities within the Easements. Developer shall defend and indemnify YLWD against any claim or challenge to YLWD's easement rights under the Easements from persons disputing said rights.

D. Written notice shall be provided to YLWD upon completion of the Subdivision Facilities ("Notice of Completion"). Within twenty (20) working days following receipt of the Notice of Completion, YLWD shall inspect the Subdivision Facilities and review all work and services performed with respect thereto, and shall either: (i) provide written notification affirming that the Subdivision Facilities are acceptable as constructed, certifying that the construction tasks have been fully satisfied for the Subdivision Facilities, and accepting the Subdivision Facilities and Easements; or (ii) if reasonable cause exists for doing so, provide written notification that the Subdivision Facilities are not acceptable as constructed, and stating in detail the reasons therefor and the list of items required to be completed in order for YLWD to accept the Subdivision Facilities and Easements. YLWD shall not unreasonably delay the inspection of Subdivision Facilities subject to the Notice of Completion. If necessary, YLWD will contract for inspection services at Developer's expense.

E. In the event YLWD determines the Subdivision Facilities are not acceptable as constructed, and Developer has not disputed YLWD's determination, Developer shall promptly take corrective action or perform additional work or other services that will achieve acceptability of the Subdivision Facilities as constructed, and shall issue to YLWD another Notice of Completion. Such procedure shall be repeated until YLWD Board of Directors has accepted both the Subdivision Facilities, as constructed, and Easements ("Final Acceptance"). YLWD's Final Acceptance shall not be unreasonably withheld, provided that YLWD Board of Directors shall be under no obligation to adopt Final Acceptance until the payments set forth in Section 4 below are received.

F. It is understood and agreed that upon YLWD's Final Acceptance, Developer disclaims in favor of YLWD all right, title and interest in and to the Subdivision Facilities and Easements, and that Developer hereby covenants and agrees to execute and deliver to YLWD any documents required to complete the transfer of the Subdivision Facilities concurrently with YLWD's Final Acceptance. Developer shall no longer own, operate, maintain, repair or replace the Subdivision Facilities following YLWD's Final Acceptance. Developer shall warranty all Subdivision Facilities for one year following Final Acceptance by the YLWD Board of Directors.

G. The Parties shall coordinate their respective activities in order to provide for orderly, efficient and timely completion and acceptance of the Subdivision Facilities and their connection to YLWD's Offsite Existing Facilities and Existing Offsite Facility Improvements required to provide water and sewer service to the Property.

#### 4. Parties' Obligations for Existing Offsite Facilities.

A. YLWD studies recommended, and YLWD has determined, that pro-rata buy-in is required by Developer for the Existing Offsite Facilities. Subject to YLWD's completion of the Existing Offsite Facility Improvements, Developer agrees to pay YLWD the



Project's fair share of the Existing Offsite Facilities as follows: (1) \$290,217.00 for the fair share cost of existing water infrastructure as detailed on **Exhibit "C"** and shown graphically on **Exhibit "D"**; (2) \$109,242.00 for the fair share cost of existing sewer infrastructure as detailed on **Exhibit "E"** and shown graphically on **Exhibit "F"**; and (3) \$15,644.00 for annexation fees as detailed on **Exhibit "G"**.

- i. The fair share cost component of Developer's payment obligation for Existing Offsite Facilities shall be analyzed by Developer's engineer, which may cause the estimated payment obligation to change, up or down. Developer's analysis and revised payment obligation must be presented to YLWD in writing and approved, in writing, by YLWD. YLWD's approval of Developer's fair share cost component shall not be unreasonably withheld.
- ii. Developer's approved fair share payment obligation for the Existing Offsite Facilities shall be paid on a pro-rata basis upon issuance of each building permit for the Project's single-family residential dwellings. The Developer shall be obligated to make final payment to YLWD for the remaining approved payment obligation for 80 homes either upon issuance of the last building permit, or within two years of the first building permit, being issued for the Project, whichever occurs first and even if fewer than 80 homes are constructed.

5. Parties' Obligations for Existing Offsite Facility Improvements.

A. YLWD shall be solely responsible for the construction of the Existing Offsite Facility Improvements, including but not limited to any YLWD amendments to the scope of design or scope of work for the Existing Offsite Facility Improvements attached as **Exhibit "L"** ("Scope of Work"), compliance with all federal, state and local laws applicable to the Existing Offsite Facility Improvements, and obtaining all rights of way, permits and approvals required for the Existing Offsite Facility Improvements. Developer assumes no liability and shall have no responsibility for the construction of the Existing Offsite Facility Improvements, except to make the payments provided in this Section 5.

B. Developer shall pay its engineering consultant, Psomas, to prepare a proposed preliminary design report, 60%, 90% and final design plans and specifications, bid support services, and construction support services for the Existing Offsite Facility Improvements (collectively, the "Existing Offsite Facility Improvements Documents"), to be submitted for YLWD's consideration consistent with YLWD's existing approvals, mitigation measures, standards and procedures for YLWD facility improvement projects. The Existing Offsite Facility Improvements Documents shall include engineer's opinions of probable construction costs in the preliminary design report, 60%, 90% and 100% submittals.

i. Psomas shall prepare a proposed scope of work and schedule for preparation of the Existing Offsite Facility Improvements Documents. YLWD shall promptly consider and provide Psomas with YLWD's final approved scope of work and schedule for the preparation of the Existing Offsite Facility Improvements Documents.

ii. Psomas shall prepare each of the Existing Offsite Facility Improvements Documents under YLWD's direction, in accordance with YLWD's standards and in the form and content required by YLWD. YLWD's General Manager or designee is authorized to approve the preliminary design report and final design plans and specifications for the Existing Offsite Facility Improvements.

iii. YLWD shall issue written Notices to Proceed to Developer upon completion of the Subdivision Facilities up to the hydrant(s) serving the model homes and/or completion of the Stonehaven Improvements and/or commencement of construction of the Hidden Hills Pump Station Improvements. The schedule for YLWD to provide access to water for the Project is described in **Exhibit "K"**. This schedule is based on (a) a projected Effective Date of August 1, 2018, and (b) the Project milestone dates provided by Psomas attached as **Exhibit "J"**. If the actual Effective Date is later than August 1, 2018, then the dates in **Exhibits "J" and "K"** shall be extended by the same time period as such delay in the Effective Date or to any earlier dates mutually agreeable to YLWD and Developer. The Parties wish to provide a mechanism for future amendments to **Exhibits "J" and "K"** without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree that if such amendments are approved in writing by the Parties, the amended **Exhibits "J" and "K"** may be substituted in this Agreement and will be effective for subsequent development.

C. Within 10 days of the Effective Date, Developer shall deposit into an interest-bearing escrow account \$1,270,000.00 for Developer's costs of installing the Existing Offsite Facility Improvements as listed in **Exhibit "G"** ("Existing Offsite Facility Improvements Escrow").

i. The \$1,270,000.00 is a preliminary estimate and the final costs may change up or down after construction completion of the Existing Offsite Facility Improvements. Developer shall pay 100% of the final costs of installing the Existing Offsite Facility Improvements, except that YLWD shall be solely responsible to pay all costs related to any change(s) in the Scope of Work by YLWD.

D. Both before and after the Agreement Date, Developer shall reimburse all YLWD staff and attorney time and costs related to the Project, including this Agreement ("YLWD Administrative Costs"). Developer has been and shall continue to submit to YLWD a deposit in the amount of \$20,000 to be managed by the YLWD Finance Manager in a restricted deposit account ("Administrative Costs Account"), which Developer shall replenish to \$20,000 within 5 days of YLWD's written notice to Developer that the Administrative Costs Account has fallen below \$5,000. All YLWD Administrative Costs shall be deducted from the Administrative Costs Account. Concurrent with its above written notice to Developer, YLWD shall provide Developer with an itemized invoice of YLWD Administrative Costs incurred since YLWD's last invoice to Developer for YLWD Administrative Costs.

E. YLWD shall provide written notice to Psomas of each request for disbursement from the Existing Offsite Facility Improvements Escrow for Psomas' review and comment ("YLWD Disbursement Request"). The YLWD Disbursement Request shall set forth in reasonable detail the costs to be paid from the Existing Offsite Facility Improvements Escrow and shall be accompanied by invoices or other supporting documentation evidencing such costs. Psomas shall have fifteen (15) days to deliver written comments and supporting documentation to YLWD, and the Parties shall engage in good faith efforts to reach a mutually-agreeable resolution of Psomas' comments. Any funds remaining in the Existing Offsite Facility Improvements Escrow upon completion of construction of the Existing Offsite Facility Improvements shall be refunded to Developer.

F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer shall be responsible for the costs, up to \$40,000, of the tower and signal collection equipment, which shall be specified by YLWD. The \$40,000 is to be deposited by Developer into the Existing Offsite Facility Improvements Escrow (**Exhibit "G"**) within ten (10) days after the Effective Date and is listed as a separate line item in **Exhibit "G"**.

6. Environmental Impact Analysis and Indemnity Therefor. County certified the Final EIR for the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall be responsible to obtain environmental approvals for the Project. The obligations of the Parties hereto are expressly contingent upon Developer receiving all environmental approvals and all entitlements necessary to proceed with subdivision and development of the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall obtain such approvals at its sole cost and expense and it shall be responsible to comply with any requirements of the California Environmental Quality Act and/or the County of Orange in connection with the construction of the Subdivision Facilities.

7. Notice. Any and all notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, nationally recognized overnight (one business day) courier (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in this Section. Notices may be sent in the same manner to such other addresses as the Parties may from time to time designate by notice in accordance with this Section. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is dispatched by messenger for immediate personal delivery, one business day after delivery to a nationally recognized overnight carrier or two (2) calendar days after it is placed in the United States mail in accordance with this Section. Any attorney representing a Party may give any notice on behalf of such Party. The notice addresses for the Parties are as follows:

If to Developer:

North County BRS Project, LLC  
3 Corporate Plaza, Suite 102

Newport Beach, CA 92660  
Attention: Laurence M. Netherton, Project Manager

If to YLWD:

Yorba Linda Water District  
P.O. Box 309  
Yorba Linda, CA 92885-0309  
Attention: General Manager

If to Psomas:

PSOMAS  
3 Hutton Centre Drive, Suite 200  
Santa Ana, CA 92707 | 714.481.7979  
Attention: Michael D. Swan

8. Indemnity. Developer shall indemnify, hold harmless, and defend YLWD (including its elected officials, officers, volunteers, agents, attorneys, and employees) and its affiliates, the Yorba Linda Water District Financing Authority and the Yorba Linda Water District Public Financing Corporation (“Affiliates”), from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney’s fees) resulting or arising from Developer’s performance or non-performance (actual or alleged) of this Agreement (with the exception of the sole negligence, willful misconduct, or breach of this Agreement by YLWD, or its elected officials, officers, volunteers, agents and employees).

Without limiting the generality of the forgoing, Developer’s duty to defend and indemnify YLWD under this Agreement expressly includes, but is not limited to, defense and indemnity against claims and liability arising from (i) disputes as to environmental compliance in connection with development of the Project; (ii) disputes as to ownership rights to the Easements, and rights of way and land (if any) conveyed to YLWD under this Agreement; and (iii) disputes as to the payment of prevailing wages related to construction of the Subdivision Facilities that will be dedicated to public use.

9. Insurance Prior To Performance. The Developer shall not commence work on the Subdivision Facilities pursuant to this Agreement until it has obtained, and the YLWD has approved, all insurance required hereunder. YLWD’s approval of Developer’s insurance shall not be unreasonably withheld. In addition, Developer shall not allow any contractor to commence work on the Subdivision Facilities under this Agreement until such contractor has obtained all required insurance, as provided herein. Developer shall procure and maintain, for one year following YLWD’s Final Acceptance, insurance against claims for injuries to persons or damage to property which may arise from or in connection with Developer’s performance or non-performance (actual or alleged) of this Agreement, as set forth below. The cost of such insurance shall be borne by Developer.

A. Scope of Insurance. Coverage shall at least be as broad as:

(i) Commercial General Liability: Insurance Services Office (ISO) Occurrence Form No. CG 0001, or equivalent), including completed operations coverage, with no explosion, collapse or underground damage exclusions (XCU)

(ii) Automobile Liability: ISO Form No. CA 0001, or equivalent Code I (any auto) or in the alternative, owned or scheduled autos plus non-owned and hired autos.

(iii) Workers' Compensation: As required by the Labor Code of the State of California, including an "all states" endorsement and employer's liability coverage.

**B. Minimum Limits of Insurance.**

(i) Liability insurance: Total liability limits shall be no less than four million dollars (\$4,000,000) per occurrence/claim/or accident, through any combination of primary and excess or umbrella insurance policies and shall apply above the other liability policies, providing coverage at least as broad as coverage provided in the underlying policies.

(ii) General liability: \$2,000,000 per occurrence, \$4,000,000 general aggregate, \$4,000,000 completed operations aggregate.

(iii) Automobile liability: \$1,000,000 per accident combined single limit.

(iv) Workers' Compensation limits shall be statutory as required by the Labor Code of the State of California.

**C. Other Developer Insurance Provisions.** The policies specified herein are to contain, or be endorsed to contain, the following provisions:

(i) Additional Insureds - YLWD and its Affiliates shall be named as additional insureds on all third party liability policies, including, general liability and excess or umbrella policies. The coverage shall contain no special limitations on the scope of protection afforded to YLWD and its Affiliates.

(ii) Primary Insurance - Developer's insurance coverage, including any excess liability coverage, shall be primary insurance as respects YLWD and its affiliates for all Claims arising out of Developer's performance under this Agreement. Any insurance, pool coverage, or self-insurance maintained by YLWD or its Affiliates shall be excess of Developer's insurance and shall not contribute with it.

(iii) Waiver of Subrogation – All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against YLWD and its Affiliates. Developer waives its right of recovery against YLWD and its affiliates for damages covered by insurance required by this

Agreement. Developer shall require similar written express waivers and insurance clauses from each of its contractors.

(iv) The insurer issuing the Workers' Compensation insurance shall amend its policy to waive all rights of subrogation against YLWD and its Affiliates.

D. No Waiver. Developer acknowledges and agrees that any actual or alleged failure on the part of YLWD to inform Developer of Developer's non-compliance with any requirement imposes no additional obligations on YLWD nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

F. Notice of Cancellation. Developer agrees to obligate its insurance broker and insurers to provide YLWD with 30 day notice of cancellation (except for nonpayment for which 10 day notice is required) or nonrenewal for each required coverage.

G. Proof of Insurance. Developer shall, at the time of the execution of this Agreement, present the original policies of insurance required by this Section, or present signed certificates of insurance with original additional insured endorsements for general liability insurance effecting coverage required by this Contract, and a workers' compensation waiver of subrogation, showing the issuance of such insurance and the addition of policy insureds and other provisions required herein. Developer shall provide certified copies of all insurance policies required above within 10 days of YLWD's written request for said copies.

H. Policy Expiration. The Developer shall, at the expiration of any insurance policy required by the Contract Documents, file a signed and completed renewal "Certificate of Insurance" and endorsements as required by this Agreement.

I. Maintenance of Insurance. Should the Developer neglect to obtain or maintain in force any such insurance for one year following YLWD's Final Acceptance, then it shall be lawful for YLWD to obtain and maintain such insurance, and the Developer hereby appoints YLWD as its true and lawful attorney-in-fact to do all things necessary for this purpose. All money paid by YLWD for insurance premiums under the provisions of this Section shall be charged to Developer.

J. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-: VII or equivalent as determined by YLWD.

K. Developer's Contractors. Developer's contract with each contractor shall include (1) an agreement by the contractor to indemnify YLWD and its Affiliates from claims that may be asserted by any person or entity arising out of or in any manner directly or indirectly

related to the contractor's performance of activities under this Agreement, including defense costs and attorney's fees; (2) insurance requirements for the contractor that are the same as the requirements imposed on the Developer by this Section except as to limits, but limits shall be no less than (a) \$1 million per occurrence for General Liability, (b) \$1 million per accident for automotive, and (c) statutory limits for Worker's compensation, and; (3) a requirement that the contractor name YLWD as an additional insured on the contractors General Liability policy. Developer shall be responsible to enforce compliance with these requirements, and all documentation establishing compliance shall be made available to YLWD upon request.

L. Compliance with Insurance Requirements. Developer's obligation to obtain insurance coverage as set forth in this Section is separate and distinct from Developer's obligation to indemnify, hold harmless, and defend YLWD.

10. Equitable Remedies. The Parties agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties shall be entitled to all forms of equitable relief, including restraining orders, injunctions and specific performance to prevent breaches and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity. The Parties waive any requirement for the securing or posting of any bond in connection with the obtaining of any equitable relief.

11. Governing Law. The Parties hereby agree that this Agreement is to be governed under the laws of the State of California and construed according to its plain meaning as if drafted by both Developer and YLWD. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Orange. In any action or proceeding, any photographic or other copy of this Agreement may be introduced into evidence.

12. Resolution of Disputes. If any dispute shall arise with respect to this Agreement and is not otherwise resolved by the parties hereto, then such dispute shall be determined by a general judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. in the County of Orange, before one general referee. This is a waiver of any right that may exist to a jury trial.

The Parties shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The referee shall be a retired judge who has served in either the California Superior Court or Federal Court in Orange County, California with substantial experience in the type of matter in dispute and without any relationship to either Party, unless the Parties agree otherwise.

Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by the Parties. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling.

13. Severability. If any provision, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the voided provision, condition or covenant shall be deemed severed from the remaining provisions of this Agreement, which shall remain valid and enforceable to the full extent permitted by law, and the Parties shall negotiate in good faith to replace the unenforceable provision(s) in accordance with the original purpose and intent of this Agreement as set forth in the Recitals.

14. Counterparts. This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts in any commercially reasonable manner as may be necessary to carry out the intent of this Agreement as set forth in the Recitals and implement the terms and conditions of this Agreement.

16. Complete Agreement. This Agreement contains the entire agreement between the Parties, and supersedes and replaces any and all prior negotiations and agreements between the Parties, whether written or oral. Each Party acknowledges that no agent or attorney of any Party hereto has made any promise, representation, or warranty, express or implied, not contained herein, to induce the other Party hereto to execute this Agreement, and each Party hereto acknowledges that it has not executed this Agreement in reliance on any such promise or representation or warranty not contained in this Agreement.

17. Waiver and Amendment. All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the appropriate authorities of the Parties.

18. Attorneys' Fees and Costs. In the event that a Party brings an action relating to or arising from this Agreement, the prevailing Party in such action shall be entitled to recover from the other Party its reasonable legal costs (which shall include all reasonable costs and expenses such Party incurs in any legal proceeding, or other matter for which such Party is entitled to be reimbursed for its legal costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses) which may be determined by the court in the same action or in a separate action brought for that purpose.

19. Successors and Assigns. The terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. Should either Property Owner or Developer sell all or substantially all of its right, title and interest in the Property to another, then upon execution of an assignment and assumption agreement by such successor, Property Owner or Developer shall deliver to YLWD and, as of the date of delivery of such agreement to YLWD, be released from further obligations and responsibilities under this Agreement, including but not limited to Section 8 (Indemnity). Property Owner and Developer shall defend and indemnify YLWD against claim or challenge to YLWD's rights to enforce this Agreement against Property Owner and Developer's successors and assigns.



20. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party or give any third person any right of subrogation or action over or against any Party.

21. Authorization. Each Party hereby warrants that it has the authority and is duly authorized to execute this Agreement.

22. Time is of the Essence. Time is of the essence in all aspects of the performance of the obligations under this Agreement.

23. Determination of Time. If the last day for the performance of any act provided or required by this Agreement is a holiday, Friday, Saturday, or Sunday, then that period is hereby extended to and including the next day that is not a holiday, Friday, Saturday, or Sunday.

24. Force Majeure. Upon written notice by a Party, the respective duties and obligations of the Parties hereunder (except for the Parties' rights and obligations under Section 5.D.) shall be suspended for the time period that performance of the Parties is prevented or impeded by work force strikes, riots, fire, flood, state or county regulatory action, war, or terrorism.

25. Term. This Agreement shall be operable for ten (10) years from the Agreement Date. YLWD and Developer will negotiate in good faith thereafter to make necessary changes to conform this Agreement to then existing YLWD standards, practices, and policies.

26. Recordation. This Agreement shall be recorded with the Orange County Recorder's Office.

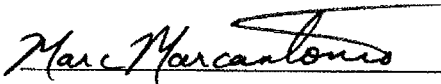
*(signatures on the following page)*

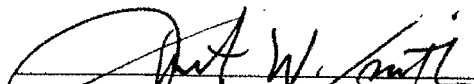
**SIGNATURE PAGE TO:**  
**CIELO VISTA PROJECT**  
**WATER AND SEWER FACILITIES**  
**AGREEMENT**

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the day and year first written above.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC,  
a Delaware limited liability company  
("Developer")

By: 

By: 

Print: Narc Marcantonio

Print: Robert W. Smith

Title: General Manager

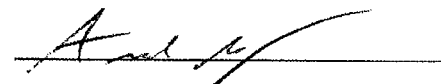
Title: Managing Member

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

By: 

By: 

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

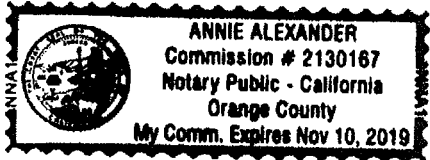
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On August 1, 2018 before me, Annie Alexander, Notary Public  
*Date Here Insert Name and Title of the Officer*  
personally appeared Marc Marcantonio  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Annie Alexander  
*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document** Cielo Vista Project Water  
Title or Type of Document: and Sewer Facilities Agreement Document Date: August 1, 2018  
Number of Pages: 26 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Marc Marcantonio Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  Partner —  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: General Manager  Other: \_\_\_\_\_  
Signer Is Representing: Yorba Linda Water District Signer Is Representing: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

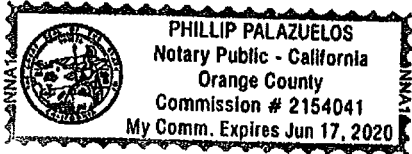
STATE OF CALIFORNIA )  
COUNTY OF Orange )

On July 19, 2018, before me, Phillip Palazuelos, a Notary Public, personally appeared Robert W. Smith who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 



STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

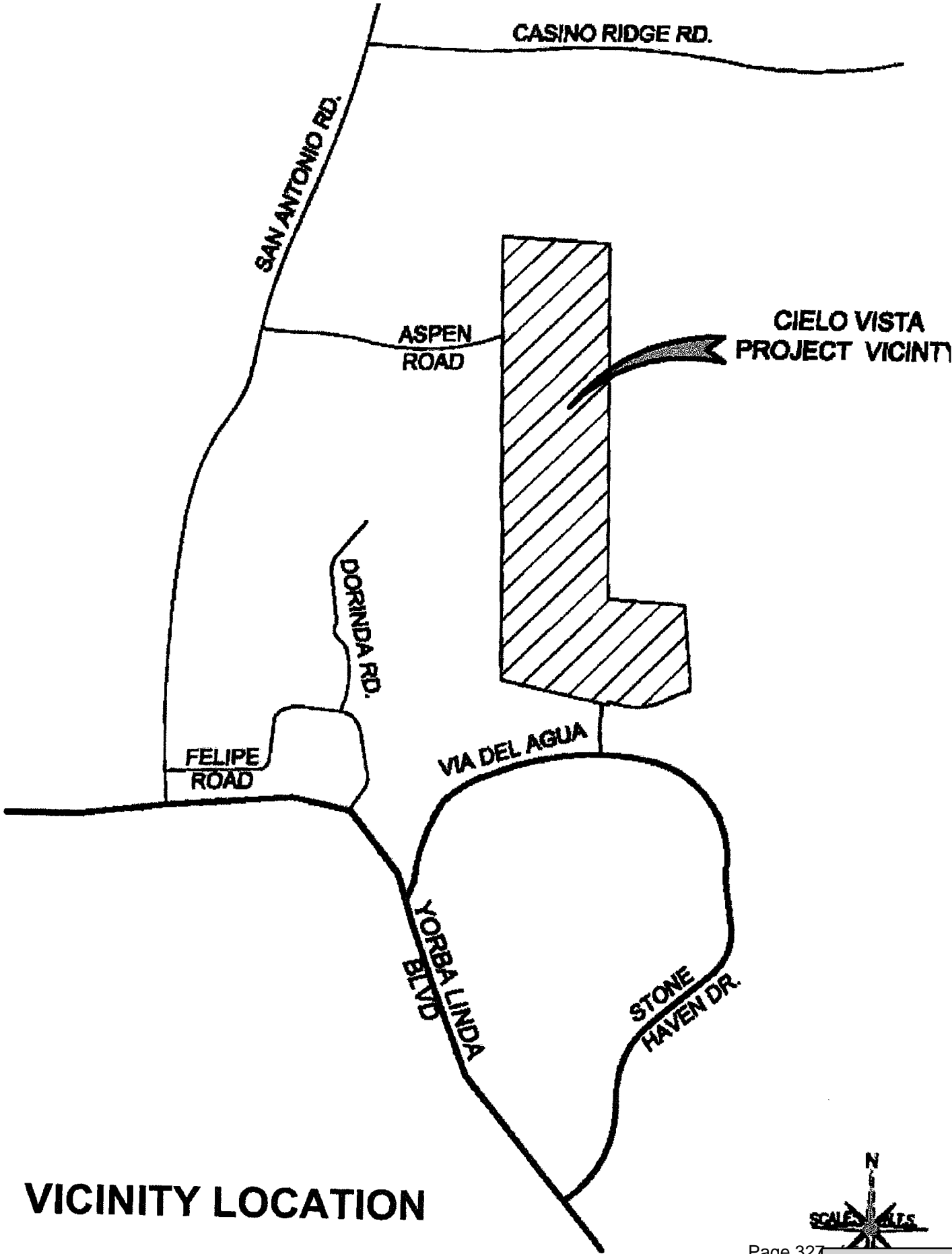
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT "A"



VICINITY LOCATION



**EXHIBIT "B"  
LEGAL DESCRIPTION**

**PARCEL 1:**

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

THAT PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, ALSO BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO A POINT IN THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE NORTH 6° 40' 31.3" WEST ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO A POINT IN SAID WESTERLY LINE, DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION LYING SOUTHERLY OF THE CENTERLINE OF THE 100.00 FOOT WIDE STRIP OF LAND AS DESCRIBED IN THE PERMANENT EASEMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED JANUARY 12, 1960 IN BOOK 5049, PAGE 316 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THE INTEREST IN AND TO ALL OIL AND OIL RIGHTS, IN, ON AND APPURTENANT TO SAID LAND, AS EXCEPTED IN THE JUDGMENT IN PARTITION RECORDED MAY 26, 1958 IN BOOK 4297, PAGE 93 OF SAID OFFICIAL RECORDS.

THE SURFACE RIGHTS TO A DEPTH OF 500 FEET WERE QUITCLAIMED BY INSTRUMENTS OF RECORD.

APN: 351-031-05

**PARCEL 2:**

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

PARCEL 2, AS SHOWN ON EXHIBIT "B" ATTACHED TO THAT CERTAIN APPLICATION FOR LOT LINE ADJUSTMENT NO. 87-10" RECORDED JULY 25, 1988 AS INSTRUMENT NO. 88-358348 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 351-031-17

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## EXHIBIT "C"

**CIELO VISTA (SAGE) DEVELOPMENT**  
**EXISTING WATER FACILITIES COST ALLOCATIONS**

04/03/18

J2009-24

Development	MDD <sup>1</sup>	Unit	No. of Lots <sup>2</sup>		
Cielo Vista	53.5	GPM	80		

No./Component	Facility	Capacity (GPM)	Capital Cost Estimate <sup>3</sup>	Proportional Capacity	Proportional Cost
1) Well	Well 20	3,000	\$ 2,400,000	1.8%	\$ 42,800
2) RR W20 TM	20 - 36" TM	16,000	\$ 6,505,800	0.3%	\$ 21,754
3) Z1-2 BPS	High BPS	18,000	\$ 6,000,000	0.3%	\$ 17,833
4) Z2 TM	30" TM	11,000	\$ 2,995,200	0.5%	\$ 14,568
5) Z2 TM	2-16" TMs	5,000	\$ 3,196,800	1.1%	\$ 34,206
6) Z2-3 BPS	YLB BPS	5,000	\$ 2,760,000	1.1%	\$ 29,532
7) Z3 TM	YLB 20" TM	5,000	\$ 2,040,000	1.1%	\$ 21,828
8) YLBTM-FR 1	16" TM	3,200	\$ 738,000	1.7%	\$ 12,338
9) YLBTM-FR 2	27" TM	9,000	\$ 921,600	0.6%	\$ 5,478
10) Z3-4 BPS	Fairmont BPS	5,000	\$ 8,400,000	1.1%	\$ 89,880
<b>Water Total.....</b>					<b>\$ 290,217</b>

**Footnotes:**

- 1) ADD = 58 AFY (651 GPD x 80 units) = 36.2 GPM; MDD = 36.2 GPM X 1.48 = 53.5 GPM (provided by Developer's Consultant & confirmed by YLWD)
- 2) No. of lots confirmed by Developer.
- 3) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

EXHIBIT "D"

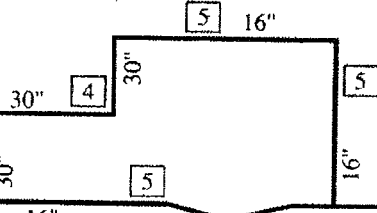
IMPERIAL HWY

Fairmont Reservoir  
Fairmont BPS

10

9

NOT TO SCALE



Yorba Linda BPS

7

YORBA LINDA BLVD

6

Highland Reservoir

Highland BPS

3

RICHFIELD ROAD

36"

36"

24"

20"

1

Well 20

LAKEVIEW AVE

FAIRMONT BLVD

ORANGETHORPE AVE

LA PALMA AVE

EXISTING WATER FACILITIES EXHIBIT

YORBA LINDA WATER DISTRICT

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



## EXHIBIT "E"

**ESPERANZA HILLS ESTATES (EHE) AND CIELO VISTA (SAGE) DEVELOPMENTS  
EXISTING SEWER FACILITIES COST ALLOCATIONS**

01/31/18  
J2009-245

**Table 1: Projected Sewer Flowrates<sup>1</sup>**

Development	Flowrate <sup>1</sup>	Unit	No. of Lots <sup>2</sup>	% of Lots
Total	0.3100	CFS	420	
Cielo Vista	0.0590	CFS	80	19.05
EHE	0.2509	CFS	340	80.95

**Table 2: Proportional Costs**

Component	Pipe Size (inches)	Capacity <sup>3</sup> (CFS)	Capital Cost Estimate <sup>4</sup>	Proportional Capacity	Proportional Cost
Sewermain	10	1.88	\$ 1,058,198	16.5%	\$ 174,100
Sewermain	12	0.95	\$ 586,874	32.8%	\$ 192,407
Sewermain	15	4.51	\$ 1,901,088	6.9%	\$ 130,589
Sewermain	18	6.56	\$ 1,618,200	4.7%	\$ 76,426
<b>Total.....</b>					<b>\$ 573,521</b>
<b>CV (19.05% Share) .....</b>					<b>\$ 109,242</b>
<b>EHE (80.95% Share) .....</b>					<b>\$ 464,279</b>

**Table 3: Sewer Pipe Capacity**

Pipe Size (inches)	Minimum Slope	Cental Angle (radians)	Flow Area (square feet)	Wetted Perimeter (feet)	Hydraulic Radius (feet)	Capacity (CFS)
10	0.0252	3.1416	0.2727	1.3090	0.2083	1.88
12	0.0024	3.1416	0.3927	1.5708	0.2500	0.95
15	0.005	4.1888	0.9873	2.6180	0.3771	4.51
18	0.004	4.1888	1.4217	3.1416	0.4525	6.56

**Table 4: Existing Sewermain Quantity and Costs**

Pipe Size (inches)	Total Linear Feet (ft)	Unit (\$/ft.)	Total (\$)
10	2436	362	\$ 881,832
12	1267	386	\$ 489,062
15	3864	410	\$ 1,584,240
18	3100	435	\$ 1,348,500

**Footnotes:**

- 1) Flowrate=pk. flow from KWC Engineering sewer study, Table 4-1 note of 0.000369CFS/Lot X 2, modified for April 2015 estimated lots.
- 2) No. of lots confirmed by EHE on 06-24-15 and CV on 01/31/18.
- 3) Sewer pipe capacity is calculated based on Manning's formula for circular pipe as shown in Table 3.
- 4) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

EXHIBIT "F"

STONEHAVEN DR



NOT TO SCALE

YORBA LINDA BLVD

YORBA RANCH RD

DOMINGUEZ RANCH RD

LA PALMA AVE

51" OCSD SEWER

**EXISTING SEWER FACILITIES EXHIBIT**

YORBA LINDA WATER DISTRICT

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## EXHIBIT "G"

**EXISTING OFFSITE FACILITIES FEE SUMMARY  
AND EXISTING OFFSITE FACILITY IMPROVEMENTS**

07/18/18

J2009-24

<b>Existing Offsite Facilities Fee Summary</b>	
Existing Water Allocation Fees.....	\$ 290,217
Existing Sewer Allocation Fees.....	\$ 109,242
Water & Sewer Total.....	\$ 399,459
Annexation Fees <sup>1</sup> .....	\$ 15,644
<b>Total All Fees.....</b>	<b>\$ 415,103</b>
<b>Fee per Dwelling Unit (80 DUs).....</b>	<b>\$ 5,188.79</b>

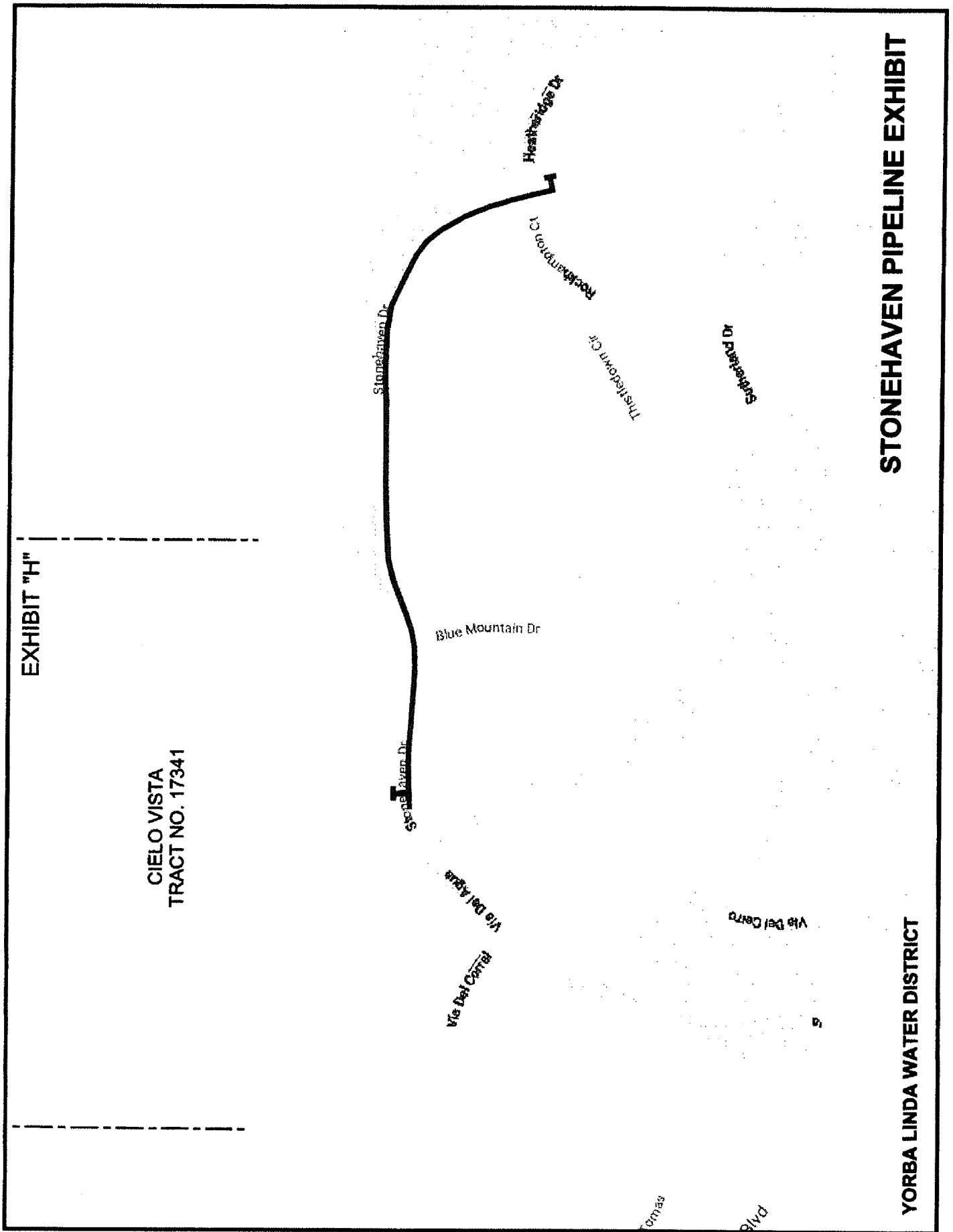
<b>AMI Facilities<sup>4</sup>.....</b>	<b>\$ 40,000</b>
--	------------------

<b>Existing Offsite Facility Improvements</b>			
Description	Length (LF)	Cost per LF (\$)	Cost
12" Stonehaven Drive Watermain <sup>2</sup>	2,200	350	\$ 770,000
Hidden Hills Pump Station Upgrades <sup>3</sup>			\$ 500,000
<b>Subtotal.....</b>			<b>\$ 1,270,000</b>

**Total Fees + Offsite Costs ..... \$ 1,725,103**

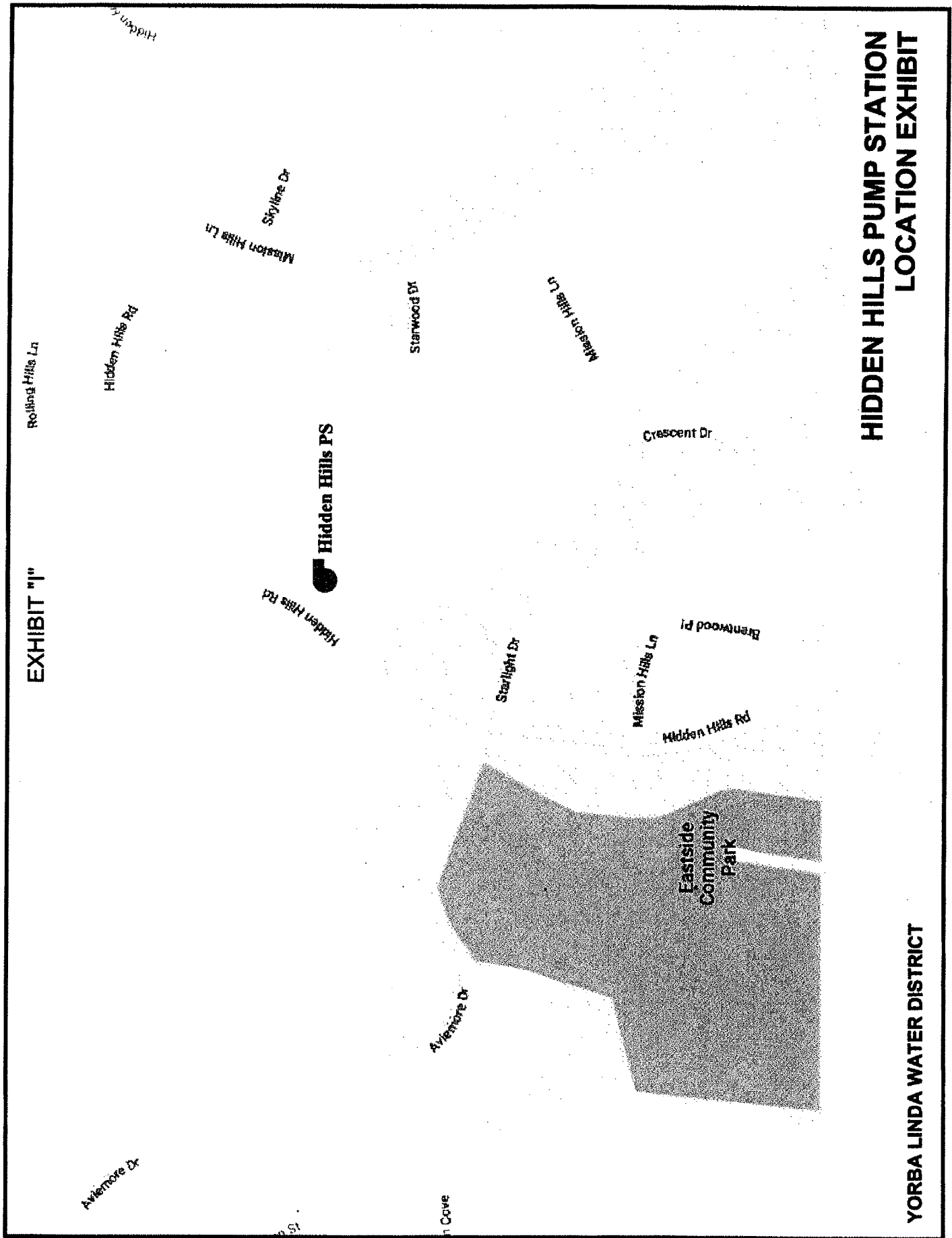
**Footnotes:**

- 1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.
- 2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.
- 3) Hidden Hills Pump Station upgrade costs be analyzed and confirmed by the Developer's engineer.
- 4) Fee for AMI Facilities to be paid within ten (10) days after the Effective Date and not included in Fee per Dwelling Unit.



**STONEHAVEN PIPELINE EXHIBIT**

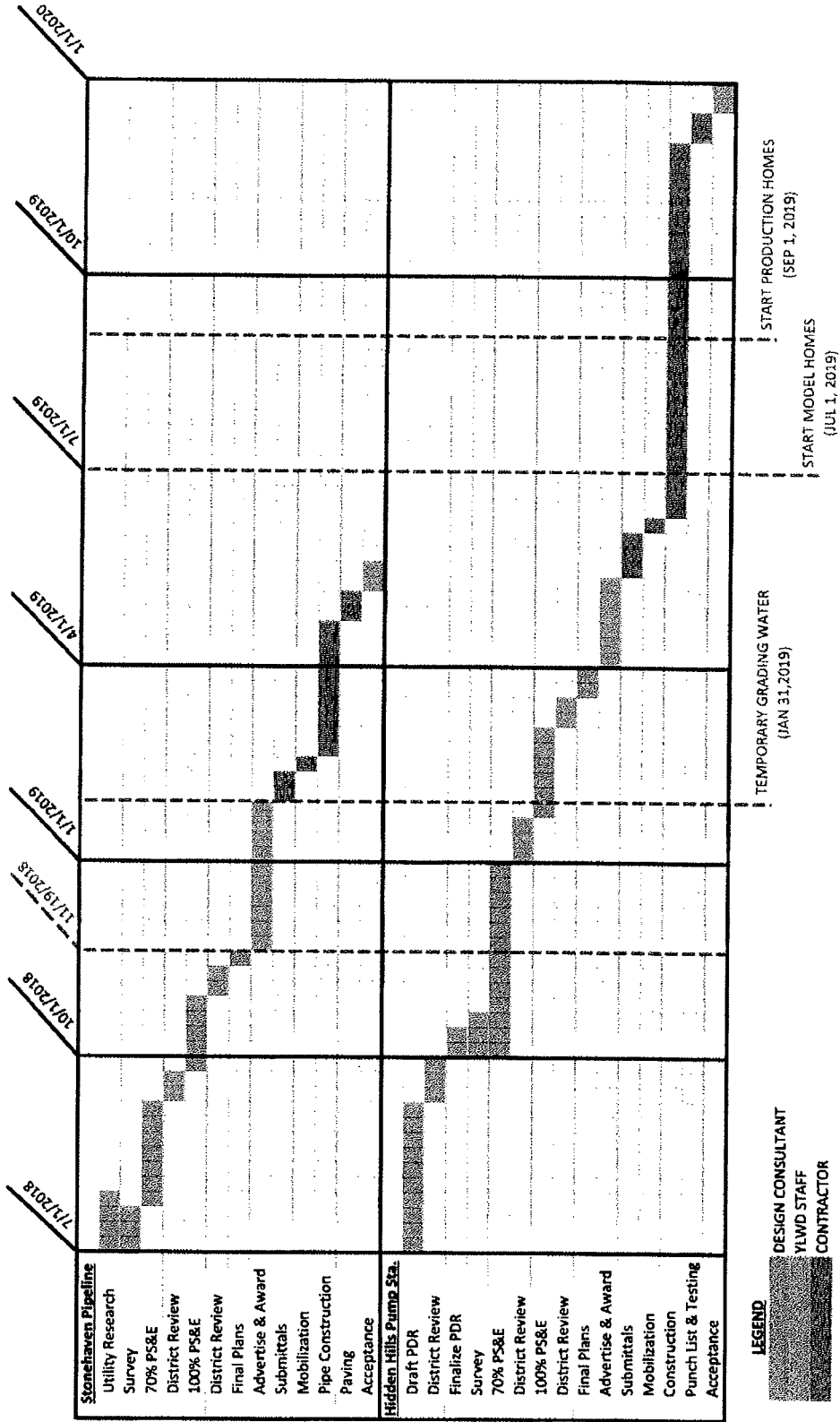
**YORBA LINDA WATER DISTRICT**



**HIDDEN HILLS PUMP STATION  
LOCATION EXHIBIT**

**YORBA LINDA WATER DISTRICT**

**EXHIBIT "J"**  
**CIELO VISTA EXISTING OFFSITE FACILITY IMPROVEMENTS SCHEDULE**



## EXHIBIT "K"

### Schedule for YLWD to Provide Access to Water

1. **Project Rough Grading:** YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2019. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.
  
2. **Drop Lumber and Residential Framing for Model Homes:** Before any lumber drop for project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Stonehaven water main final design plans and specifications, and receiving YLWD acceptance by November 19, 2018. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than November 19, 2018, the date for YLWD to provide construction water for lumber drop and residential framing of the model homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.
  
3. **Drop Lumber, Residential Framing and Construction of Remainder of Project homes:** The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2019. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than April 1, 2019, the date for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

## EXHIBIT "L"

### Scope of Work

for

#### Existing Off-Site Facility Improvements

Stonehaven Pipeline – Construct approximately 2,200 linear feet of 12-inch diameter pipeline from Heatheridge Drive to proposed Cielo Vista entrance just east of Via de la Roca including connection to existing Santiago Reservoir 1000 Zone pipeline at Heatheridge Drive and connection to on-site subdivision pipeline at Cielo Vista entrance and ancillary valving and appurtenances.

Hidden Hills Pump Station Improvements – Replace existing 250 GPM jockey pump, motor and appurtenances with an 1,800 GPM pump and motor equipped with a variable frequency drive (VFD). Improvements will also include replacing portions of existing suction and discharge pipelines to maintain appropriate maximum hydraulic velocities through the station and may also include enlarging the building to provide adequate room for the new electrical equipment and VFD. A new, larger SCE transformer will also likely be required. A preliminary design report will be prepared, submitted to YLWD staff and reviewed and approved to confirm the exact scope but these are the minimum requirements. If YLWD decides to include additional improvements such as an emergency generator set and new automatic transfer switching gear, those additional improvements will be financed by YLWD.



**EXHIBIT "G.1"**  
**EXISTING OFFSITE FACILITIES FEE SUMMARY**  
**AND EXISTING OFFSITE FACILITY IMPROVEMENTS**

EXISTING OFFSITE FACILITIES FEE SUMMARY	
Existing Water Allocation Fees.....	\$ 290,217
Existing Sewer Allocation Fees.....	\$ 109,242
Water & Sewer Total.....	\$ 399,459
Annexation Fees <sup>1</sup> .....	\$ 15,644
<b>Total All Fees.....</b>	<b>\$ 415,103</b>
<b>Fee per Dwelling Unit (80 DUs).....</b>	<b>\$ 5,188.79</b>

EXISTING OFFSITE FACILITY IMPROVEMENTS			
Description	Length (LF)	Cost per LF (\$)	Cost
12" Stonehaven Drive Watermain <sup>2</sup>	2,200	350	\$ 770,000
Hidden Hills Pump Station Upgrades <sup>3</sup>			\$ 500,000
<b>Subtotal.....</b>			<b>\$ 1,270,000</b>

**Total Fees + Offsite Costs ..... \$ 1,685,103**

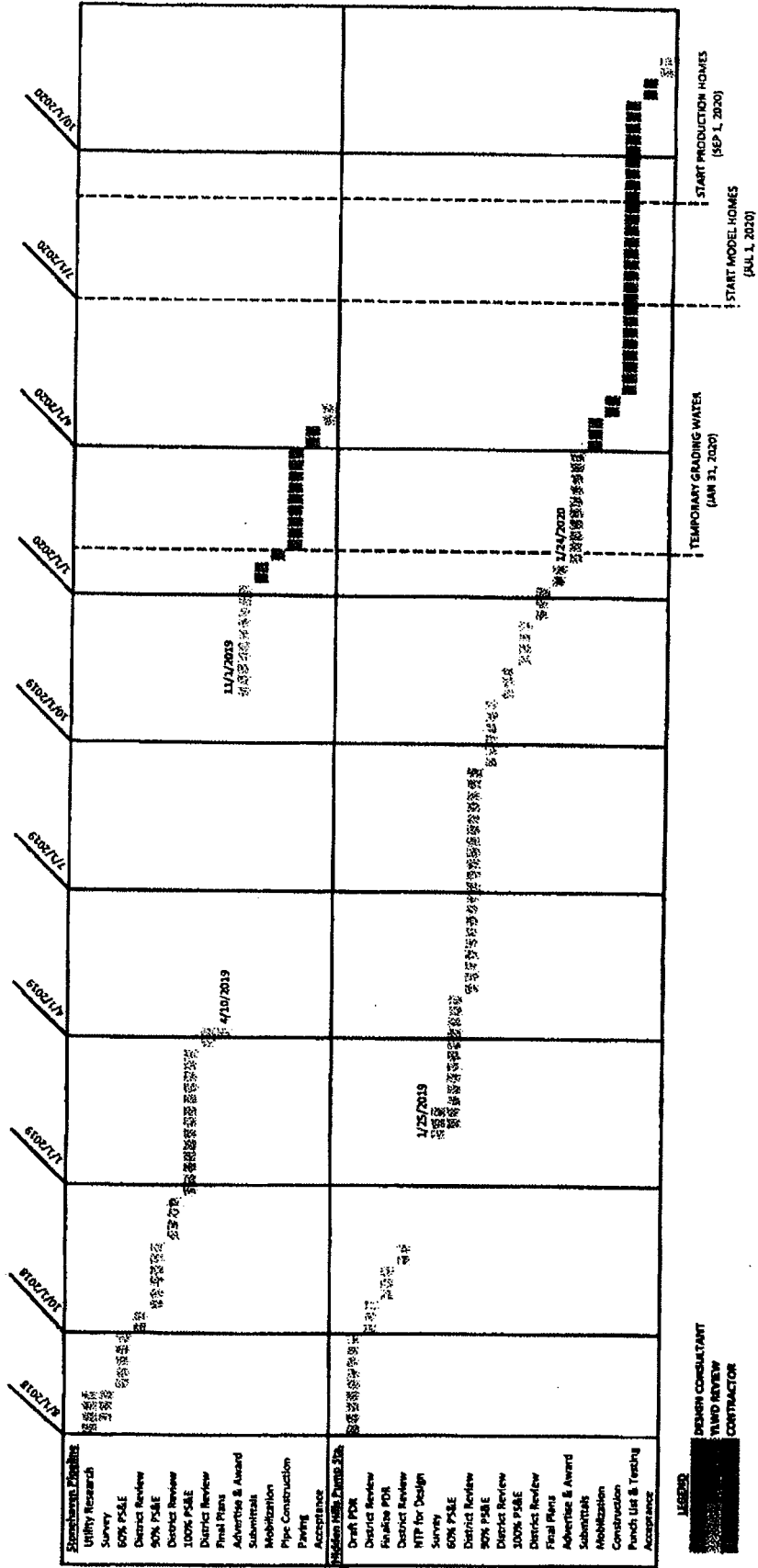
**Footnotes:**

- 1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.
- 2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.
- 3) Hidden Hills Pump Station upgrade costs be analyzed and confirmed by the Developer's engineer.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT "J.1"

CIELO VISTA OFF-SITE WATER IMPROVEMENTS SCHEDULE



DESIGN CONSULTANT  
 THIRD REVIEW  
 CONTRACTOR

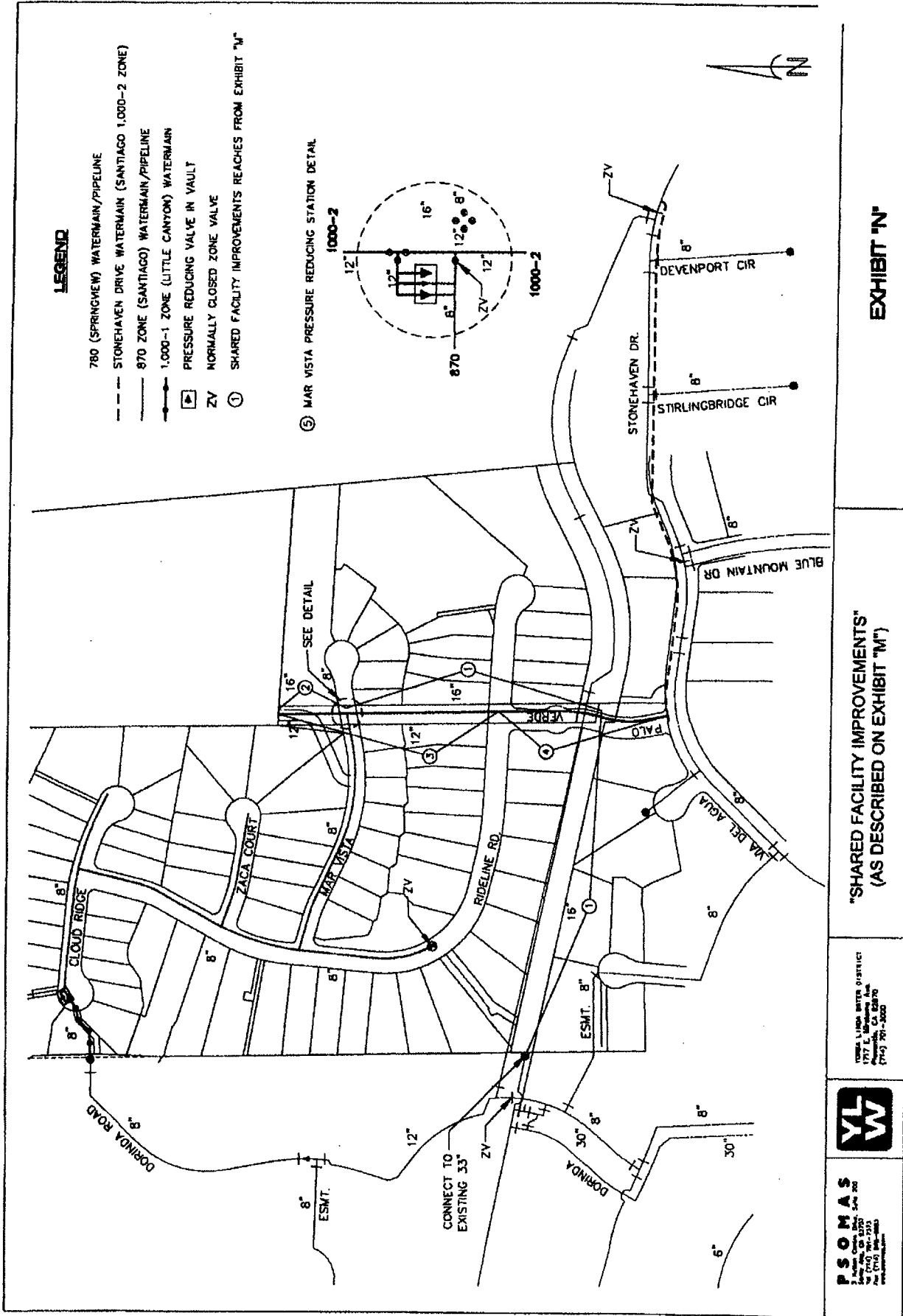
**EXHIBIT "K.1"****Schedule for YLWD to Provide Access to Water**

1. **Project Rough Grading:** YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2020. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of Project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.
2. **Drop Lumber and Residential Framing for Model Homes:** Before any lumber drop for Project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule was also contingent upon Psomas completing the Stonehaven water main final design plans and specifications and receiving YLWD acceptance, which was completed and YLWD did provide such acceptance in April 2019. Based on typical construction practices and since it is ready to go to bid when necessary, the Stonehaven water main can be constructed in the same timeframe as the onsite water improvements for the Project and YLWD will make all efforts to coordinate the construction schedule of the Stonehaven water main with the Project onsite improvements such that it is operational by or before July 1, 2020.
3. **Drop Lumber, Residential Framing and Construction of Remainder of Project Homes:** The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2020. Subject to the Effective Date described in Section 2 and scheduling contingencies in Section 5.B.iii of the original agreement, if YLWD's acceptance occurs later than April 1, 2020, the date for YLWD to begin advertising the Hidden Hills Pump Station for bids in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

## EXHIBIT "M"

**WATER FACILITIES TO BE CONSTRUCTED BY CIELO VISTA BENEFITING EHE  
"SHARED FACILITY IMPROVEMENTS"**

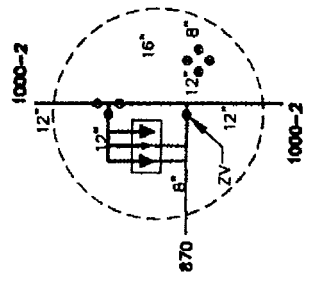
<b>Item</b>	<b>Facility Description</b>	<b>Approx. Length (ft)</b>
1	16" 780 Zone Pipeline in YLWD/MWD Easement, Palo Verde, and Easement - Cielo Vista Boundary to Mar Vista	1,600
2	16" 780 Zone Pipeline in Easement - Mar Vista north to EHE Boundary	180
3	12" 1000-2 Zone Pipeline in Easement - Rideline Road north to EHE Boundary	560
4	Oversizing Cost of 8" to 12" 1000-2 Zone Pipeline in Palo Verde and Easement - Stonehaven Drive to Rideline Road	470
5	Pressure Reducing Station at Mar Vista (1 of 3 PRVs in Station is for 780 Zone emergency supply)	NA



**LEGEND**

- 780 (SPRINGVIEW) WATERMAIN/PIPELINE
- STONEHAVEN DRIVE WATERMAIN (SANTIAGO 1,000-2 ZONE)
- 970 ZONE (SANTIAGO) WATERMAIN/PIPELINE
- 1,000-1 ZONE (LITTLE CANYON) WATERMAIN
- PRESSURE REDUCING VALVE IN VAULT
- NORMALLY CLOSED ZONE VALVE
- ① SHARED FACILITY IMPROVEMENTS REACHES FROM EXHIBIT "M"

⑤ MAR VISTA PRESSURE REDUCING STATION DETAIL



"SHARED FACILITY IMPROVEMENTS"  
(AS DESCRIBED ON EXHIBIT "M")

TERRA LINDA WATER DISTRICT  
1777 L. MARSHALL BLVD.  
POMONA, CA 92670  
(951) 791-3000



**PSOMAS**  
2000 S. GARDEN ST. SUITE 200  
POMONA, CA 92662  
TEL: (951) 846-4444  
FAX: (951) 846-4444

**EXHIBIT "N"**

# Attachment E

CA 19-03

**RESOLUTION OF THE LOCAL AGENCY  
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA  
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT AND APPROVING THE "CITY OF YORBA  
LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT (CA 19-03)"**

**November 13, 2019**

On motion of Commissioner Davert, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed annexation, designated as "City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)," was hereto filed with and accepted for filing on November 13, 2019 by the Executive Officer of the Local Agency Formation Commission of Orange County ("OC LAFCO") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set November 13, 2019 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendations therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed annexation, consists of the annexation of approximately 84 acres of uninhabited territory located in unincorporated Orange County identified as the "Cielo Vista Development" to the City of Yorba Linda (See Vicinity Map attached as "Exhibit A"); and

WHEREAS, the County of Orange served as the lead agency for the environmental review, analysis, and approval of the "Cielo Vista Development" and the proposed annexation pursuant to the requirements of the California Environmental

Resolution (CA 19-03)

Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on December 13, 2016 the County of Orange adopted the Environmental Impact Report No. 615 for the “Cielo Vista Development”; and

WHEREAS, OC LAFCO has been asked to approve the proposed “City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)”; and

WHEREAS, OC LAFCO has limited approval and implementing authority over the development site and, thus, is a “responsible agency” for the proposed annexation pursuant to the requirements of CEQA; and

WHEREAS, OC LAFCO, at its agendized public meeting on November 13, 2019, independently reviewed and considered the Environmental Impact Report No. 615, Cielo Vista Project Alternative 5 Area Plan and Vesting Tentative Tract Map 17341 prepared by the County of Orange and, as other related documents in the record before it; and

WHEREAS, all of the procedures of CEQA have been met, and the Environmental Impact Report No. 615, prepared in connection with the proposed annexation, is sufficiently detailed so that all of the potential effects of the proposal on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with CEQA;

WHEREAS, as contained herein, OC LAFCO has endeavored in good faith to set forth the basis for its decision on the proposal; and

WHEREAS, this Commission called for and held a public hearing on the proposal on November 13, 2019, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

Resolution (CA 19-03)



WHEREAS, all of the findings and conclusions made by OC LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the Commission of OC LAFCO does hereby resolve as follows:

Section 1. OC LAFCO Findings.

The subject territory is found to be undeveloped, is currently within the City of Yorba Linda's Sphere of Influence and is assigned the following distinctive short-form designation, "City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)." The proposal consists of the annexation of approximately 84 acres located north of Vista del Agua/Stonehaven Driven and the intersection of Dorinda Road and San Antonio Road, and south of Casino Ridge Road within the City of Yorba Linda's sphere of influence.

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for OC LAFCO, and in OC LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the Environmental Impact Report No. 615 prepared by the County of Orange as the lead agency and all supporting documentation, copies of which are on file at OC LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission finds that, as to those potential environmental impacts within the Commission's powers and authorities as the responsible agency, that the Environmental Impact Report No. 615 and supporting environmental documentation contain a complete, objective, and accurate reporting of those

potential impacts, and that these findings reflect the independent judgement and analysis of the Commission.

Section 3. Findings on Environmental Impacts.

The Commission concurs with the County of Orange's environmental findings regarding the proposed annexation and adopts these findings, attached hereto as "Exhibit B," as though fully set forth herein. The Commission finds that there is no substantial evidence in the administrative record supporting a fair argument that the annexation proposal may result in significant environmental impacts.

Section 4. The "City of Yorba Linda Annexation of Cielo Vista Development" Conditions of Approval:

- a) The annexation of the Cielo Vista Development, consisting of approximately 84 acres, to the City of Yorba Linda.
- b) Upon approval, the annexation is subject to the terms and conditions of the Pre-Annexation Agreement executed by the City of Yorba Linda and the North County BRS, LLC, representing all landowners within the subject territory ("Exhibit C").
- c) Upon approval, the annexation is subject to the terms and conditions of the Cooperative Agreement executed by the County of Orange Board of Supervisors and the City of Yorba Linda ("Exhibit D").
- d) Upon approval, the annexation is subject to the terms and conditions of the Water and Sewer Service Agreement executed by the North County BRS Project, LLC and the Yorba Linda Water District ("Exhibit E").
- e) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Yorba Linda, except for those properties to be retained by the County and specifically listed by these conditions.

- f) Upon annexation of the territory, the City of Yorba Linda shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Yorba Linda shall also be responsible for regulatory oversight of the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Yorba Linda.
- g) Upon the effective date of annexation, the City of Yorba Linda shall do the following: (1) assume ownership and maintenance responsibilities for all County Owned drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; and (2) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area.
- h) Payment by the applicant of County Clerk-Recorder and State Board of Equalization fees is a condition of approval.
- i) As a condition of approval, the applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out

of such approval.

- j) The effective date shall be the date of recordation.

Section 5. Notice of Determination.

The Commission directs staff to file a Notice of Determination with the Orange County Clerk’s Office within five working days of adoption of this Resolution.

Section 6. Conducting Authority Proceedings.

The Commission authorizes the waiving of conducting authority proceedings in accordance with Government Code Section 56662.

Section 7. Mail Copy of Resolution.

The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code Section.


Section 8. Custodian of Records.

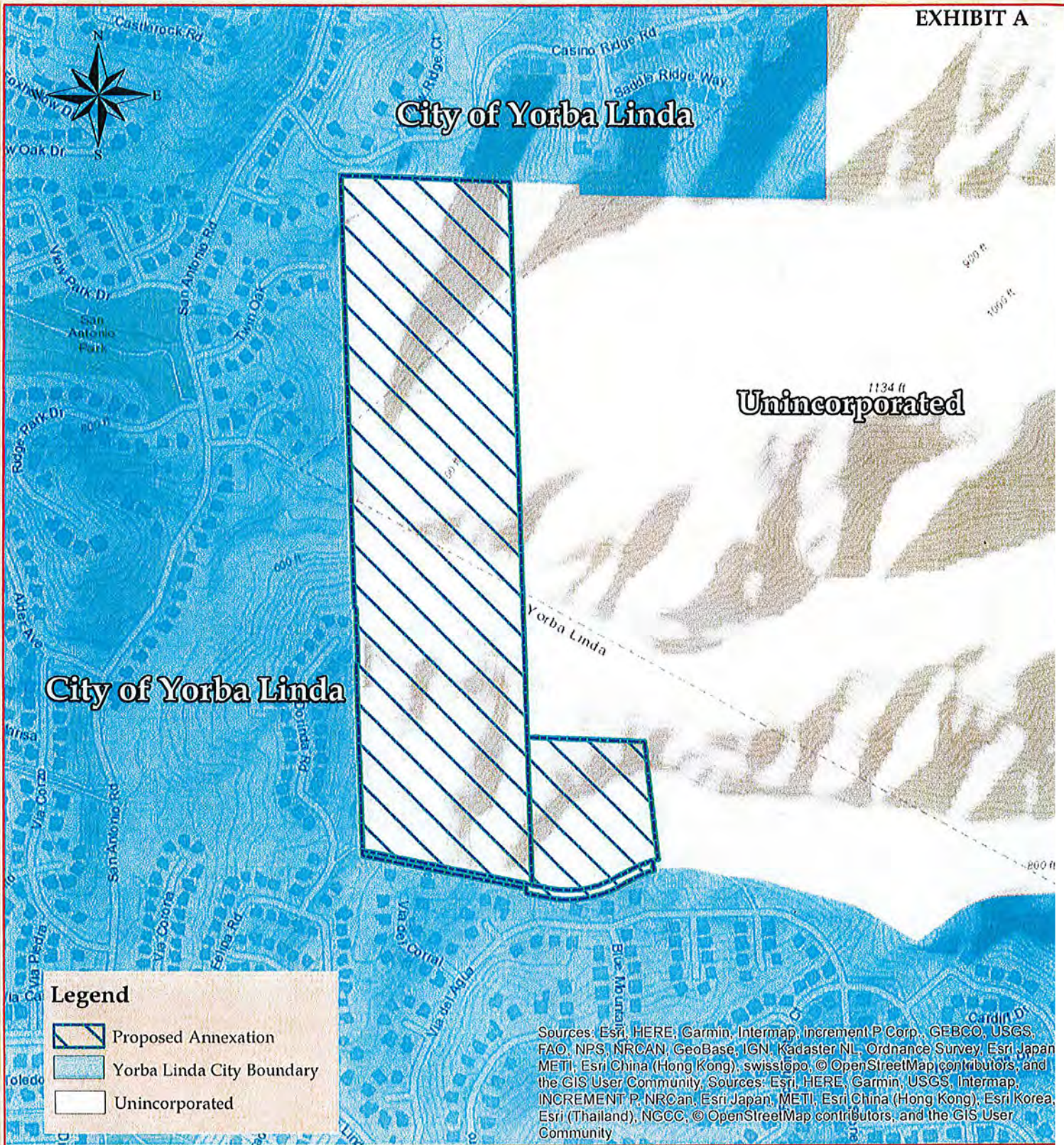
The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of OC LAFCO. The custodian for these records is OC LAFCO, and is located at 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

**PASSED, APPROVED AND ADOPTED, by the Commissioners of the Local Agency Formation Commission of Orange County this 13<sup>th</sup> day of November 2019.**

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of November 2019.

Cheryl Brothers  
Chair of the Orange County  
Local Agency Formation Commission

By:   
Cheryl Brothers



City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)



**EXHIBIT B**

**NOTICE OF DETERMINATION**

<b>TO:</b>	<input type="checkbox"/> Clerk of the Board of Supervisors or <input checked="" type="checkbox"/> County Clerk County of: Orange Address: 12 Civic Center Plaza, Santa Ana, CA 92701	<b>FROM:</b>	Orange County Local Agency Formation Commission (Responsible Agency) Address: 2677 N. Main St., Suite 1050 Santa Ana, CA 92705 Contact: Luis Tapia Phone: 714-640-5100
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<b>TO:</b>	<input checked="" type="checkbox"/> Office of Planning and Research P. O. Box 3044 Sacramento, CA 95812-3044  <input type="checkbox"/> 1400 Tenth Street (overnight or hand delivery) Sacramento, CA 95814	Lead Agency: County of Orange Address: 300 North Flower Street Santa Ana, CA 92705 Contact: Kevin Shannon Phone: 714-667-1632	
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**SUBJECT:** Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

<b>Project Title:</b> City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)		
<b>State Clearinghouse Number</b> (If submitted to SCH): 2012071013	<b>Applicant:</b> City of Yorba Linda Contact Person: Todd O Litfin 4845 Casa Loma Avenue Yorba Linda, CA 92886	<b>Telephone Number:</b> (714) 641-3454
<b>Specific Project Location – Identify street address and cross street or attach a map showing project site (preferably a USGS 15’ or 7 ½’ topographical map identified by quadrangle name):</b> See attached vicinity map.		
<b>General Project Location (City and/or County):</b> The proposed annexation territory is located in unincorporated Orange County, adjacent to the north quadrant of the City of Yorba Linda’s jurisdictional boundary. The subject territory is within the City’s sphere of influence, north of Via del Agua/Stonehaven Drive and the intersection of Dorinda Road and San Antonio Road, and south of Casino Ridge Road.		
<b>Project Description:</b> The proposed annexation of approximately 84 acres of uninhabited territory to the City of Yorba Linda.		
Identify the person or entity undertaking the project, including any private applicant, any other person undertaking an activity that receives financial assistance from the Public Agency as part of the project, and any person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the project.  The Orange County Local Agency Formation Commission, as a responsible agency.		

This is to advise that the ( Lead Agency or  Responsible Agency) has approved the above described project on November 13, 2019 and has made the following determinations regarding the above described project:

**EXHIBIT B**

1.	<input type="checkbox"/>	The project will have a significant effect on the environment.
	<input checked="" type="checkbox"/>	The project will NOT have a significant effect on the environment
2.	<input checked="" type="checkbox"/>	An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input type="checkbox"/>	A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input type="checkbox"/>	A Mitigated Negative Declaration was previously prepared and adopted for this project by the Lead Agency pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
3.	<input checked="" type="checkbox"/>	Mitigation measures were made a condition of the Lead Agency's approval of the project.
	<input type="checkbox"/>	Mitigation measures were NOT made a condition of the approval of the project.
4.	<input checked="" type="checkbox"/>	A Mitigation Monitoring or Reporting Plan was adopted by the Lead Agency for this project.
	<input type="checkbox"/>	A Mitigation Monitoring or Reporting Plan was NOT adopted for this project.
5.	<input type="checkbox"/>	A Statement of Overriding Considerations was adopted for this project.
	<input checked="" type="checkbox"/>	A Statement of Overriding Considerations was NOT adopted for this project
6.	<input checked="" type="checkbox"/>	Findings were made pursuant to the provisions of CEQA.
	<input type="checkbox"/>	Findings were NOT made pursuant to the provisions of CEQA.
This certifies that the location and custodian of the documents which comprise the record of proceedings for the Final EIR (with comments and responses) or Negative Declaration are available to the general public at the following location(s):		
	Custodian:	Location: County of Orange Development Services 601 North Ross Street Santa Ana, CA 92701  Orange County Local Agency Formation Commission 2677 N. Main Street Suite 1050 Santa Ana, CA 92705
Date: _____		Signature: _____
Date Received for Filing: _____		Executive Officer Title: _____

Authority cited: Sections 21083, Public Recourse Code.  
 Reference Section 21000-21174, Public Resources Code.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**EXHIBIT C**

**PRE-ANNEXATION AGREEMENT**

by and among

**THE CITY OF YORBA LINDA**  
a California Municipal Corporation,

and

**NORTH COUNTY BRS PROJECT, LLC,**  
a Delaware Limited Liability Company

[Dated as of 10/24/14 for reference purposes only]



**EXHIBIT C**

**ARTICLE 1. PARTIES AND EFFECTIVE DATE**

**1.1 Parties.** This Pre-Annexation Agreement ("Agreement") is entered into by and among (i) The City of Yorba Linda (the "City"), a California municipal corporation and North County BRS Project, LLC (the "Company"), a Delaware limited liability corporation. The City and the Company are sometimes referred to herein individually as a "Party" and collectively as the "Parties." This Agreement is dated as of 10/21/19, for reference purposes only and will not become effective until the "Effective Date" defined in Section 1.2 below.

**1.2 Effective Date.** This Agreement will not become effective until the date ("Effective Date") on which all the following have occurred: (i) this Agreement has been approved by the Company, executed by its legally authorized officers, and delivered to the City; (ii) this Agreement has been approved by the City Council and executed by the City; and (iii) all applicable statutes of limitation and appeal periods relating to the annexation of the Property have lapsed without a legal challenge.

**1.3 Property Owner Consent.** The property owners of the different properties constituting the Property irrevocably consent to the annexation of the Property into the City and authorize the Company to act on their behalf in connection with the annexation. The property owners include The Travis Ranch Trusts and the Virginia Richards Revocable Intervivos Trust dated May 1, 1986.

**ARTICLE 2. RECITALS**

**2.1** The Company holds options to approximately 84 acres, the legal description of which is attached hereto as Exhibit "A" (the "Property"). The Property is shown on County of Orange Vesting Tentative Tract Map 17341. The Property is located in an unincorporated area of Orange County, California (the "County") within the City's sphere of influence. Policies of the Orange County Local Agency Formation commission favor the annexation of unincorporated areas so as to encourage the orderly and efficient provision of municipal services. (See,

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**EXHIBIT C**

e.g., OC LAFCO Legislative Policy Guidelines C and D from its 2019 Bylaws, Policies and Procedures).

**2.2** The Company has obtained approvals from the County to develop the Property with an 80-unit residential subdivision (alternatively referred to herein as "Cielo Vista" or the "Project").

**2.3** The Project's entitlements (including the Cielo Vista Project Alternative 5 Area Plan ["Cielo Vista Area Plan"]) and Environmental Impact Report ("EIR") were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Project's Vesting Tentative Tract Map was approved by the Orange County Board of Supervisors on September 12, 2017 and was not judicially challenged.

**2.4** On November 20, 2018, the City Council approved Zone Change 2018-02 to "pre-zone," or establish a pre-annexation zoning designation, for the Property, as permitted by California Government Code § 65859. In Ordinance No. 2018-1055 the City pre-zoned the Property to "PD (Planned Development) – Cielo Vista" to allow for development of the Property at a density of up to 1 dwelling unit per acre and to establish development standards consistent with the density and character of the surrounding single-family residential neighborhoods. The "PD (Planned Development) – Cielo Vista" designation implements and is consistent with the Cielo Vista Area Plan.

**2.5** The Cielo Vista Area Plan approved by the County of Orange constitutes the City's "development plan" to guide physical development of the Property in compliance with Chapter 18.16, Article II of the City's Zoning Code.

**2.6** Annexation of the Property into the City (collectively, the "Annexation") is contemplated by the Parties upon the terms and conditions set forth in this Agreement. Proceedings to implement the Annexation will be undertaken by the Orange County Local Agency Formation Commission ("OC LAFCO"). The City has submitted an application to OC LAFCO for the annexation

**EXHIBIT C**

of the Property to the City referenced as City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03) ("Annexation Application").

2.7 The Parties understand that the Annexation is essential to the plan for providing services required by OC LAFCO in its consideration of the annexation application.

2.8 The Company desires that the development and annexation of the Property occurs in a manner that preserves the vested rights and entitlements that the Company has received from the County.

2.9 The City desires any and all pre-annexation and post-annexation development to occur harmoniously and without disruption or discord to the City and its existing communities and inhabitants and without detriment to the City's infrastructure and/or City service providers. The City further desires to be assured that Company will continue to process its current application for annexation under the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration for the promises and mutual covenants set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE 3. TERMS**

**3.1 City Obligations.**

3.1.1 **Processing Review.** In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process encroachment permits, license agreements, discretionary and non-discretionary actions, and all other legally cognizable documents consistent with the Project's entitlements and the City's zoning and other legal requirements to the extent necessary to facilitate the Project's implementation, including its connection to Via del Agua. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

**EXHIBIT C**

**3.1.2 Processing Roads.** In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process all applications for construction of the Project's roads and infrastructure within its jurisdiction (including Street "A" on Tract Map 17341) and attendant landscaping, signage, striping, and monumentation, substantially consistent with the Cielo Vista Area Plan. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

**3.1.3 Consent To Annexation.** The City hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and shall cooperate in the annexation process for the Property.

**3.1.4 Traffic Control Device.** Consistent with Mitigation Measure 4.14-2 of the Project's EIR and to the extent consistent with legal requirements and within the City's legal authority, if the Company constructs the traffic control devices at Via Del Agua and Yorba Linda Boulevard then the City shall require the developer of the Esperanza Hills residential project (Yorba Linda Estates, LLC, or its successor or assign) to make a pro-rata reimbursement to the Company for all expenses associated with the construction of the traffic control devices at Via Del Agua and Yorba Linda Boulevard as part of the first City-issued discretionary or ministerial approval for the Esperanza Hills project where the City can legally impose such a condition. The amount of such reimbursement shall be in proportion to the number of County-approved residential units at the Cielo Vista and Esperanza Hills residential projects. For example, if the Esperanza Hills project is approved by the County at 340 units, then the Cielo Vista project shall be responsible for 80/420ths of the cost of the traffic control devices at Via Del Agua and Yorba Linda Boulevard. Using the figures in that example for reference only, the City would condition the developer of the Esperanza Hills residential project to reimburse the Company for 340/420ths of said cost as part of the first City-issued approval for the Esperanza Hills project.

**EXHIBIT C**

**3.2 Company Obligations.**

**3.2.1 Pursue Annexation.** The Company shall continue to diligently pursue the approval of the Annexation Application the City filed with OC LAFCO for the annexation of the Property into the City.

**3.2.2 Notice Of Grading.** The Company shall provide no less than sixty (60) days' notice to the City prior to commencement of mass grading for the Project.

**3.2.3 Consent To Annexation.** The Company hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and the Annexation Application submitted pursuant to Section 3.2.1. The Company covenants for itself, the Property owners, its agents, employees, contractors, heirs, successors and assigns who obtain title to the Property or portions or parcels thereof ("Successors"), to diligently pursue annexation of the Property to the City consistent with the terms of this Agreement. The Company and its Successors shall cooperate in every reasonable way with the requests of the City, OC LAFCO or any other public agency in any proceeding to annex the Property to the City. Said cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, OC LAFCO or any public agency at Company's sole cost and expense.

**3.2.4 Internal Project Roads.** The Company shall design and construct its internal roads to City standards at its sole expense.

**3.2.5 Library.** Prior to the issuance of building permits, to satisfy the requirement that the Company shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, Company shall pay Two Hundred Fifty Dollars (\$250.00) per residential unit within the Project to the City of Yorba Linda for a total, if 80 units, of \$20,000.00. The fee shall be paid to the City

**EXHIBIT C**

on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the fee be less than 69 units, and if there are less than 69 units developed on the Property then the total remaining fee shall be paid upon the issuance of the building permit for the last residential unit.

**3.2.6 Bonds.** The Company shall post subdivision completion bonds (the "Bonds") as required by the County prior to issuance of a grading permit, and shall agree that the City may either be named as a beneficiary under the Bonds, or may be named as a party who could make demand on the County to enforce the Bonds in the event of default by the Company. Furthermore, the Company shall post separate bonds for all work performed by Company and its agents on any City property or easements to the extent that such bonds are customarily required by the City in connection with such work.

**3.2.7 Public Benefit Contribution.** Upon the approval of annexation by OC LAFCO as provided herein, the Company agrees to pay the sum of Sixteen Thousand Seven Hundred Sixteen dollars (\$16,716.00) per dwelling unit (the "Public Benefit Contribution") to the City as agreed reimbursement for annexation into the City of the Property and subject to the timing provisions of this paragraph. Subject to the satisfaction of the contingencies set forth in this paragraph, the Public Benefit Contribution shall be paid to the City on a per-residential unit basis upon the County's issuance of a Certificate of Occupancy for each unit—and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the Public Benefit Contribution be less than 69 units, resulting in a total Public Benefit Contribution at the \$16,716 per unit rate of One Million One Hundred Fifty Three Thousand Four Hundred and Four dollars (\$1,153,404.00), and if there are less than 69 units developed on the Property then the total remaining Public Benefit Contribution shall be paid upon the issuance of the certificate of occupancy for the last residential unit. In the event that the City approves a Public Benefit Contribution of less than \$16,716 per dwelling unit as part of a pre-annexation agreement for the Esperanza Hills project (the "Esperanza Contribution"), it shall reduce the

**EXHIBIT C**

Company's per-unit Public Benefit Contribution to equal the Esperanza Contribution for any unpaid Public Benefit Contribution made after the date that the City approves the Esperanza Contribution.

**3.2.8 Payment of City Fees and Costs.** Company shall pay City all of City's costs and expenses pertaining to the annexation of the Property, including but not limited to costs associated with the Project's encroachment permit, grading, traffic signal design review, or other engineering plan check services related to the Project's entrance roadway. Company shall pay all City processing, permitting and other fees for work that is performed by the City pertaining to any aspect of the Project including but not limited to work performed on City Property. Company shall pay all of City's attorney's fees, consultant costs (including but not limited to environmental consultants and CEQA consultants) and other reasonable costs related to the City's actions pertaining to the annexation of the Property from the Effective Date of this Agreement. Company shall bear all City costs of the processing of the annexation proceedings to be conducted by OC LAFCO including the recordation fees for required by the State Board of Equalization. Company further agrees to pay the cost of any other regulatory activities pertaining to the annexation of the Property. The Parties agree that that the City's Master Plan of Drainage fee of Fourteen Thousand Dollars (\$14,000.00) per acre shall apply to the Project but that Company shall receive a credit for drainage facilities constructed off the Property resulting in a City Master Plan of Drainage fee of Two Hundred Thirty-One Thousand and Four Hundred and Twenty Six Dollars (\$231,426.00) owed by the Company. The City's Master Plan of Drainage fee shall be paid prior to tract map recordation.

**3.2.9 Indemnity.** Company agrees to indemnify, defend, and hold harmless City and its elected and appointed boards, commissions, officers, agents, and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorney's fees and costs) which: 1) may arise, directly or indirectly, from the acts, omissions, or operations of Company's or Company's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement; 2) pertain to the

**EXHIBIT C**

City's approval of this Agreement or related agreements and permits pertaining or related to the Project or the Property; 3) pertain to the location of the access road and bridge generally referenced as Street A on Tract Map 17341 that connects to Via Del Agua; or 4) pertain to any alleged interference with any alleged third party property rights pertaining to the access road and bridge generally referenced as Street A on Tract Map 17341 that connect to Tract Map 17341. City shall provide Company with notice of the pendency of any such action and request that Company defend such action. If Company fails to do so, City may defend the action and Company shall pay the cost thereof.

**3.2.10 Traffic Control Device.** Company shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR. The traffic signal shall be installed by Company prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of Company's traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer, consistent with Section 3.1.4 of this Agreement. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then Company shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal, consistent with Section 3.1.4 of this Agreement.

**3.2.11 LMAD.** Company agrees to annex the Property into the City's Street Lighting and Landscaping Maintenance District ("LMAD") in accordance with the procedural legal requirements (including but not limited to the requirements of Article XIII D of the California Constitution and the Landscaping and Lighting Act of 1972) for the annexation of the Property into the LMAD. The annexation of the Property into the LMAD shall include annexation into the LMAD's applicable Arterial Landscaping Zone, Local Landscaping Zone, Arterial Lighting Zone, Local Lighting Zone, and Traffic Signal Zone. The annexation shall include approval of assessments up to the maximum amount of the allowable assessment, including a yearly increase based on CPI, on property within the City LMAD that neighbors the Property in City LMAD Local Landscaping Zone L-2K.



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**3.2.12 Trails.** Consistent with Mitigation Measure 4-13.2 and Tract Map Condition No. 33, Company shall coordinate with the City trail alignments through the Project. The Parties have agreed on the location of the trail alignments as shown on Exhibit B and said trail alignments shall be dedicated to the City in a location and in a manner acceptable to the City.

**3.2.13 Entry Way Into Project.** Company shall be responsible for all costs pertaining to construction, operation, and future maintenance of the entry road and bridge into the Property and Project, and any retaining walls related thereto, and its connection to Via Del Aqua in the City (Street A as referenced on Tract Map 17341). Company shall be responsible for all future maintenance, repairs, and other matters pertaining to the entry road and bridge into the Property and any retaining walls related thereto. This obligation shall remain in full force and effect indefinitely in perpetuity unless and until this obligation is terminated by mutual written agreement of the Parties.

Company may assign this obligation to a potential future homeowner's association covering the Property or a portion of the Property or a future owner of the Property. The assignment requires the consent of the City, which consent shall not be unreasonably withheld. Upon the assignment of Company of its obligations under this section, the assignee shall enter into an agreement with the City agreeing to the terms and conditions of this section of the Agreement.

**3.3 Agreement Not to Challenge or Support Challenge.** The Parties shall not file lawsuits or directly or indirectly support litigation filed by others, either as a party, through financial contributions, providing staff support, or by failing to aggressively defend such litigation, that challenges the adequacy of the Cielo Vista Final EIR or any addenda to that EIR, the approval by the County of the Vesting Tentative Tract Map or the Final Map for the Project, the City's approval of the Pre-zone of the Property, or any other permits, entitlements, or approvals received in connection with the Project through the County or the City. The section only

**EXHIBIT C**

pertains to the Project as entitled and any substantial changes to the Project or new projects are not covered by this Section.

**ARTICLE 4. ANNEXATION**

**4.1 Timing.** Upon recordation of the Final Map and approval of the annexation by OC LAFCO, the Property shall be automatically annexed into the City. Notwithstanding anything in this agreement, or any other Agreement, in no event shall a Certificate of Occupancy for any structure on the Property be issued prior to the recordation by OC LAFCO of a Certificate of Completion for the annexation.

**ARTICLE 5. DAMAGES**

**5.1 Remedies.** Subject to the limitations herein, in the event of a breach of the Agreement, the non-breaching party may at its option institute legal action to cure, correct, or remedy such breach, enjoin any threatened or attempted violation, or enforce the terms of this Agreement by specific performance. In the event of any breach of this Agreement, the non-breaching party shall have the right to pursue against the breaching party any and all remedies that are available at law or at equity for breach of a contractual obligation, provided however, that in no event shall Company have the right to sue City or any City officials, employees, contractors or agents for damages or monetary relief arising out of City's default of its obligations set forth in this Agreement, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Company's sole and exclusive judicial remedy. The prevailing party in any such litigation shall be entitled to its attorney's fees and costs.

**ARTICLE 6. GENERAL PROVISIONS**

**6.1 Duration.** This Agreement shall be effective on the date it is executed by both Parties and shall remain in effect until the later of (a) all of the obligations of the Parties contained herein are satisfied, or (b) the tenth (10<sup>th</sup>) anniversary of the Effective Date ("Anniversary"). If the Annexation is not recorded by the Anniversary, OC LAFCO may record the Annexation. Obligations that will

**EXHIBIT C**

continue until satisfied or in perpetuity include but are not limited to the obligation of Company to pay the Public Benefit Contribution in Section 3.2.7, the obligation to maintain the Entry Way into the Project in Section 3.2.13, and the indemnity obligation in Section 3.2.9.

**6.2 Attorney's Fees.** In the event that any Party brings any legal action to interpret or enforce any provision of this Agreement, the prevailing Party in that action shall be entitled to receive, in addition to all other available relief, costs of litigation and reasonable attorneys' fees, including expert witness fees, costs and fees incurred on appeal and in enforcing any judgment which may be rendered on the underlying action.

**6.3 No Third Party Beneficiaries.** Except as provided by Section 6.11, the City and the Company expressly acknowledge that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. Except as provided by Section 6.11, no person or entity not a signatory to this Agreement will have any rights or causes of action against the City or the Company, or any combination thereof, arising out of or due to the City's or the Company's entry into this Agreement.

**6.4 Governing Law.** This Agreement shall be interpreted and enforced in accordance with the provisions of California law, without regard to conflicts of laws. Any litigation shall be held in a court of competent jurisdiction located in Orange County, California.

**6.5 Notice.** Unless otherwise permitted by this Agreement, all notices to be given shall be in writing and may be made by personal delivery, certified mail, postage prepaid and return receipt requested. Mailed notices shall be addressed to the Parties at the addresses listed below, but each party may change the address by written notice in accordance with this paragraph. Receipt will be deemed made as follows: notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated on receipt or rejection.

**EXHIBIT C**

**If to the City:**  
City of Yorba Linda  
c/o City Manager  
4845 Casa Loma Ave.  
Yorba Linda, CA 92886

**With a Copy to:**  
Todd Litfin  
Rutan & Tucker, LLP  
611 Anton Blvd., 14<sup>th</sup> Floor  
Costa Mesa, CA 92661

**If to the Company:**  
Rory Ingels  
North County BRS Project, LLC  
c/o BlackRock  
4400 MacArthur Blvd #700  
Newport Beach, CA 92660

**With a Copy to:**  
Sean Matsler  
Cox, Castle & Nicholson LLP  
3121 Michelson Drive, Suite 200  
Irvine, CA 92612

**6.6 Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original.

**6.7 Entire Agreement.** This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either written or oral, express or implied.

**6.8 Further Acts.** The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

**6.9 Waiver.** The failure of any Party to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or any Party's waiver of any breach hereunder unless in writing, shall not

**EXHIBIT C**

relieve any other Party of any of obligations hereunder, whether of the same or similar type. The foregoing shall be true whether the waiving Party's actions are intentional or unintentional.

**6.10 Authorization to Execute.** The signatories to this Agreement warrant that they have been lawfully authorized by their respective Parties to execute this Agreement on their behalf. Upon request, the Company shall deliver to the City copies of all applicable bylaws, resolutions or other documents evidencing the signatories' legal authority to execute this Agreement on behalf of the respective Parties.

**6.11 Binding On Heirs, Successors and Assigns.** The benefits and obligations described herein will inure to the benefit of and be binding upon the Company and any assignee or successor in interest of the Company to the Property, the City and its respective heirs, successors, grantees, transferees and permissible assigns.

**6.12 Recordation.** A memorandum of this Agreement shall be recorded as an encumbrance against the Property within ten days of the last signature required by this Agreement.

**6.13 Warranties and Representations.** The Company represents and warrants to the City that the Company has a valid and enforceable option to acquire the Property, and has due authority to enter into this Agreement. Furthermore, the individuals signing this Agreement on behalf of Company are authorized to sign on Company's behalf.

**6.14 Severability.** If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are declared to be severable.

**EXHIBIT C**

**6.15 Compliance with other Rules and Regulations.** The Company and its Successors shall comply with all other applicable rules and regulations of the City, the County and all other public agencies having jurisdiction over the Property. This Agreement does not abrogate, limit or modify any other of the City's rights which are provided by common law, statute, ordinance or regulation.

**6.16 Non-liability of City Officials.** No officer, official, employee, agent, attorney or representative of the City shall be personally liable to the Company or any successor in interest to the Company, in the event of any default or breach by the City.

**6.17 Covenants Running with the Land.** The terms and conditions of this Agreement shall constitute covenants running with the Property and binding on the Company and Company's successors and assigns to the Property and burdening the Property and benefiting the City and adjacent City streets.

**6.18 Lack Of Annexation.** In the event that the Property is not annexed into the City, the Parties are not bound by the obligations of this Agreement and the Parties retain any of their respective pre-existing rights pertaining to the Project, the Property and the City Property. In the event that the Property is not annexed into the City but the Parties desire for the City to provide public services to the Property, OC LAFCO's approval must be obtained prior to the date City services are provided to the Property. If OC LAFCO approval is not secured, the County shall be the service provider.

**6.19 Assignment.** Company may not assign this Agreement or any interest in it without the prior written consent of the City, which consent shall not be unreasonably withheld.

**6.20 Development And Other Fees.** The City may enter into an agreement, formally or informally, with the County whereby County imposed fees, otherwise potentially payable to the County as a condition of the issuance of development approvals for the Project, would be paid to the City by Company or

**EXHIBIT C**

County, as the case may be, upon annexation of the Property to the City.  
Annexation shall not be contingent upon such an agreement.

EXHIBIT C

THE CITY OF YORBA LINDA, a  
California municipal corporation

By: Beth Haney  
Beth Haney, Mayor Pro Tem

Attest:

Marcia Brown  
Marcia Brown, City Clerk

Approved as to Legal Form:

Todd Litfin  
Todd Litfin, City Attorney

North County BRS Project, LLC,  
a Delaware limited liability corporation

By: \_\_\_\_\_  
\_\_\_\_\_

Consent:

The Travis Ranch Trusts

The Travis Ranch Trusts for the  
benefit of Amos A. Travis

By: \_\_\_\_\_  
**AMOS A. TRAVIS**, as Trustee of The  
Travis Ranch Trusts for the benefit of  
Amos A. Travis created under an  
Agreement of Trust dated May 8,  
1995, by Amos Travis, as Trustor, as  
to an undivided one fourth(1/4th)  
interest



EXHIBIT C

THE CITY OF YORBA LINDA, a  
California municipal corporation

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest:

\_\_\_\_\_  
Marcia Brown, City Clerk

Approved as to Legal Form:

\_\_\_\_\_  
Todd Litfin, City Attorney

North County BRS Project, LLC,  
a Delaware limited liability corporation

By: *Boyd G Ingels*  
Boyd G Ingels  
Authorized Signatory

Consent:

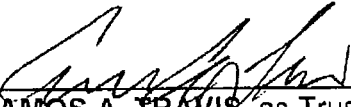
The Travis Ranch Trusts

The Travis Ranch Trusts for the  
benefit of Amos A. Travis

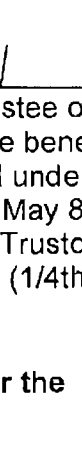
By: *Amos A. Travis*  
AMOS A. TRAVIS, as Trustee of The  
Travis Ranch Trusts for the benefit of  
Amos A. Travis created under an  
Agreement of Trust dated May 8,  
1995, by Amos Travis, as Trustor, as  
to an undivided one fourth(1/4th)  
interest

**EXHIBIT C**


**The Travis Ranch Trusts for the benefit of J. Coleman Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of William H. Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of Ann Travis**

By:   
**AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

EXHIBIT C

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )

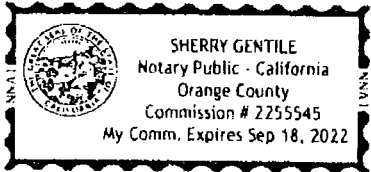
On 10/21/19, before me, Sherry Gentile,  
(insert name and title of the officer)

Notary Public, personally appeared Amos A. Travis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sherry Gentile



(Seal)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

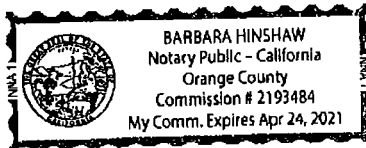
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange  
On October 30, 2019 before me, Barbara Hinshaw, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Rory G. Ingels  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public  
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**EXHIBIT C**

Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

**The Travis Ranch Trusts for the benefit of J. Coleman Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of William H. Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

**The Travis Ranch Trusts for the benefit of Ann Travis**

By: **AMOS A. TRAVIS**, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

**Virginia Richards Revocable Intervivos Trust dated May 1, 1986**

By: *Linda M. Rodger, Co-Trustee*  
**LINDA M. RODGER**, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: *Nancy Ann Maggio, Co-Trustee*  
**NANCY ANN MAGGIO**, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

EXHIBIT C

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

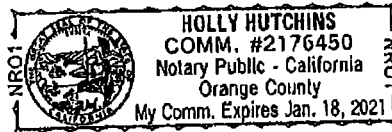
State of California )  
County of Orange )

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Holly Hutchins



NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

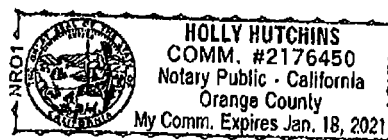
State of California )  
County of Orange )

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Holly Hutchins



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 18-03)

1 THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED  
2 TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A  
3 PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP  
4 ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8,  
5 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES  
6 COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH  
7 PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS  
8 OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
9 COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH,  
10 RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
11 OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE,  
12 DESCRIBED AS FOLLOWS:

13  
14 BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE  
15 CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY  
16 OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369  
17 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT  
18 RECORDED IN BOOK 11535 PAGE 482, BOTH OF OFFICIAL RECORDS OF SAID  
19 COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF  
20 THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH  
21 77°50'17" EAST 880.17";

22  
23 THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF  
24 YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET  
25 TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY  
26 OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN  
27 BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH  
28 OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE  
29 NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

30  
31 THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE  
32 CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21  
33 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST  
34 BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN  
35 BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF  
36 THE COUNTY RECORDER OF SAID ORANGE COUNTY;

37  
38 THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE  
39 GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-  
40 156 THROUGH THE FOLLOWING THREE COURSES;

- 41
- 42 SOUTH 00°56'08" EAST 2863.76 FEET;
- 43
- 44 SOUTH 86°40'40" EAST 619.50 FEET;

1 OF 2

M:\wsp\p\1238\001\AFCC\1295-001 LAFCO .docx

EXHIBIT C

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)


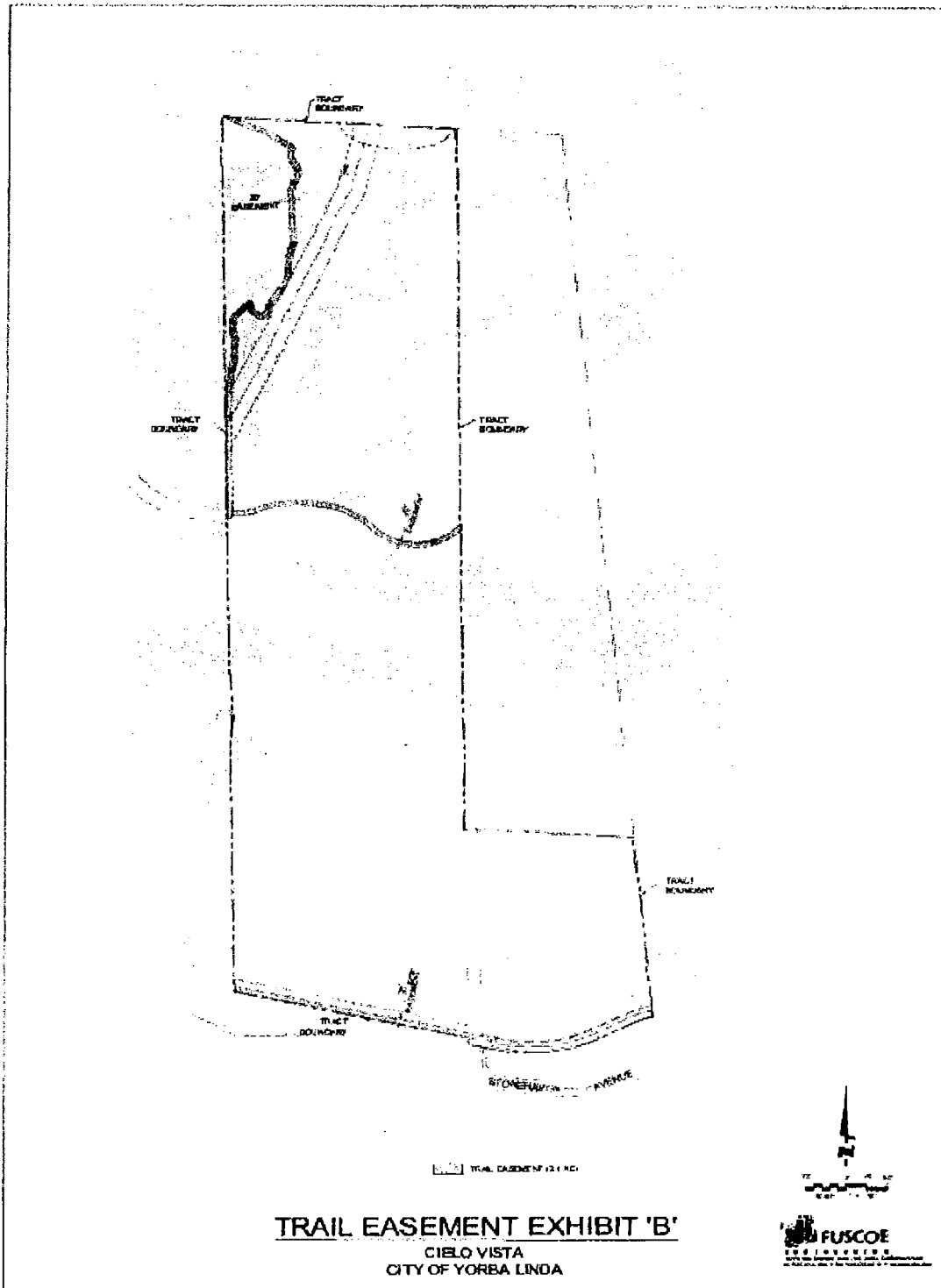
45  
 46 SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY  
 47 BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-  
 48 02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A  
 49 RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS,  
 50 NORTH 15°20'27" WEST;  
 51  
 52 THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND  
 53 ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:  
 54  
 55 SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL  
 56 ANGLE OF 12°07'13";  
 57  
 58 SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE  
 59 CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;  
 60  
 61 WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
 62 OF 39°35'11";  
 63  
 64 NORTH 77°52'29" WEST 119.29 FEET;  
 65  
 66 NORTH 00°56'08" 25.66 FEET;  
 67  
 68 NORTH 77°52'29" WEST 880.23 FEET TO THE POINT OF BEGINNING.  
 69  
 70 CONTAINING: 84.812 ACRES MORE OR LESS.  
 71  
 72  
 73  
 74 AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE  
 75 MADE A PART HEREOF.  
 76  
 77  
 78 PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
 79  
 80 DATED THIS 10TH DAY OF JULY, 2019  
 81  
 82   
 83  
 84  
 85  
 86 KURT R. TROXELL, L.S. 7854  
 87 FUSCOE ENGINEERING  
 88





EXHIBIT C

EXHIBIT "B"  
TRAIL ALIGNMENTS



## EXHIBIT D

## COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“**Agreement**”), dated October 22, 2019 for purposes of identification, between the COUNTY OF ORANGE (“**County**”) and the CITY OF YORBA LINDA (“**City**”) (collectively referred to as the “**Parties**” herein) is based on the following:

## RECITALS

WHEREAS, the City is in the process of annexing approximately 84 acres of property commonly known as Cielo Vista (“**Property**”). The Property, which is described in Exhibit A and depicted in Exhibit B, is currently in the unincorporated area of County. North County BRS Project, LLC, a Delaware limited liability company has an option to purchase the Property.

WHEREAS, the County has, for several years, planned for the development and use of the Property and related infrastructure on the Property.

WHEREAS, the North County BRS Project, LLC has obtained approvals from the County to develop the Property with an 80-unit residential subdivision called “Cielo Vista” (“**Project**”).

WHEREAS, the Property is subject to that certain Cielo Vista Project Alternative 5 Area Plan with 80 units (“**Cielo Vista Alternative 5 Area Plan**”) and Environmental Impact Report No. 615 (“**EIR**”), which were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Property is also subject to the Vesting Tentative Tract Map No. 17341 approved by the Orange County Board of Supervisors on September 12, 2017, which was not judicially challenged, thereby conferring vested rights to the Project. Finally, the Property is subject to the Pre-Annexation Agreement between the City and North County BRS Project, LLC (“**Pre-Annexation Agreement**”).

WHEREAS, City and County are public entities possessing the common power to review and approve applications for administrative and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property (“**Implementing Approvals**” as defined herein).

WHEREAS, Government Code Sections 51300 *et seq.* authorize a county to contract with a city for a term of up to five (5) years, and renewable thereafter for additional five-year periods upon mutual consent of the city and county, for the performance of municipal functions common to both agencies. This Agreement fully complies with all State statutory and constitutional provisions related to the transfer of municipal functions from a city to a county.

WHEREAS, the Development Approvals (as defined below) for the Property prepared by or on behalf of the County represent an extremely complex and integrated plan for the preservation and development of the Property.

## EXHIBIT D

WHEREAS, City and North County BRS Project, LLC have entered into that certain Pre-Annexation Agreement, to ensure that annexation of the Property does not prevent or delay development of the Property to the full extent permitted by the Development Plan and Development Approvals.

WHEREAS, the City intends, by way of this Agreement and pursuant to California Government Code section 53100 *et seq.*, to contract with the County for the performance of certain City functions, as more specifically described herein, upon annexation of the Property, for the term set forth herein and not to exceed the limitations set forth in California Government Code section 53102. Subject to this Agreement, the County will assume the authority for Implementing Approvals, as defined herein, including but not limited to land use services until the point in time when the Property is Fully Improved, as defined herein. Implementing Approvals do not include actions on Units, Common Areas, Conservation Area, and Public Improvements on the Property once such area of the Property is Fully Improved.

WHEREAS, this Agreement achieves the objectives of the Parties, such as the efficient implementation and administration of the Development Approvals and Development Plan, by authorizing the County to exercise permit and approval processing functions of the City necessary to facilitate development consistent with the Development Plan and Development Approvals relative to each Unit, Common Areas, Conservation Area, and Public Improvements, upon annexation and until such Units, Common Areas, and Public Improvements are Fully Improved, as defined herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. DEFINITIONS AND EXHIBITS
  - 1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, or all letters capitalized, when used in the Agreement. The defined terms include the following:
    - 1.1.1 “**Agreement**” means this Cooperative Agreement.
    - 1.1.2 “**Annexation**” means annexation of the Property to the City of Yorba Linda pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000 *et seq.*).
    - 1.1.3 “**Area Plan**” means the Cielo Vista Project Alternative 5 Area Plan.
    - 1.1.4 “**City**” means the City of Yorba Linda.
    - 1.1.5 “**Common Area(s)**” means any real property owned in fee simple by any homeowner association, or under the control of any such homeowner

## EXHIBIT D

association by way of easement, lease, encroachment, permit or license or other agreement, as defined in Section 1351(b) of the California Civil Code, including but not limited to private streets, private parks, and other areas.

- 1.1.6 **“Conservation Area”** means the northern portion of the Property which North County BRS Project, LLC is required to preserve as open space pursuant to the Cielo Vista Alternate 5 Area Plan and related approvals.
- 1.1.7 **“County”** means the County of Orange, a political subdivision of the State of California.
- 1.1.8 **“Development”** whether or not capitalized means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project. The term development includes grading, the construction of infrastructure and public facilities related to the Project located on the Property, the construction of buildings and structures and the installation of landscaping and park facilities and improvements. The term “Development” does not include any Project-related building or grading activity after the Property is Fully Improved, as defined herein, and annexed to the City.
- 1.1.9 **“Development Approvals”** means all permits, licenses, consents, inspections rights, privileges, agreements and other actions that:
- (i) are approved by County; or
  - (ii) are subject to approval or issuance by County.

The term “Development Approvals” includes (including any modifications or amendments as described above), but is not limited to, the following Development Approvals in furtherance of the Project:

- (a) Tentative and final subdivision and parcel maps, including, without limit, Vesting Tentative Tract Map No 17341;
- (b) Cielo Vista Alternative 5 Area Plan (PA 10004) approved by the County on December 13, 2016;
- (c) Environmental Impact Report No. 615 for the Cielo Vista Project Alternative 5 Area Plan approved by the County on December 13, 2016;
- (d) Grading and building permits; and
- (e) Habitat Management Plan

Development Approvals do not include actions on Units, Common Areas, Conservation Area, or Public Improvements once such respective properties are Fully Improved.

## EXHIBIT D

- 1.1.10 **“Development Plan”** means the plan for Development of the Property, including the planning and zoning standards, regulations, and criteria for the Development of the Property contained in and consistent with the Development Approvals.
- 1.1.11 **“Fully Improved”** means, in relation to Units, that the County has issued certificates of occupancy (or similar evidence that all structures have received all inspections and fully comply with all laws such that there is no further unmet condition to occupancy) for any Unit pursuant to the Development Approvals and Development Plan. **“Fully Improved”** with respect to Common Areas shall mean the issuance of a certificate of use or similar evidence that all structures and improvements have received all inspections and fully comply with all laws such that there is no further unmet condition to the use of such structures and improvements. Fully Improved with respect to the Conservation Area shall mean that the Conservation Area is in compliance with the requirements of the Development Plan, the Development Approvals, all conditions of approval and any regulatory requirements. With respect to all Public Improvements within the Property, **“Fully Improved”** means a notice of completion or like certificate has been issued and the improvements accepted by a governmental entity and signed off as complete by that entity.
- 1.1.12 **“Implementing Approvals”** means the common law power to review and approve applications for administrative, discretionary and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property and the power to review, inspect, approve and issue certificates of completion for improvements constructed pursuant to any and all such permits for areas of the Project within the Property. All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements. For example, portions of any roadways constructed in the City not within the Property shall be processed in accordance with City requirements.
- 1.1.13 **“Land Use Regulations”** means all ordinances, resolutions, codes, rules, regulations and official policies governing Development and use of land applicable to the Property pursuant to the Development Approvals, the Development Plan, and this Agreement. The term **“Land Use Regulations”** also includes ordinances, resolutions, rules, regulations and official policies related to permitted use of land, development fees, exactions, impositions, the density or intensity of use, subdivision requirements and the maximum height and size of proposed buildings. The term **“Land Use Regulations”** also includes ordinances, resolutions, rules, regulations and official policies

## EXHIBIT D

governing the reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable on the effective date of this agreement, to the Development of the Property, which are not in conflict with the Development Approvals.

1.1.14 **“Project”** means the Development of the Property consistent with the Area Plan, Development Approvals, Land Use Regulations and/or Development Plan.

1.1.15 **“Property”** means the real property described in Exhibit A and shown on Exhibit B to this Agreement.

1.1.16 **“Public Improvements”** means all public streets, storm drains, street lighting, public parks and other improvements required and/or constructed pursuant to the Area Plan and Development Approvals located on the Property.

1.1.17 **“Unit”** means with respect to a single family residence, the legal lot or parcel and the residential housing unit located thereon but shall not include any exterior landscaping.

1.2 Exhibits: The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit A - Legal Description of the Property

Exhibit B - Map of the Property.

Exhibit C – Fees and Obligations

1.3 Construction. The word “include” or any form of the word “include” shall be construed and interpreted to add the phrase “without limitation “

2. OBJECTIVES AND INTENT

2.1 Objectives. The objectives of this Agreement are to:

2.2 Ensure that, following annexation of the Property to City, the Property is timely developed in substantial compliance with, and to the full extent permitted by, the Development Approvals and the Development Plan, and that Development Approvals are timely issued so as to avoid any unnecessary delays in the planning and permitting process for the Project while continuing to meet all public safety requirements.

2.2.1 Ensure that development of the Property proceeds in a manner that preserves the public benefits associated with the Development Approvals and Development Plan.

## EXHIBIT D

- 2.2.2 Effect a contract temporarily conveying responsibility for certain municipal functions as specified in section 3 1.1 below from the City to the County upon annexation and within the term authorized by Government Code Sections 51301 and 51302.
- 2.2.3 To provide a process for the transfer of documents necessary to County's assumption of City functions and a mechanism for facilitating County's right to monitor development as provided in this Agreement.
- 2.3 Intent. The Parties, through this Agreement, intend that the County shall have and exercise after annexation the same power, right and control over the administration, approval and implementation of the Development Approvals, Development Plan, and Implementing Approvals over the Property during the development of the Property as the County exercised before annexation. The Parties intend that the County will assume City functions regarding the Development Approvals, Development Plan, and Implementing Approvals over any Unit, Common Areas, Conservation Area, and Public Improvements, until the date that the Unit, Common Areas, Conservation Area and/or Public Improvements become Fully Improved. This Agreement shall be administered, implemented, construed and interpreted in a manner that is consistent with the Development Approvals, the Development Plan and the "intent" and "purpose" provisions of this Agreement.
3. AUTHORITY TRANSFERRED TO THE COUNTY
- 3.1 Performance of Municipal Functions.
- 3.1.1 Responsibility for Certain Municipal Functions. Pursuant to Government Code section 51300, et seq., the City hereby conveys to the County, upon annexation, and for the five (5) year period allowed under Government Code section 51302, the responsibility for the Implementing Approvals as defined in section 1.1.12 herein ("**Implementing Approval Authority**") over the Property on the terms within this Agreement. The term of this Agreement shall automatically be extended for one additional five (5) year period as provided in Government Code section 51302 unless any of the Parties, upon sixty (60) days notice to the other Party, elects to terminate this Agreement as of the end of the initial five (5) year period. Such election shall be based on "good cause" for such termination, and the notice of termination shall specify the facts and circumstances upon which the alleged "good cause" is predicated.
- 3.1.2 Conditions. The County shall exercise Implementing Approval Authority in substantial compliance with: (i) the provisions of the Development Approvals and Development Plan; (ii) conditions imposed by any State or local agency; and (iii) legally enforceable restrictions and limitations on development of the Property.

## EXHIBIT D

- 3.1.3 **City Authority Following Areas Fully Improved.** Once a Unit, a Common Area, the Conservation Area, or a Public Improvement is Fully Improved, the County's authority over the respective Unit, Common Area, Conservation Area or Public Improvement shall cease in its entirety. For example, once a certificate of occupancy has been issued for a Unit, the next permit issued for the Unit (for example, without limitation, a permit for a patio cover) shall be processed and issued by the City.
- 3.2 **Term.** Following annexation, County shall retain Implementing Approval Authority for the term set forth in Section 3 1.1 herein. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property. The maximum term of this Agreement is 5 years, unless extended for up to an additional 5 years for a maximum term of 10 years as outlined in Section 3.1.1.
- 3.3 **Fees.** City and County shall be entitled to collect and keep those fees as indicated on Exhibit C attached hereto. It is understood that once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.
- 3.4 **Exoneration of Bonds.** County shall be solely responsible for the inspection of any subdivision improvements installed within or outside the Project boundaries if the permits for which were issued by County. County shall be solely responsible for determining the extent to which any and all such improvements have been completed in accordance with all subdivision improvement agreements executed with the County and whether applicable subdivision bonds should be released. County has no authority over improvements constructed within the City and such improvements are subject to the processing, review, and approval of the City. Bonds for improvements within the City outside the Property shall be subject to the requirements of the City. Improvements for the purpose of this section shall include streets, storm drains, and other improvements constructed in the City but not on the Property. For example, roads constructed within the City outside the Property shall be bonded in a manner satisfactory to the City consistent with applicable City regulations and requirements.
- 3.5 **Law Enforcement and Fire Protection Services.** The City shall provide law enforcement, fire and emergency protection services to a Unit, Common Area, Conservation Area or Public Improvement once such area is Fully Improved or the County's authority over such Unit, Common Area, Conservation Area or Public Improvement ceases pursuant to the terms of this Agreement.



## EXHIBIT D

## 4. SPECIAL PROVISIONS

- 4.1 City Ordinance. City has, prior to the Effective Date of this Agreement, adopted Ordinance No. 2018-1055 regarding the City's rezoning for the Property consistent with the Development Approvals and Development Plan. The City Council has also authorized the execution of this Agreement by the City Manager and determined that this Agreement is fully consistent with the authority of the City and City Council pursuant to law.
- 4.2 City Commitments. Other than has outlined in this Agreement, the City does not waive any authority as to actions that occur within the jurisdictional boundaries of the City outside the Property or as to an Unit, Common Area, Conservation Area or Public Improvement once Fully Improved. Specifically, the City retains all authority over any roadway or other improvements within the jurisdiction of the City outside the Property.
- 4.3 County Consideration. County shall be entitled to charge, receive, and retain all fees for processing the Development Approvals.
- 4.4 County Officers. The County Executive Officer (CEO) shall designate the County officers and employees that are to perform the services contemplated by, and exercise the authority transferred pursuant to, this Agreement. The Parties contemplate that the CEO will designate the same officers and employees that have, prior to the effective date of this Agreement, been performing services or exercising powers related to the County's Implementing Approval Authority.
- 4.5 Transfer of Park Fees. The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

## 5. COOPERATION

- 5.1 Cooperation. City and County shall mutually provide any assistance reasonably requested by the other Party with respect to the implementation and administration of the Development Approvals, the Development Plan and this Agreement. City and County shall cooperate with one another relative to any action necessary to ensure that County retains the authority to perform the functions required by, or to achieve the objectives of this Agreement.
- 5.2 Records. County shall provide the City the County records that would facilitate the City's assumption of City functions being performed by County, including Implementing Approval Authority, after any Unit, Common Area(s), Conservation Area, or Public Improvement is Fully Improved.

## 6. MISCELLANEOUS PROVISIONS

## EXHIBIT D

- 6.1 **Term of Agreement.** Subject to the extension provisions of Article 3, this Agreement shall continue in full force and effect with respect to the Property for a period of five (5) years following the date of the annexation of the Property to the City unless continued for an additional five (5) years pursuant to Section 3.1.1. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property.
- 6.2 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants outside the contents of this Agreement shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.
- 6.3 **Severability.** If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.
- 6.4 **Interpretation and Governing Law.** This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties. The rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement since all Parties have been represented by counsel.
- 6.5 **Indemnification.** City shall defend, indemnify with counsel approved in writing by County pursuant to Government Code section 25203, and hold harmless the County, and its respective members, officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by City or its officers, employees or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement. County shall defend, indemnify, and hold harmless the City, and its respective officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by County or its officers, employees, or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement.
- 6.6 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

## EXHIBIT D

- 6.7 **Singular and Plural.** As used herein, the singular of any word includes the plural.
- 6.8 **Waiver.** The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure of a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, any other Party's strict compliance with the terms of this Agreement.
- 6.9 **Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.
- 6.10 **Successors in Interest.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.
- 6.11 **Specific Performance.** The Parties acknowledge that monetary damages may be inadequate to remedy any breach of this Agreement by any other Party. Accordingly, the Parties agree that any breach of this Agreement shall also entitle any non-breaching Party to file an action for specific performance in a court of competent jurisdiction.
- 6.12 **Counterparts.** This Agreement may be executed by the parties and counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.
- 6.13 **Jurisdiction and Venue.** Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.
- 6.14 **Further Actions and Instruments.** All of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of any party at any time, the other Parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement.
- 6.15 **Amendments in Writing/Cooperation.** This Agreement may be amended only by written consent of the Parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this

**EXHIBIT D**

Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters.

- 6.16 Authority to Execute. Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he/she has the authority to execute this Agreement on behalf of his/her agency/entity and to bind that agency/entity to the performance of its obligations pursuant to this Agreement.
- 6.17 Notice. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Yorba Linda  
 4845 Casa Loma Avenue  
 City Manager's Office  
 Yorba Linda, CA 92886

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Director of Planning and Development Services  
 County of Orange  
 601 N. Ross St.  
 Santa Ana, California 92701

- 6.18 Effective Date. This Agreement shall become effective upon authorized execution by all necessary parties.

EXHIBIT D

WITNESS THEREOF, the parties hereto have executed this Agreement on the date set forth above

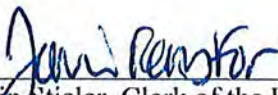
COUNTY OF ORANGE,  
a political subdivision of the State of California

By:   
Chairwoman of the Board of Supervisors  
County of Orange, California

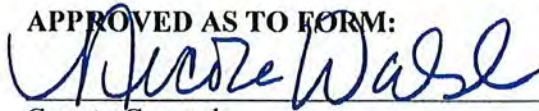


SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD PER G.C. SECTION  
25103, RESOLUTION 79-1535


Attest:

By:   
Robyn Stieler, Clerk of the Board  
of Supervisors

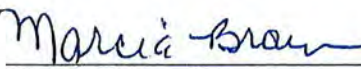
APPROVED AS TO FORM:

  
County Counsel

THE CITY OF YORBA LINDA,  
a California municipal corporation

By:   
Beth Haney, Mayor Pro Tem

Attest:

By:   
Marcia Brown, City Clerk

APPROVED AS TO LEGAL FORM:

  
Todd O. Litfin, City Attorney

EXHIBIT D

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 18-03)

1 THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED  
2 TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A  
3 PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP  
4 ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8,  
5 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES  
6 COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH  
7 PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS  
8 OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
9 COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH,  
10 RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
11 OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE,  
12 DESCRIBED AS FOLLOWS:

13  
14 BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE  
15 CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY  
16 OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369  
17 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT  
18 RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID  
19 COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF  
20 THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH  
21 77°50'17" EAST 880.17";

22  
23 THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF  
24 YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24". WEST 3578.27 FEET  
25 TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY  
26 OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN  
27 BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH  
28 OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE  
29 NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

30  
31 THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE  
32 CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21  
33 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST  
34 BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN  
35 BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF  
36 THE COUNTY RECORDER OF SAID ORANGE COUNTY;

37  
38 THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE  
39 GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-  
40 156 THROUGH THE FOLLOWING THREE COURSES;

41 SOUTH 00°56'08" EAST 2863.76 FEET;

42 SOUTH 86°40'40" EAST 619.50 FEET;


1 OF 2

M:\Mapping\1285001\LAFCO\1288-001 LAFCO.docx

EXHIBIT D

EXHIBIT A

LEGAL DESCRIPTION  
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT  
(CA 19-03)

45  
 46 SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY  
 47 BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-  
 48 02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A  
 49 RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS,  
 50 NORTH 15°20'27" WEST;  
 51  
 52 THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND  
 53 ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:  
 54  
 55 SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL  
 56 ANGLE OF 12°07'13";  
 57  
 58 SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE  
 59 CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;  
 60  
 61 WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
 62 OF 39°35'11";  
 63  
 64 NORTH 77°52'29" WEST 119.29 FEET;  
 65  
 66 NORTH 00°56'08" 25.66 FEET;  
 67  
 68 NORTH 77°52'29" WEST 880.23 FEET TO THE POINT OF BEGINNING.  
 69  
 70 CONTAINING: 84.812 ACRES MORE OR LESS.  
 71  
 72  
 73  
 74 AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE  
 75 MADE A PART HEREOF.  
 76  
 77  
 78 PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
 79  
 80 DATED THIS 10TH DAY OF JULY, 2019  
 81  
 82   
 83  
 84 \_\_\_\_\_  
 85 KURT R. TROXELL, L.S. 7854  
 86 FUSCOE ENGINEERING  
 87  
 88



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT B

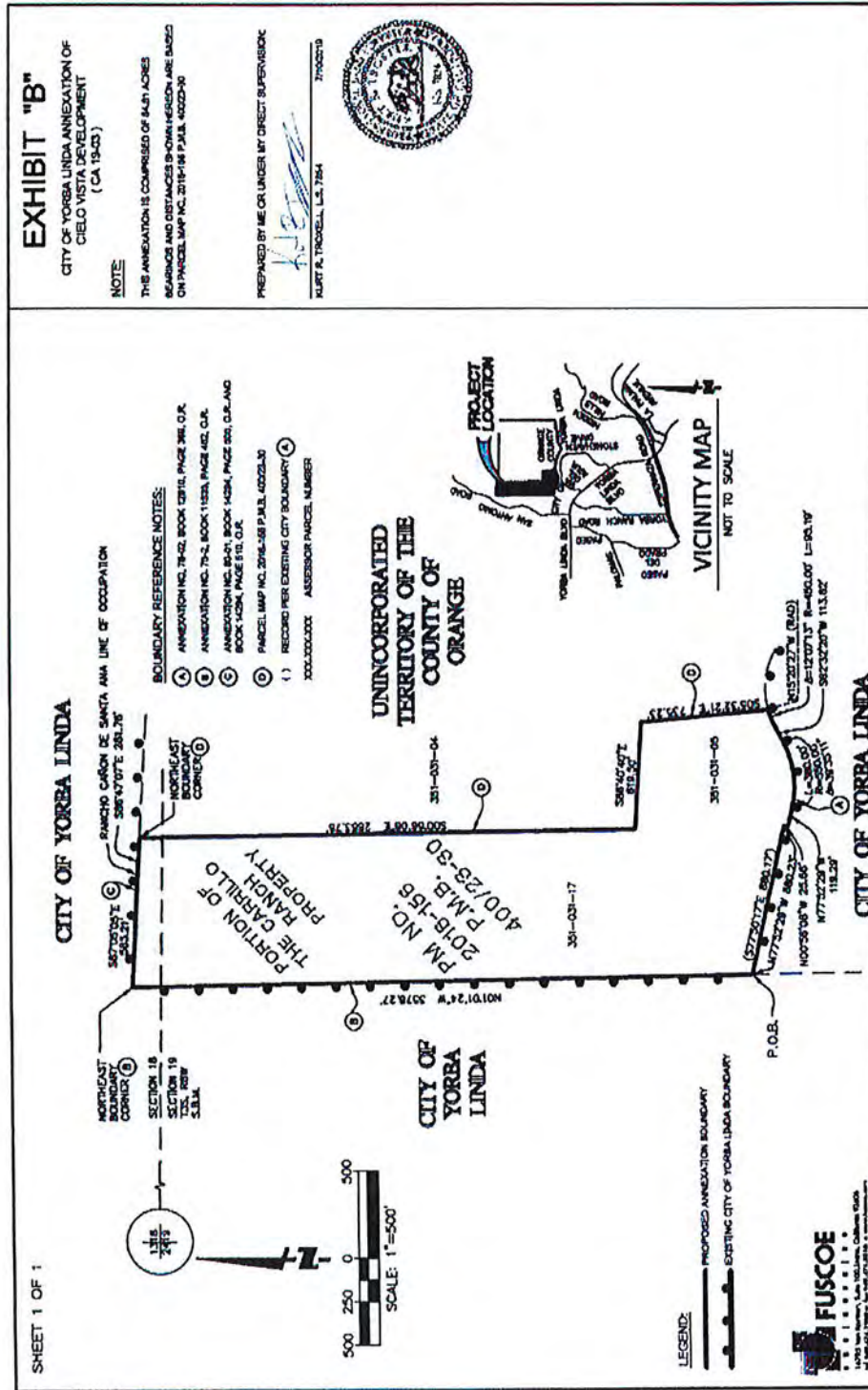




EXHIBIT C

Fees and Obligations

**Fees Retained By County**

Unless otherwise specified herein, County shall retain fees and obligations from the Development Approvals.

**Fees Retained By City**

The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

Prior to the issuance of building permits, to satisfy the requirement that North County BRS Project, LLC shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, North County BRS Project, LLC shall pay \$250.00 per residential unit within the Project to the City of Yorba Linda for a total of \$20,000.00. The fee shall be paid to the City on a per-unit basis upon the County's issuance of a building permit for each unit -- and not as a single lump sum.

The City shall receive the Public Benefit Contribution from North County BRS Project, LLC as outlined in the Pre-Annexation Agreement by and among the City of Yorba Linda a California Municipal Corporation and North County BRS Project, LLC, a Delaware Limited Liability Company.

Once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements and the City shall retain all fees related thereto.

The City shall retain applicable Master Plan of Drainage fees charged by the City on the Project.

North County BRS Project, LLC shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR at the intersection of Via del Agua Street and Yorba Linda Boulevard. The traffic signal shall be installed prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of the traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then North County BRS Project, LLC shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal.

**FIRST AMENDMENT TO  
CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT  
BETWEEN  
YORBA LINDA WATER DISTRICT  
AND  
NORTH COUNTY BRS PROJECT, LLC**

This FIRST AMENDMENT to Cielo Vista Project Water and Sewer Facilities Agreement ("First Amendment") is made and entered into, effective this 27th day of August 2019, by and between the Parties.

**RECITALS**

A. The Parties previously entered into the Agreement titled Cielo Vista Project Water and Sewer Facilities Agreement, which has an Agreement Date of August 1, 2018 ("Agreement"), a copy of which is attached hereto. Capitalized terms used in this First Amendment, without being separately defined herein, shall have the same meaning as defined in the Agreement.

B. Pursuant to Section 17, all amendments to the Agreement must be in writing and signed by the Parties.

C. Certain water facility improvements that will benefit both Developer and Yorba Linda Estates, LLC, who is the developer of the Esperanza Hills Estates ("EHE") project, will be connected to the water main in Stonehaven Drive and other Existing Offsite Facilities and will be designed and constructed as listed in Exhibit "M" and illustrated on Exhibit "N", which are attached to this First Amendment ("Shared Facility Improvements"). The Parties intend for the rights and obligations as to the Subdivision Facilities in Subsections A(i), (iii), and D through F in Section 3 of the Agreement to apply to the Shared Facility Improvements.

D. The Shared Facility Improvements (1) were originally part of the EHE project memorialized in a separate agreement between YLWD and Yorba Linda Estates, LLC, dated October 13, 2016, (2) are subject to cost sharing between Developer and Yorba Linda Estates, LLC, as documented in a separate agreement between those parties, and (3) caused significant changes to the Cielo Vista Project Subdivision Facilities Plans. YLWD incurred significant time to review these design concept and improvement plans along with legal fees for the EHE project and previously invoiced Yorba Linda Estates, LLC for this time in YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of \$14,324.19. The invoice amount of \$14,324.19 has been fully paid by Developer. The expenses incurred by YLWD associated with revisions to the Subdivision Facilities Plans have greatly exceeded the fees previously paid by Developer on May 22, 2018. Reimbursement for all outstanding and future YLWD Administrative Costs as defined in both the Agreement and herein shall be paid by Developer to YLWD out of the Administrative Costs Account.

## EXHIBIT E

E. Pursuant to Section 2 of the Agreement, the Effective Date term for Developer to provide proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map was August 1, 2019, and the Parties desire to extend the Effective Date term for an additional three hundred sixty-five (365) day period to August 1, 2020. The extension of the Effective Date term will cause the Project milestones in Exhibit "J" and the schedule in Exhibit "K" to be modified.

F. Pursuant to Section 5.D. of the Agreement, Developer shall reimburse all YLWD Administrative Costs related to the Project. The Parties desire to amend this Section to (1) amend the use of the term "Administrative Costs" in Section 5.D to mean YLWD staff and attorney time and costs related to the Project, the Agreement as amended from time to time, and "Developer Improvements" defined collectively as: (i) the Subdivision Facilities, (ii) the Existing Offsite Facility Improvements and (iii) the Shared Facility Improvements; and (2) require Developer to reimburse YLWD for all fees and costs associated with consultant(s) and/or contractor(s) hired by YLWD for the Developer Improvements.

G. Since the Agreement Date, Subdivision Facilities Plans have been modified and the scope of Developer's design/work has been amended to include the Shared Facility Improvements.

H. Pursuant to Section 5.F of the Agreement, YLWD will construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities. Developer agreed to pay \$40,000 to YLWD for the tower and signal collection equipment as part of the AMI. So YLWD does not have to wait another year for payment, the Parties agreed to amend Section 5.F so the \$40,000 is not to be deposited into the Existing Offsite Facility Improvements Escrow and instead Developer will pay the \$40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment.

I. The Parties acknowledge that it is industry standard for a developer and a public agency to procure a surety bond for the facilities to be constructed by Developer and dedicated to the public agency. Moreover, the Parties acknowledge that it is industry standard for a developer to provide closing forms listed in Subsection 1.D below for, and access to, such facilities to the public agency, and to indemnify YLWD for damages and charges to Existing Offsite Facilities caused by Developer. Lastly, the Parties acknowledge that it is industry standard for Developer to comply with public agency rules and regulations for water and sewer service when constructing water and sewer facilities. These industry standards were not memorialized in the Agreement so the Parties desire to obligate Developer to these industry standards.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

I. The Agreement is amended as follows:

A. To reflect the addition of the Shared Facility Improvements, Exhibits "M" and "N" attached hereto are added and made a part of the Agreement.

## EXHIBIT E

B. Section 2 of the Agreement is hereby amended and replaced in its entirety with the following language:

“Except for Sections 5.D. and 5.F., which the Parties’ rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties’ rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner’s transfer of ownership of the Property to Developer and (b) recordation of the Project’s final map (“Effective Date”). If YLWD is not provided written proof and notice of both transfer of ownership from Property Owner to Developer and recordation of the Project’s final map by August 1, 2020, then YLWD may provide written notice to Developer that the Agreement, as amended from time to time, is null and void; at which time the Agreement and any amendments will be null and void.”

C. Subsections A(i), (iii), and D through F of Section 3 is amended to include the Shared Facility Improvements wherever “Subdivision Facilities” are mentioned.

D. The following language is added as a new Subsection H within Section 3 of the Agreement:

“H. Developer’s Bond and Warranty Period Obligations. At Developer’s sole expense, Developer shall furnish surety bond(s) to YLWD for the Subdivision Facilities and Shared Facility Improvements before commencing work on the Subdivision Facilities and Shared Facility Improvements. Developer shall not commence work on the Subdivision Facilities and Shared Facility Improvements until it has procured, and YLWD has approved, the surety bond(s), which shall continue in force from the date of YLWD’s Final Acceptance of the Subdivision Facilities and Shared Facility Improvements for a warranty period of one (1) year. The surety bond(s) shall be in an amount equal to one hundred (100) percent of the Engineer’s Estimate of the cost of construction of the Subdivision Facilities and Shared Facility Improvements. YLWD shall review the Engineer’s Estimate and determine the amount of the surety bond(s). At the end of the one-year warranty period for the Subdivision Facilities and Shared Facility Improvements, YLWD will release the surety bond(s) to Developer.

When defects in Subdivision Facilities and Shared Facility Improvements are discovered within the warranty period, Developer shall start work to remedy any such defects within five (5) calendar days of written or electronic notice by YLWD and shall promptly complete such work. In emergencies, where damages may result from delay and where loss of service may result, corrections may be made by YLWD upon discovery, in which case the cost thereof shall be borne by Developer. In the event Developer does not commence and/or accomplish corrections within the time specified, the work may be accomplished by YLWD at its option, and the cost thereof shall be paid by Developer within thirty (30) days of receipt by Developer of an itemized invoice for such cost.

## EXHIBIT E

Pursuant to Section 8 of the Agreement, Developer shall indemnify YLWD for any expenses incurred by YLWD resulting from defects in Developer's work, including actual damages, costs of materials and labor expended by YLWD in making repairs and the cost of engineering, inspection and supervision by YLWD."

E. The following language is added as a new Subsection I within Section 3 of the Agreement:

"I. Closing Forms:

- i. Notice(s) of Completion: Developer agrees that the Notice(s) of Completion prepared by YLWD and signed by the Developer for the Subdivision Facilities and Shared Facility Improvements shall be recorded by YLWD with the County Recorder's office of Orange County, California, at Developer's expense.
- ii. Statement of Cost of Construction: Developer agrees to provide YLWD with a report of the actual costs of the Subdivision Facilities and Shared Facility Improvements on the standard reporting form of YLWD and to substantiate such report with invoices and receipts acceptable to YLWD.
- iii. Certification and Waiver of Lien Rights: Developer agrees that upon final payment of the contractor constructing or installing the Subdivision Facilities and Shared Facility Improvements, 35 or more days after date of recording of the Notice(s) of Completion with the County Recorder, Developer will obtain from the contractor(s) a Certification and Waiver of Lien Rights in favor of the Developer and YLWD, and that the original of said Certification and Waiver of Lien Rights shall be delivered to YLWD.
- iv. Bill of Sale: Developer agrees that upon expiration of said 35 days, Developer will execute and deliver a proper Bill of Sale, on the standard form of YLWD, for the Subdivision Facilities and Shared Facility Improvements to YLWD."

F. The following language is added as a new Subsection J within Section 3 of the Agreement:

"J. Inspections. During construction, YLWD shall have the right to inspect the Subdivision Facilities and Shared Facility Improvements during normal business hours and upon reasonable advanced written or electronic notice to Developer."

G. The following language is added as a new Subsection K within Section 3 of the Agreement:

"K. Damage to YLWD Facilities. Developer hereby agrees that, pursuant to Section 8 of the Agreement, it will indemnify YLWD for damages and charges to Existing Offsite

## EXHIBIT E

Facilities caused by Developer's construction of the Subdivision Facilities and Shared Facility Improvements, and any person, firm or corporation working for, on behalf of, or by direction of Developer."

H. The following language is added as a new Subsection L within Section 3 of the Agreement:

"L. YLWD's Acceptance of Shared Facilities Improvements. Completion of the Shared Facilities Improvements described in Exhibits M and N may pre-date the EHE Project's readiness to hook up. YLWD's acceptance of the Shared Facility Improvement shall not be conditioned or otherwise dependent on the EHE Project readiness to hook up; however, YLWD is not obligated to accept the Shared Facility Improvements either for any reason stated in Sections 3.D through 3.F of the Agreement or until both the Shared Facility Improvements and Subdivision Facilities are operational.

I. Section 5.D. of the Agreement is hereby amended as to the first sentence, only, to read:

"Both before and after the Agreement Date until issuance of the last building permit, Developer shall reimburse all YLWD staff and attorney time and costs, and all fees and costs associated with consultants and contractors hired by YLWD, related to either the Agreement, as amended from time to time, or the Project, including the Developer Improvements ("YLWD Administrative Costs").

The remainder of Section 5.D of the Agreement is unchanged.

J. Subsection F within Section 5 of the Agreement is hereby amended and replaced in its entirety with the following language:

"F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer agreed to pay \$40,000 to YLWD for its share of the AMI."

K. To reflect the omission of Developer's \$40,000 deposit into the Existing Offsite Facility Improvements Escrow, Exhibit "G" to the Agreement is hereby amended and replaced by Exhibit "G.1" attached hereto.

L. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project milestones, Exhibit "J" to the Agreement is hereby amended and replaced by Exhibit "J.1" attached hereto.

## EXHIBIT E

M. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project schedule, Exhibit "K" to the Agreement is hereby amended and replaced by Exhibit "K.1" attached hereto.

N. Section 15 is hereby amended and replaced in its entirety with the following language:

"15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts both consistent with the District's Rules and Regulations For Water Service and Sewer Service and in any commercially reasonable manner as may be necessary to implement the intent of this Agreement, as set forth in the Recitals, and the terms of the Agreement as amended from time to time."

O. The following language is added as new Section 27:

"27. Relationship of Parties. Nothing in this Agreement shall be deemed to create any form of business organization between the Parties, without limitation, a joint venture or partnership. Developer, in constructing and installing the Subdivision Facilities and Shared Facility Improvements, is not acting as an agent or employee of YLWD."

2. Pursuant to Section 5.D., as amended, YLWD Administrative Costs include (1) YLWD outstanding and future expenses associated with the Developer Improvements, and (2) the YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of \$14,324.19 owed by Yorba Linda Estates, LLC. On August 6, 2019, YLWD received and deposited a check from Developer dated July 31, 2019 in the amount of \$14,324.19 so Developer's payment obligation for invoice no. 2012-06 is satisfied. Developer's payment of YLWD's outstanding expenses related to the Developers Improvements will be deducted from Developer's Administrative Costs Account after this First Amendment is signed by YLWD.

3. Pursuant to Section 5.F. of the Agreement as amended, Developer agrees to pay \$40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment. Developer's failure to deliver this check in the amount of \$40,000 to YLWD within 30 calendar days will nullify this First Amendment.

5. This First Amendment and the attached Agreement shall be recorded with the Orange County Recorder's Office.

6. The Agreement shall remain in full force and effect in accordance with its terms and provisions except as amended by this First Amendment. The Parties hereby confirm and ratify each of the provisions of the Agreement as amended by this First Amendment. This First Amendment may be executed in one or more counterparts, all counterparts shall be valid and binding on the Party executing them and all counterparts shall together constitute one and the same document for all purposes.

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: Marc Marcantonio

By: Sign in counter part

Print: Marc Marcantonio

Print: \_\_\_\_\_

Title: General Manager

Title: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

By: Andrew B. Gagen

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Orange )
On September 3, 2019 before me, Annie Alexander, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Marc Marcantonio
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Amendment to Cleo Vista
Title or Type of Document: Project Agreement Document Date: August 27, 2019
Number of Pages: 14 Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[ ] Individual [ ] Attorney in Fact
[ ] Trustee [ ] Guardian or Conservator
[X] Other: General Manager
Signer Is Representing: YLWD

Signer's Name:
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[ ] Individual [ ] Attorney in Fact
[ ] Trustee [ ] Guardian or Conservator
[ ] Other:
Signer Is Representing:

**EXHIBIT E**

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

*Sign in counterpart*  
By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: *Philip Mader*

Print: *Philip Mader*

Title: *Managing Director*

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: \_\_\_\_\_

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

\_\_\_\_\_  
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

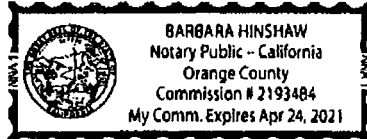
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )  
On September 4, 2019 before me, Barbara Hinshaw, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Philip Mader  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public  
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company  
("Developer")

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, A Law Corp.

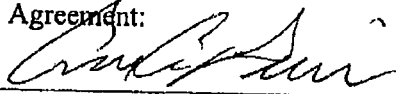
By: \_\_\_\_\_

By: \_\_\_\_\_

Andrew B. Gagen, General Counsel

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

**EXHIBIT E**



AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

EXHIBIT E

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

*Linda M. Rodger Trustee*

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

*Nancy Ann Maggio Trustee*

NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

On 23rd September 2019 before me, MARYANNE SCARPONI, NOTARY PUBLIC personally  
(insert name and title of the officer),

Appeared Amos A. Travis  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

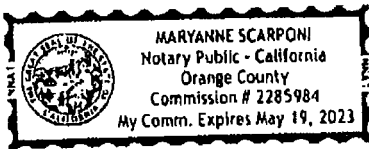
\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Maryanne Scarpone  
Signature

(Seal)



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



EXHIBIT E

**NOTARY ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )  
County of Orange )

On Sept 13, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER** and **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Holly Hutchins



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: <u>Marc Marcantonio</u>	By: _____
Print: <u>Marc Marcantonio</u>	Print: _____
Title: <u>General Manager</u>	Title: _____
Date: <u>10/30/19</u>	Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: <u>Andrew B. Gagen</u>	By: <u>Michele Staples</u>
Andrew B. Gagen, General Counsel	Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

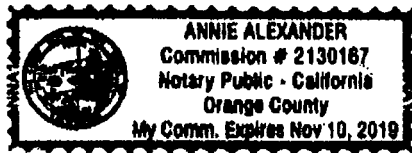
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Orange )  
 On October 30, 2019 before me, Annie Alexander, Notary Public  
Date Here Insert Name and Title of the Officer  
 personally appeared Marc Marcantonio  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Annie Alexander  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document** 1st Amendment to Cleo  
 Title or Type of Document: Vista Water and Sewer Agreement Document Date: August 27, 2019  
 Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: <u>Marc Marcantonio</u>	Signer's Name: _____
<input type="checkbox"/> Corporate Officer — Title(s): _____	<input type="checkbox"/> Corporate Officer — Title(s): _____
<input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General	<input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General
<input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact	<input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact
<input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator	<input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator
<input checked="" type="checkbox"/> Other: <u>General Manager</u>	<input type="checkbox"/> Other: _____
Signer Is Representing: <u>Yorba Linda Water District</u>	Signer Is Representing: _____

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

By: Rory G Ingels

Print: \_\_\_\_\_

Print: Rory G Ingels

Title: \_\_\_\_\_

Title: Director + Authorized Signatory

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: \_\_\_\_\_  
Andrew B. Gagen, General Counsel

By: \_\_\_\_\_  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

[Signature]

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

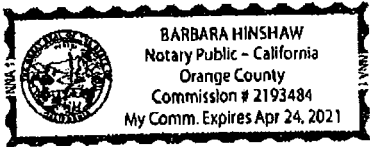
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Orange )
On October 30, 2019 before me, Barbara Hinshaw, Notary Public.
Date Here Insert Name and Title of the Officer
personally appeared Rory G. Ingels
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

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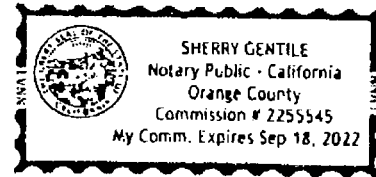
State of California )  
County of Orange )

On October 29, 2019, before me, **SHERRY GENTILE**, Notary Public, personally appeared **AMOS A. TRAVIS**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Sherry Gentile*

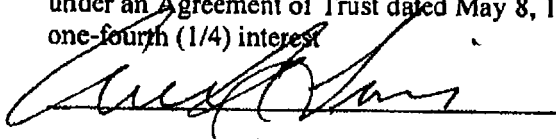


(Seal)

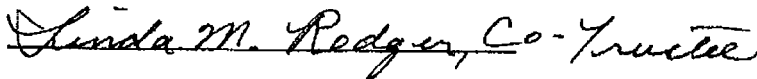
Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

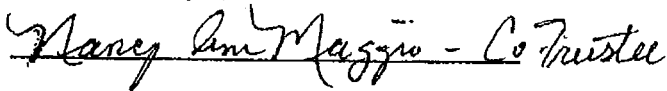
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest



LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986



NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986



[Notary Acknowledgments on next pages]

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins  
(here insert name and title of the officer)

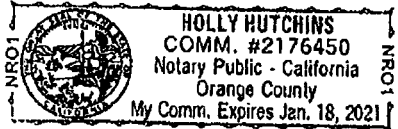
personally appeared Linda M. Rodger

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Signature (Seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins  
(here insert name and title of the officer)

personally appeared Nancy Ann MAGGIO

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins  
Signature (Seal)



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: *Andrew B. Gagen*  
Andrew B. Gagen, General Counsel

By: *Michele Staples*  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

Jackson Tidus, a Law Corp.

By: \_\_\_\_\_  
Andrew B. Gagen, General Counsel

By: Michele Staples  
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

\_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

\_\_\_\_\_

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: \_\_\_\_\_

\_\_\_\_\_

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**EXHIBIT E**

**CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT  
(attached)**

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## EXHIBIT E

**CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT  
BETWEEN  
YORBA LINDA WATER DISTRICT  
AND  
NORTH COUNTY BRS PROJECT, LLC**

This WATER AND SEWER FACILITIES AGREEMENT ("Agreement") is entered into on August 1, 2018 ("Agreement Date"), by and between YORBA LINDA WATER DISTRICT, a public agency, created and operating under authority of Division 12 of the California Water Code ("YLWD"), and NORTH COUNTY BRS PROJECT, LLC, a Delaware limited liability company ("Developer"); LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; and AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest (collectively referred to as "Property Owner"). For purposes of this Agreement, YLWD, Property Owner, and Developer may be referred to herein individually as a "Party" and collectively as the "Parties."

**RECITALS**

A. As of the Agreement Date, Developer is the master developer of, and controls, approximately 84.8 acres of real property ("Property"), located within the unincorporated area of the County of Orange ("County"). As of the Agreement Date, Property Owner owns the Property. The vicinity location of the Property is shown in the diagram attached hereto and marked Exhibit "A", which is incorporated herein by this reference. The Property is described in the legal description attached hereto and marked Exhibit "B", which is incorporated herein by this reference.

B. Approximately 40.1 acres of the Property are to be developed with no more than 80 single-family residential dwellings, along with associated common areas, and onsite infrastructure improvements (the "Project") pursuant to the approved Vesting Tentative Tract Map 17341 for the Project ("Map"). The Project is commonly referred to as the Cielo Vista subdivision.

C. The County certified the Project's Final Environmental Impact Report No. 615 and approved the Map on September 12, 2017.

D. YLWD provides retail municipal water and sewer service to land within its boundaries. The Property has been annexed into the YLWD jurisdictional boundaries and YLWD's water and sewer service area boundaries approved by the Orange County Local

## EXHIBIT E

Agency Formation Commission. However, the annexation fee payment to YLWD discussed in Section 4(A) below is outstanding.

E. YLWD currently owns and operates existing offsite water and sewer facilities (collectively, the “Existing Offsite Facilities”). The onsite water and sewer facilities to be constructed by Developer as part of the Project and conveyed to YLWD according to this Agreement (collectively referred to herein as the “Subdivision Facilities”) are shown on Developer’s improvement plans incorporated herein by reference, titled “Water and Sewer Improvement Plans for Cielo Vista Tract No. 17341”, to be approved by YLWD and maintained on file with YLWD (“Subdivision Facilities Plans”). Collectively, the Existing Offsite Facilities with proposed improvements, and Subdivision Facilities will have the capability to serve the Property via gravity-feed from a reservoir in the 1000 Zone or higher.

F. The Parties intend, by this Agreement, to provide access to water and sewer service through YLWD for the benefit of the Project and the future occupants thereof, including access to water for Project grading and all phases of Project construction, water service to enable the lumber drop for Project framing, and water and sewer service for model homes and for issuance of certificates of occupancy for all of the Project’s 80 single-family residential dwellings. However, the Parties acknowledge that protection of health, safety, and property require that framing and occupancy of residential structures cannot proceed prior to the availability of water service and that the Subdivision Facilities must be developed in a logical order.

G. As part of YLWD’s approved Water Facilities Master Plan, YLWD identified certain operational improvements to the Existing Offsite Facilities that will preserve or enhance water quality, provide additional redundancy, and provide more reliable water service to the YLWD service area in the vicinity of the Project, which include installing a water main in Stonehaven listed in **Exhibit “G”** and illustrated on **Exhibit “H”**, and upgrading and expanding the pumping capacity of the existing Hidden Hills Pump Station listed in **Exhibit “G”** and illustrated on **Exhibit “I”** (collectively referred to herein as the “Existing Offsite Facility Improvements”). The Hidden Hills Pump Station is existing equipment within public right-of-way attached to a pipeline, and the water pipeline extension in Stonehaven is less than one mile in length within public right-of-way. The Existing Offsite Facility Improvements are exempt from the California Environmental Quality Act (“CEQA”, Public Resources Code sections 21000-21189.57) under CEQA sections 21080.21 and 21080.23 and under the CEQA Guidelines (Title 14, California Code of Regulations sections 15000-15387) sections 15062, subd. (b)(1), (2) and (3), and 15282, subd. (k).

H. Under the terms of this Agreement, Developer intends to install the Subdivision Facilities at its sole expense, pay its fair share of the Existing Offsite Facilities, and pay for the Existing Offsite Facility Improvements; and YLWD intends to timely complete the Existing Offsite Facility Improvements, provide access to water for Project development according to the schedule set forth herein, and provide access to water and sewer service to the Property and the future occupants thereof.

I. The Parties acknowledge that the Subdivision Facilities have been planned at certain sizes in order to serve the number of residential dwelling units, or equivalent dwelling units identified in the Map, and that changes in land use, especially increased density of dwelling

## EXHIBIT E

units per land area, may change water and sewer system planning and facilities sizing. The total number of residential dwelling units shall not exceed 80. The Parties acknowledge further that once the Subdivision Facilities are installed, it may not be possible to increase land use density without providing additional water and/or sewer infrastructure at additional cost to the Developer.

### AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are true and correct and incorporated into this Agreement.

2. Effective Date of Parties' Rights and Obligations. Except for Section 5.D., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map within one year of the Agreement Date, then YLWD may provide written notice to Developer that this Agreement is null and void; at which time this Agreement will be null and void.

3. Parties' Obligations for Subdivision Facilities.

A. Developer shall cause Subdivision Facilities to be constructed as necessary and transferred to YLWD. All Subdivision Facilities shall be constructed:

- (i) at no expense to YLWD;
- (ii) within the easement areas dedicated to YLWD on the face of the Map ("Easements") as such Easements may be amended by Developer from time to time; and
- (iii) in substantial conformance with the Subdivision Facilities Plans to be approved by YLWD and in substantial conformance with any variances, exceptions, or modifications approved in writing by the Parties.

B. The Subdivision Facilities Plans may be subject to modifications by the mutual written consent of the Parties due to engineering, site development, or marketing considerations that may arise in the future. The Parties wish to provide a mechanism for future amendments of the Subdivision Facilities Plans without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree to discuss in good faith adjustments or modifications to facilities identified in the Subdivision Facilities Plans, and if such modifications are approved in writing by both Parties, the revised Subdivision Facilities Plans may be substituted in this Agreement and will be effective for subsequent development.

## EXHIBIT E

C. Developer shall provide an easement grant deed in favor of YLWD, conveying to YLWD rights to access, operate, and maintain the Subdivision Facilities within the Easements. Developer shall defend and indemnify YLWD against any claim or challenge to YLWD's easement rights under the Easements from persons disputing said rights.

D. Written notice shall be provided to YLWD upon completion of the Subdivision Facilities ("Notice of Completion"). Within twenty (20) working days following receipt of the Notice of Completion, YLWD shall inspect the Subdivision Facilities and review all work and services performed with respect thereto, and shall either: (i) provide written notification affirming that the Subdivision Facilities are acceptable as constructed, certifying that the construction tasks have been fully satisfied for the Subdivision Facilities, and accepting the Subdivision Facilities and Easements; or (ii) if reasonable cause exists for doing so, provide written notification that the Subdivision Facilities are not acceptable as constructed, and stating in detail the reasons therefor and the list of items required to be completed in order for YLWD to accept the Subdivision Facilities and Easements. YLWD shall not unreasonably delay the inspection of Subdivision Facilities subject to the Notice of Completion. If necessary, YLWD will contract for inspection services at Developer's expense.

E. In the event YLWD determines the Subdivision Facilities are not acceptable as constructed, and Developer has not disputed YLWD's determination, Developer shall promptly take corrective action or perform additional work or other services that will achieve acceptability of the Subdivision Facilities as constructed, and shall issue to YLWD another Notice of Completion. Such procedure shall be repeated until YLWD Board of Directors has accepted both the Subdivision Facilities, as constructed, and Easements ("Final Acceptance"). YLWD's Final Acceptance shall not be unreasonably withheld, provided that YLWD Board of Directors shall be under no obligation to adopt Final Acceptance until the payments set forth in Section 4 below are received.

F. It is understood and agreed that upon YLWD's Final Acceptance, Developer disclaims in favor of YLWD all right, title and interest in and to the Subdivision Facilities and Easements, and that Developer hereby covenants and agrees to execute and deliver to YLWD any documents required to complete the transfer of the Subdivision Facilities concurrently with YLWD's Final Acceptance. Developer shall no longer own, operate, maintain, repair or replace the Subdivision Facilities following YLWD's Final Acceptance. Developer shall warranty all Subdivision Facilities for one year following Final Acceptance by the YLWD Board of Directors.

G. The Parties shall coordinate their respective activities in order to provide for orderly, efficient and timely completion and acceptance of the Subdivision Facilities and their connection to YLWD's Offsite Existing Facilities and Existing Offsite Facility Improvements required to provide water and sewer service to the Property.

#### 4. Parties' Obligations for Existing Offsite Facilities.

A. YLWD studies recommended, and YLWD has determined, that pro-rata buy-in is required by Developer for the Existing Offsite Facilities. Subject to YLWD's completion of the Existing Offsite Facility Improvements, Developer agrees to pay YLWD the

## EXHIBIT E

Project's fair share of the Existing Offsite Facilities as follows: (1) \$290,217.00 for the fair share cost of existing water infrastructure as detailed on **Exhibit "C"** and shown graphically on **Exhibit "D"**; (2) \$109,242.00 for the fair share cost of existing sewer infrastructure as detailed on **Exhibit "E"** and shown graphically on **Exhibit "F"**; and (3) \$15,644.00 for annexation fees as detailed on **Exhibit "G"**.

- i. The fair share cost component of Developer's payment obligation for Existing Offsite Facilities shall be analyzed by Developer's engineer, which may cause the estimated payment obligation to change, up or down. Developer's analysis and revised payment obligation must be presented to YLWD in writing and approved, in writing, by YLWD. YLWD's approval of Developer's fair share cost component shall not be unreasonably withheld.
- ii. Developer's approved fair share payment obligation for the Existing Offsite Facilities shall be paid on a pro-rata basis upon issuance of each building permit for the Project's single-family residential dwellings. The Developer shall be obligated to make final payment to YLWD for the remaining approved payment obligation for 80 homes either upon issuance of the last building permit, or within two years of the first building permit, being issued for the Project, whichever occurs first and even if fewer than 80 homes are constructed.

5. Parties' Obligations for Existing Offsite Facility Improvements.

A. YLWD shall be solely responsible for the construction of the Existing Offsite Facility Improvements, including but not limited to any YLWD amendments to the scope of design or scope of work for the Existing Offsite Facility Improvements attached as **Exhibit "L"** ("Scope of Work"), compliance with all federal, state and local laws applicable to the Existing Offsite Facility Improvements, and obtaining all rights of way, permits and approvals required for the Existing Offsite Facility Improvements. Developer assumes no liability and shall have no responsibility for the construction of the Existing Offsite Facility Improvements, except to make the payments provided in this Section 5.

B. Developer shall pay its engineering consultant, Psomas, to prepare a proposed preliminary design report, 60%, 90% and final design plans and specifications, bid support services, and construction support services for the Existing Offsite Facility Improvements (collectively, the "Existing Offsite Facility Improvements Documents"), to be submitted for YLWD's consideration consistent with YLWD's existing approvals, mitigation measures, standards and procedures for YLWD facility improvement projects. The Existing Offsite Facility Improvements Documents shall include engineer's opinions of probable construction costs in the preliminary design report, 60%, 90% and 100% submittals.

i. Psomas shall prepare a proposed scope of work and schedule for preparation of the Existing Offsite Facility Improvements Documents. YLWD shall promptly consider and provide Psomas with YLWD's final approved scope of work and schedule for the preparation of the Existing Offsite Facility Improvements Documents.



## EXHIBIT E

ii. Psomas shall prepare each of the Existing Offsite Facility Improvements Documents under YLWD's direction, in accordance with YLWD's standards and in the form and content required by YLWD. YLWD's General Manager or designee is authorized to approve the preliminary design report and final design plans and specifications for the Existing Offsite Facility Improvements.

iii. YLWD shall issue written Notices to Proceed to Developer upon completion of the Subdivision Facilities up to the hydrant(s) serving the model homes and/or completion of the Stonehaven Improvements and/or commencement of construction of the Hidden Hills Pump Station Improvements. The schedule for YLWD to provide access to water for the Project is described in **Exhibit "K"**. This schedule is based on (a) a projected Effective Date of August 1, 2018, and (b) the Project milestone dates provided by Psomas attached as **Exhibit "J"**. If the actual Effective Date is later than August 1, 2018, then the dates in **Exhibits "J" and "K"** shall be extended by the same time period as such delay in the Effective Date or to any earlier dates mutually agreeable to YLWD and Developer. The Parties wish to provide a mechanism for future amendments to **Exhibits "J" and "K"** without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree that if such amendments are approved in writing by the Parties, the amended **Exhibits "J" and "K"** may be substituted in this Agreement and will be effective for subsequent development.

C. Within 10 days of the Effective Date, Developer shall deposit into an interest-bearing escrow account \$1,270,000.00 for Developer's costs of installing the Existing Offsite Facility Improvements as listed in **Exhibit "G"** ("Existing Offsite Facility Improvements Escrow").

i. The \$1,270,000.00 is a preliminary estimate and the final costs may change up or down after construction completion of the Existing Offsite Facility Improvements. Developer shall pay 100% of the final costs of installing the Existing Offsite Facility Improvements, except that YLWD shall be solely responsible to pay all costs related to any change(s) in the Scope of Work by YLWD.

D. Both before and after the Agreement Date, Developer shall reimburse all YLWD staff and attorney time and costs related to the Project, including this Agreement ("YLWD Administrative Costs"). Developer has been and shall continue to submit to YLWD a deposit in the amount of \$20,000 to be managed by the YLWD Finance Manager in a restricted deposit account ("Administrative Costs Account"), which Developer shall replenish to \$20,000 within 5 days of YLWD's written notice to Developer that the Administrative Costs Account has fallen below \$5,000. All YLWD Administrative Costs shall be deducted from the Administrative Costs Account. Concurrent with its above written notice to Developer, YLWD shall provide Developer with an itemized invoice of YLWD Administrative Costs incurred since YLWD's last invoice to Developer for YLWD Administrative Costs.

## EXHIBIT E

E. YLWD shall provide written notice to Psomas of each request for disbursement from the Existing Offsite Facility Improvements Escrow for Psomas' review and comment ("YLWD Disbursement Request"). The YLWD Disbursement Request shall set forth in reasonable detail the costs to be paid from the Existing Offsite Facility Improvements Escrow and shall be accompanied by invoices or other supporting documentation evidencing such costs. Psomas shall have fifteen (15) days to deliver written comments and supporting documentation to YLWD, and the Parties shall engage in good faith efforts to reach a mutually-agreeable resolution of Psomas' comments. Any funds remaining in the Existing Offsite Facility Improvements Escrow upon completion of construction of the Existing Offsite Facility Improvements shall be refunded to Developer.

F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer shall be responsible for the costs, up to \$40,000, of the tower and signal collection equipment, which shall be specified by YLWD. The \$40,000 is to be deposited by Developer into the Existing Offsite Facility Improvements Escrow (**Exhibit "C"**) within ten (10) days after the Effective Date and is listed as a separate line item in **Exhibit "C"**.

6. Environmental Impact Analysis and Indemnity Therefor. County certified the Final EIR for the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall be responsible to obtain environmental approvals for the Project. The obligations of the Parties hereto are expressly contingent upon Developer receiving all environmental approvals and all entitlements necessary to proceed with subdivision and development of the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall obtain such approvals at its sole cost and expense and it shall be responsible to comply with any requirements of the California Environmental Quality Act and/or the County of Orange in connection with the construction of the Subdivision Facilities.

7. Notice. Any and all notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, nationally recognized overnight (one business day) courier (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in this Section. Notices may be sent in the same manner to such other addresses as the Parties may from time to time designate by notice in accordance with this Section. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is dispatched by messenger for immediate personal delivery, one business day after delivery to a nationally recognized overnight carrier or two (2) calendar days after it is placed in the United States mail in accordance with this Section. Any attorney representing a Party may give any notice on behalf of such Party. The notice addresses for the Parties are as follows:

If to Developer:

North County BRS Project, LLC  
3 Corporate Plaza, Suite 102

EXHIBIT E

Newport Beach, CA 92660  
Attention: Laurence M. Netherton, Project Manager

If to YLWD:

Yorba Linda Water District  
P.O. Box 309  
Yorba Linda, CA 92885-0309  
Attention: General Manager

If to Psomas:

PSOMAS  
3 Hutton Centre Drive, Suite 200  
Santa Ana, CA 92707 | 714.481.7979  
Attention: Michael D. Swan

8. Indemnity. Developer shall indemnify, hold harmless, and defend YLWD (including its elected officials, officers, volunteers, agents, attorneys, and employees) and its affiliates, the Yorba Linda Water District Financing Authority and the Yorba Linda Water District Public Financing Corporation (“Affiliates”), from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney’s fees) resulting or arising from Developer’s performance or non-performance (actual or alleged) of this Agreement (with the exception of the sole negligence, willful misconduct, or breach of this Agreement by YLWD, or its elected officials, officers, volunteers, agents and employees).

Without limiting the generality of the forgoing, Developer’s duty to defend and indemnify YLWD under this Agreement expressly includes, but is not limited to, defense and indemnity against claims and liability arising from (i) disputes as to environmental compliance in connection with development of the Project; (ii) disputes as to ownership rights to the Easements, and rights of way and land (if any) conveyed to YLWD under this Agreement; and (iii) disputes as to the payment of prevailing wages related to construction of the Subdivision Facilities that will be dedicated to public use.

9. Insurance Prior To Performance. The Developer shall not commence work on the Subdivision Facilities pursuant to this Agreement until it has obtained, and the YLWD has approved, all insurance required hereunder. YLWD’s approval of Developer’s insurance shall not be unreasonably withheld. In addition, Developer shall not allow any contractor to commence work on the Subdivision Facilities under this Agreement until such contractor has obtained all required insurance, as provided herein. Developer shall procure and maintain, for one year following YLWD’s Final Acceptance, insurance against claims for injuries to persons or damage to property which may arise from or in connection with Developer’s performance or non-performance (actual or alleged) of this Agreement, as set forth below. The cost of such insurance shall be borne by Developer.

A. Scope of Insurance. Coverage shall at least be as broad as:

## EXHIBIT E

- (i) Commercial General Liability: Insurance Services Office (ISO) Occurrence Form No. CG 0001, or equivalent), including completed operations coverage, with no explosion, collapse or underground damage exclusions (XCU)
- (ii) Automobile Liability: ISO Form No. CA 0001, or equivalent Code 1 (any auto) or in the alternative, owned or scheduled autos plus non-owned and hired autos.
- (iii) Workers' Compensation: As required by the Labor Code of the State of California, including an "all states" endorsement and employer's liability coverage.

**B. Minimum Limits of Insurance.**

- (i) Liability insurance: Total liability limits shall be no less than four million dollars (\$4,000,000) per occurrence/claim/or accident, through any combination of primary and excess or umbrella insurance policies and shall apply above the other liability policies, providing coverage at least as broad as coverage provided in the underlying policies.
- (ii) General liability: \$2,000,000 per occurrence, \$4,000,000 general aggregate, \$4,000,000 completed operations aggregate.
- (iii) Automobile liability: \$1,000,000 per accident combined single limit.
- (iv) Workers' Compensation limits shall be statutory as required by the Labor Code of the State of California.

**C. Other Developer Insurance Provisions.** The policies specified herein are to contain, or be endorsed to contain, the following provisions:

- (i) Additional Insureds - YLWD and its Affiliates shall be named as additional insureds on all third party liability policies, including, general liability and excess or umbrella policies. The coverage shall contain no special limitations on the scope of protection afforded to YLWD and its Affiliates.
- (ii) Primary Insurance - Developer's insurance coverage, including any excess liability coverage, shall be primary insurance as respects YLWD and its affiliates for all Claims arising out of Developer's performance under this Agreement. Any insurance, pool coverage, or self-insurance maintained by YLWD or its Affiliates shall be excess of Developer's insurance and shall not contribute with it.
- (iii) Waiver of Subrogation – All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against YLWD and its Affiliates. Developer waives its right of recovery against YLWD and its affiliates for damages covered by insurance required by this

## EXHIBIT E

Agreement. Developer shall require similar written express waivers and insurance clauses from each of its contractors.

(iv) The insurer issuing the Workers' Compensation insurance shall amend its policy to waive all rights of subrogation against YLWD and its Affiliates.

D. No Waiver. Developer acknowledges and agrees that any actual or alleged failure on the part of YLWD to inform Developer of Developer's non-compliance with any requirement imposes no additional obligations on YLWD nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

F. Notice of Cancellation. Developer agrees to obligate its insurance broker and insurers to provide YLWD with 30 day notice of cancellation (except for nonpayment for which 10 day notice is required) or nonrenewal for each required coverage.

G. Proof of Insurance. Developer shall, at the time of the execution of this Agreement, present the original policies of insurance required by this Section, or present signed certificates of insurance with original additional insured endorsements for general liability insurance effecting coverage required by this Contract, and a workers' compensation waiver of subrogation, showing the issuance of such insurance and the addition of policy insureds and other provisions required herein. Developer shall provide certified copies of all insurance policies required above within 10 days of YLWD's written request for said copies.

H. Policy Expiration. The Developer shall, at the expiration of any insurance policy required by the Contract Documents, file a signed and completed renewal "Certificate of Insurance" and endorsements as required by this Agreement.

I. Maintenance of Insurance. Should the Developer neglect to obtain or maintain in force any such insurance for one year following YLWD's Final Acceptance, then it shall be lawful for YLWD to obtain and maintain such insurance, and the Developer hereby appoints YLWD as its true and lawful attorney-in-fact to do all things necessary for this purpose. All money paid by YLWD for insurance premiums under the provisions of this Section shall be charged to Developer.

J. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-: VII or equivalent as determined by YLWD.

K. Developer's Contractors. Developer's contract with each contractor shall include (1) an agreement by the contractor to indemnify YLWD and its Affiliates from claims that may be asserted by any person or entity arising out of or in any manner directly or indirectly

## EXHIBIT E

related to the contractor's performance of activities under this Agreement, including defense costs and attorney's fees; (2) insurance requirements for the contractor that are the same as the requirements imposed on the Developer by this Section except as to limits, but limits shall be no less than (a) \$1 million per occurrence for General Liability, (b) \$1 million per accident for automotive, and (c) statutory limits for Worker's compensation, and; (3) a requirement that the contractor name YLWD as an additional insured on the contractors General Liability policy. Developer shall be responsible to enforce compliance with these requirements, and all documentation establishing compliance shall be made available to YLWD upon request.

L. Compliance with Insurance Requirements. Developer's obligation to obtain insurance coverage as set forth in this Section is separate and distinct from Developer's obligation to indemnify, hold harmless, and defend YLWD.

10. Equitable Remedies. The Parties agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties shall be entitled to all forms of equitable relief, including restraining orders, injunctions and specific performance to prevent breaches and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity. The Parties waive any requirement for the securing or posting of any bond in connection with the obtaining of any equitable relief.

11. Governing Law. The Parties hereby agree that this Agreement is to be governed under the laws of the State of California and construed according to its plain meaning as if drafted by both Developer and YLWD. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Orange. In any action or proceeding, any photographic or other copy of this Agreement may be introduced into evidence.

12. Resolution of Disputes. If any dispute shall arise with respect to this Agreement and is not otherwise resolved by the parties hereto, then such dispute shall be determined by a general judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. in the County of Orange, before one general referee. This is a waiver of any right that may exist to a jury trial.

The Parties shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The referee shall be a retired judge who has served in either the California Superior Court or Federal Court in Orange County, California with substantial experience in the type of matter in dispute and without any relationship to either Party, unless the Parties agree otherwise.

Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by the Parties. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling.

## EXHIBIT E

13. Severability. If any provision, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the voided provision, condition or covenant shall be deemed severed from the remaining provisions of this Agreement, which shall remain valid and enforceable to the full extent permitted by law, and the Parties shall negotiate in good faith to replace the unenforceable provision(s) in accordance with the original purpose and intent of this Agreement as set forth in the Recitals.

14. Counterparts. This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts in any commercially reasonable manner as may be necessary to carry out the intent of this Agreement as set forth in the Recitals and implement the terms and conditions of this Agreement.

16. Complete Agreement. This Agreement contains the entire agreement between the Parties, and supersedes and replaces any and all prior negotiations and agreements between the Parties, whether written or oral. Each Party acknowledges that no agent or attorney of any Party hereto has made any promise, representation, or warranty, express or implied, not contained herein, to induce the other Party hereto to execute this Agreement, and each Party hereto acknowledges that it has not executed this Agreement in reliance on any such promise or representation or warranty not contained in this Agreement.

17. Waiver and Amendment. All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the appropriate authorities of the Parties.

18. Attorneys' Fees and Costs. In the event that a Party brings an action relating to or arising from this Agreement, the prevailing Party in such action shall be entitled to recover from the other Party its reasonable legal costs (which shall include all reasonable costs and expenses such Party incurs in any legal proceeding, or other matter for which such Party is entitled to be reimbursed for its legal costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses) which may be determined by the court in the same action or in a separate action brought for that purpose.

19. Successors and Assigns. The terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. Should either Property Owner or Developer sell all or substantially all of its right, title and interest in the Property to another, then upon execution of an assignment and assumption agreement by such successor, Property Owner or Developer shall deliver to YLWD and, as of the date of delivery of such agreement to YLWD, be released from further obligations and responsibilities under this Agreement, including but not limited to Section 8 (Indemnity). Property Owner and Developer shall defend and indemnify YLWD against claim or challenge to YLWD's rights to enforce this Agreement against Property Owner and Developer's successors and assigns.

EXHIBIT E

20. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party or give any third person any right of subrogation or action over or against any Party.

21. Authorization. Each Party hereby warrants that it has the authority and is duly authorized to execute this Agreement.

22. Time is of the Essence. Time is of the essence in all aspects of the performance of the obligations under this Agreement.

23. Determination of Time. If the last day for the performance of any act provided or required by this Agreement is a holiday, Friday, Saturday, or Sunday, then that period is hereby extended to and including the next day that is not a holiday, Friday, Saturday, or Sunday.

24. Force Majeure. Upon written notice by a Party, the respective duties and obligations of the Parties hereunder (except for the Parties' rights and obligations under Section 5.D.) shall be suspended for the time period that performance of the Parties is prevented or impeded by work force strikes, riots, fire, flood, state or county regulatory action, war, or terrorism.

25. Term. This Agreement shall be operable for ten (10) years from the Agreement Date. YLWD and Developer will negotiate in good faith thereafter to make necessary changes to conform this Agreement to then existing YLWD standards, practices, and policies.

26. Recordation. This Agreement shall be recorded with the Orange County Recorder's Office.

*(signatures on the following page)*



EXHIBIT E

SIGNATURE PAGE TO:  
CIELO VISTA PROJECT  
WATER AND SEWER FACILITIES  
AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

Yorba Linda Water District,  
a public agency  
("YLWD")

North County BRS Project, LLC,  
a Delaware limited liability company  
("Developer")

By: Marc Marcantonio  
Print: Marc Marcantonio  
Title: General Manager

By: Robert W. Smith  
Print: Robert W. Smith  
Title: Managing Member

APPROVED AS TO FORM:  
Kidman Gagen Law, LLP

APPROVED AS TO FORM:  
Jackson Tidus, A Law Corp.

By: Andrew B. Gagen  
Andrew B. Gagen, General Counsel

By: Michele Staples  
Michele Staples, Attorneys for Developer

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Orange )
On August 1, 2018 before me, Annie Alexander, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Marc Marcantonio
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Annie Alexander
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Cielo Vista Project Water
Title or Type of Document: and Sewer Facilities Agreement Document Date: August 1, 2018
Number of Pages: 26 Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
Corporate Officer -- Title(s):
Partner -- Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other: General Manager
Signer Is Representing: Yorba Linda Water District

Signer's Name:
Corporate Officer -- Title(s):
Partner -- Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing:

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

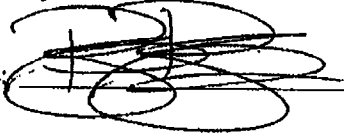
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

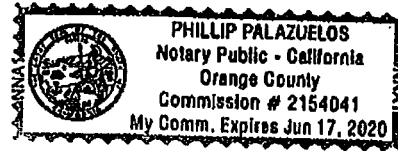
STATE OF CALIFORNIA )  
COUNTY OF Orange )

On July 19, 2018, before me, Phillip Palazuelos, a Notary Public, personally appeared Robert W. Smith who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 



STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

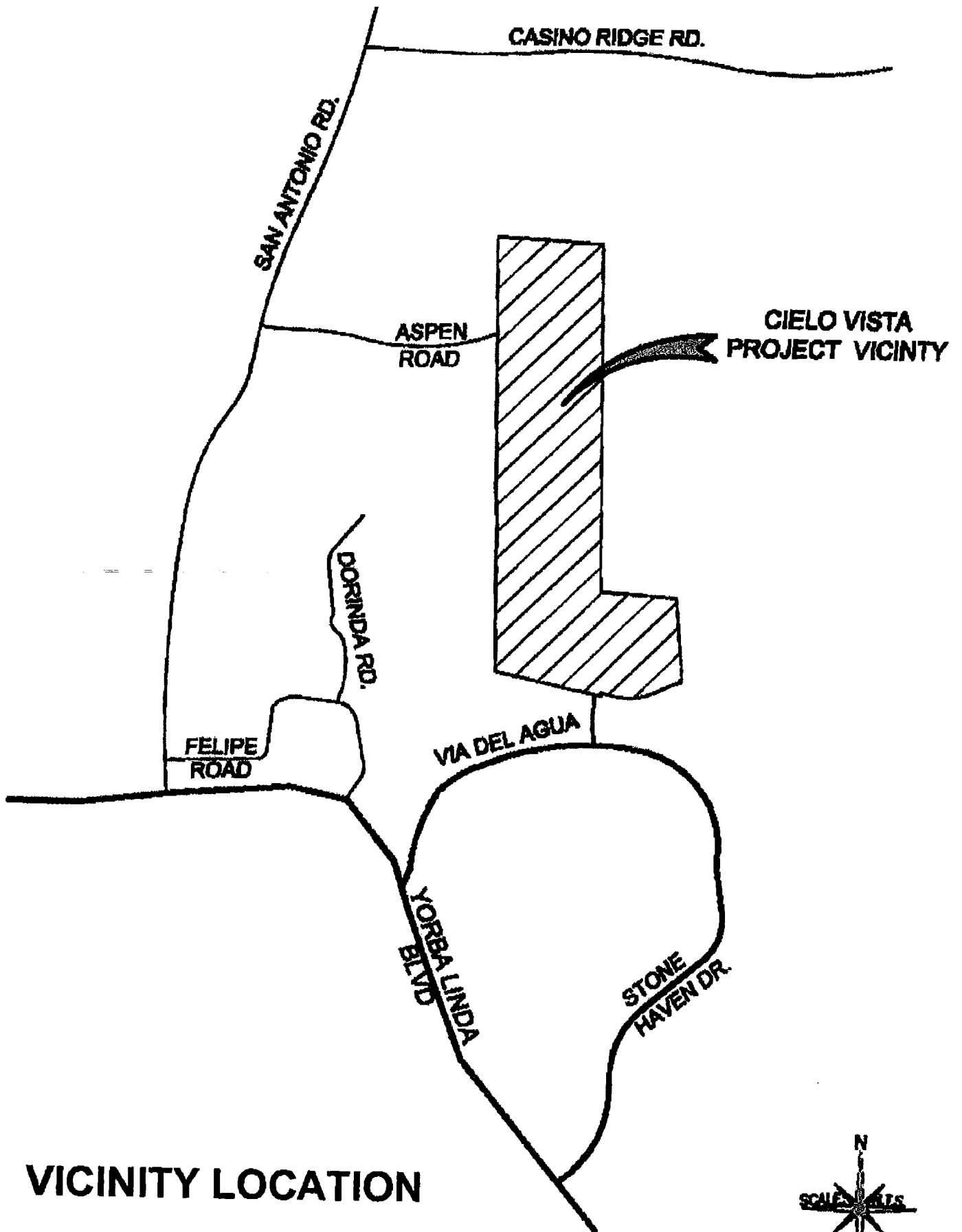
WITNESS my hand and official seal.

Signature: \_\_\_\_\_

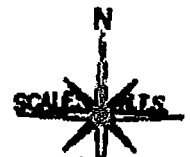
Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT "A"

EXHIBIT E



VICINITY LOCATION



**EXHIBIT "B"  
LEGAL DESCRIPTION**

**EXHIBIT E**

**PARCEL 1:**

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

THAT PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, ALSO BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO A POINT IN THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE NORTH 6° 40' 31.3" WEST ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO A POINT IN SAID WESTERLY LINE, DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION LYING SOUTHERLY OF THE CENTERLINE OF THE 100.00 FOOT WIDE STRIP OF LAND AS DESCRIBED IN THE PERMANENT EASEMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED JANUARY 12, 1960 IN BOOK 5049, PAGE 316 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THE INTEREST IN AND TO ALL OIL AND OIL RIGHTS, IN, ON AND APPURTENANT TO SAID LAND, AS EXCEPTED IN THE JUDGMENT IN PARTITION RECORDED MAY 26, 1958 IN BOOK 4297, PAGE 93 OF SAID OFFICIAL RECORDS.

THE SURFACE RIGHTS TO A DEPTH OF 500 FEET WERE QUITCLAIMED BY INSTRUMENTS OF RECORD.

APN: 351-031-05

**PARCEL 2:**

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

PARCEL 2, AS SHOWN ON EXHIBIT "B" ATTACHED TO THAT CERTAIN APPLICATION FOR LOT LINE ADJUSTMENT NO. 87-10" RECORDED JULY 25, 1988 AS INSTRUMENT NO. 88-358348 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 351-031-17

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## EXHIBIT E

## EXHIBIT "C"

**CIELO VISTA (SAGE) DEVELOPMENT**  
**EXISTING WATER FACILITIES COST ALLOCATIONS**

04/03/18

J2009-24

Development	MDD <sup>1</sup>	Unit	No. of Lots <sup>2</sup>		
Cielo Vista	53.5	GPM	80		

No./Component	Facility	Capacity (GPM)	Capital Cost Estimate <sup>3</sup>	Proportional Capacity	Proportional Cost
1) Well	Well 20	3,000	\$ 2,400,000	1.8%	\$ 42,800
2) RR W20 TM	20 - 36" TM	16,000	\$ 6,505,800	0.3%	\$ 21,754
3) Z1-2 BPS	High BPS	18,000	\$ 6,000,000	0.3%	\$ 17,833
4) Z2 TM	30" TM	11,000	\$ 2,995,200	0.5%	\$ 14,568
5) Z2 TM	2-16" TMs	5,000	\$ 3,196,800	1.1%	\$ 34,206
6) Z2-3 BPS	YLB BPS	5,000	\$ 2,760,000	1.1%	\$ 29,532
7) Z3 TM	YLB 20" TM	5,000	\$ 2,040,000	1.1%	\$ 21,828
8) YLB TM-FR 1	16" TM	3,200	\$ 738,000	1.7%	\$ 12,338
9) YLB TM-FR 2	27" TM	9,000	\$ 921,600	0.6%	\$ 5,478
10) Z3-4 BPS	Fairmont BPS	5,000	\$ 8,400,000	1.1%	\$ 89,880
<b>Water Total.....</b>					<b>\$ 290,217</b>

**Footnotes:**

1) ADD = 5B AFY (651 GPD x 80 units) = 36.2 GPM; MDD = 36.2 GPM X 1.48 = 53.5 GPM (provided by Developer's Consultant & confirmed by YLWD)

2) No. of lots confirmed by Developer.

3) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

EXHIBIT E

EXHIBIT "D"

IMPERIAL HWY

Fairmont Reservoir  
Fairmont BPS

NOT TO SCALE



Highland Reservoir  
Highland BPS

Yorba Linda BPS

YORBA LINDA BLVD

RICHFIELD ROAD

LAKEVIEW AVE

FAIRMONT BLVD

ORANGETHORPE AVE

LA PALMA AVE

Well 20

EXISTING WATER FACILITIES EXHIBIT

YORBA LINDA WATER DISTRICT

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

## EXHIBIT E

**EXHIBIT "E"**

**ESPERANZA HILLS ESTATES (EHE) AND CIELO VISTA (SAGE) DEVELOPMENTS**

**EXISTING SEWER FACILITIES COST ALLOCATIONS**

01/31/18  
J2009-245

**Table 1: Projected Sewer Flowrates<sup>1</sup>**

Development	Flowrate <sup>1</sup>	Unit	No. of Lots <sup>2</sup>	% of Lots
Total	0.3100	CFS	420	
Cielo Vista	0.0590	CFS	80	19.05
EHE	0.2509	CFS	340	80.95

**Table 2: Proportional Costs**

Component	Pipe Size (Inches)	Capacity <sup>3</sup> (CFS)	Capital Cost Estimate <sup>4</sup>	Proportional Capacity	Proportional Cost
Sewermain	10	1.88	\$ 1,058,198	16.5%	\$ 174,100
Sewermain	12	0.95	\$ 586,874	32.8%	\$ 192,407
Sewermain	15	4.51	\$ 1,901,088	6.9%	\$ 130,589
Sewermain	18	6.56	\$ 1,618,200	4.7%	\$ 76,426
<b>Total.....</b>					<b>\$ 573,521</b>
<b>CV (19.05% Share) .....</b>					<b>\$ 109,242</b>
<b>EHE (80.95% Share) .....</b>					<b>\$ 464,279</b>

**Table 3: Sewer Pipe Capacity**

Pipe Size (Inches)	Minimum Slope	Central Angle (radians)	Flow Area (square feet)	Wetted Perimeter (feet)	Hydraulic Radius (feet)	Capacity (CFS)
10	0.0252	3.1416	0.2727	1.3090	0.2083	1.88
12	0.0024	3.1416	0.3927	1.5708	0.2500	0.95
15	0.005	4.1888	0.9873	2.6180	0.3771	4.51
18	0.004	4.1888	1.4217	3.1416	0.4525	6.56

**Table 4: Existing Sewermain Quantity and Costs**

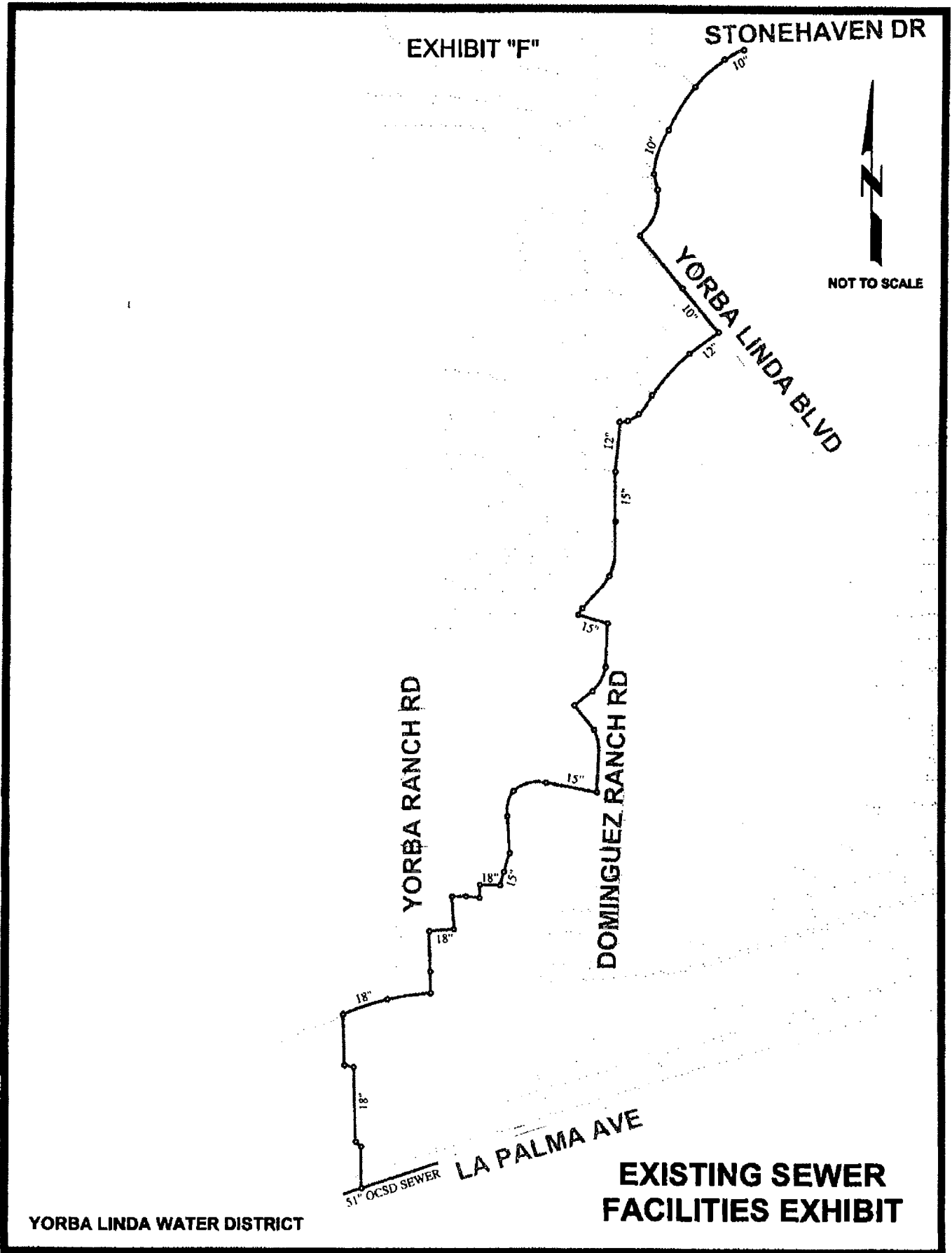
Pipe Size (Inches)	Total Linear Feet (ft)	Unit (\$/ft.)	Total (\$)
10	2436	362	\$ 881,832
12	1267	386	\$ 489,062
15	3864	410	\$ 1,584,240
18	3100	435	\$ 1,348,500

**Footnotes:**

- 1) Flowrate=pk. flow from KWC Engineering sewer study, Table 4-1 note of 0.000369CFS/Lot X 2, modified for April 2015 estimated lots.
- 2) No. of lots confirmed by EHE on 06-24-15 and CV on 01/31/18.
- 3) Sewer pipe capacity is calculated based on Manning's formula for circular pipe as shown in Table 3.
- 4) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.



EXHIBIT E



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

EXHIBIT "G"

EXISTING OFFSITE FACILITIES FEE SUMMARY  
AND EXISTING OFFSITE FACILITY IMPROVEMENTS

07/18/18  
J2009-24

Existing Offsite Facilities Fee Summary	
Existing Water Allocation Fees.....	\$ 290,217
Existing Sewer Allocation Fees.....	\$ 109,242
Water & Sewer Total.....	\$ 399,459
Annexation Fees <sup>1</sup> .....	\$ 15,644
<b>Total All Fees.....</b>	<b>\$ 415,103</b>
<b>Fee per Dwelling Unit (80 DUs).....</b>	<b>\$ 5,188.79</b>

<b>AMI Facilities<sup>4</sup>.....</b>	<b>\$ 40,000</b>
--	------------------

Existing Offsite Facility Improvements			
Description	Length (LF)	Cost per LF (\$)	Cost
12" Stonehaven Drive Watermain <sup>2</sup>	2,200	350	\$ 770,000
Hidden Hills Pump Station Upgrades <sup>3</sup>			\$ 500,000
<b>Subtotal.....</b>			<b>\$ 1,270,000</b>

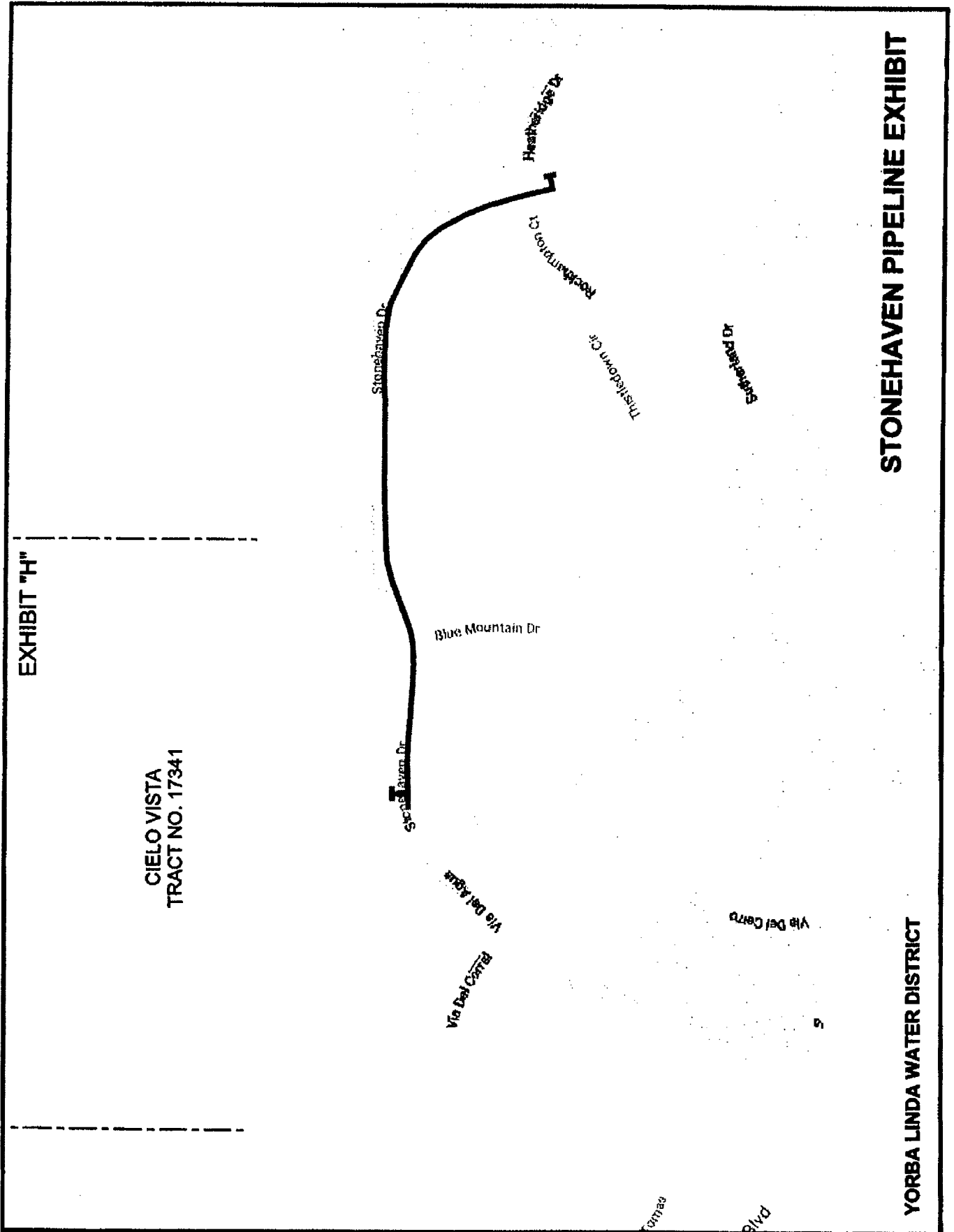
**Total Fees + Offsite Costs ..... \$ 1,725,103**

Footnotes:

- 1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.
- 2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.
- 3) Hidden Hills Pump Station upgrade costs to be analyzed and confirmed by the Developer's engineer.
- 4) Fee for AMI Facilities to be paid within ten (10) days after the Effective Date and not included in Fee per Dwelling Unit.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E



Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E

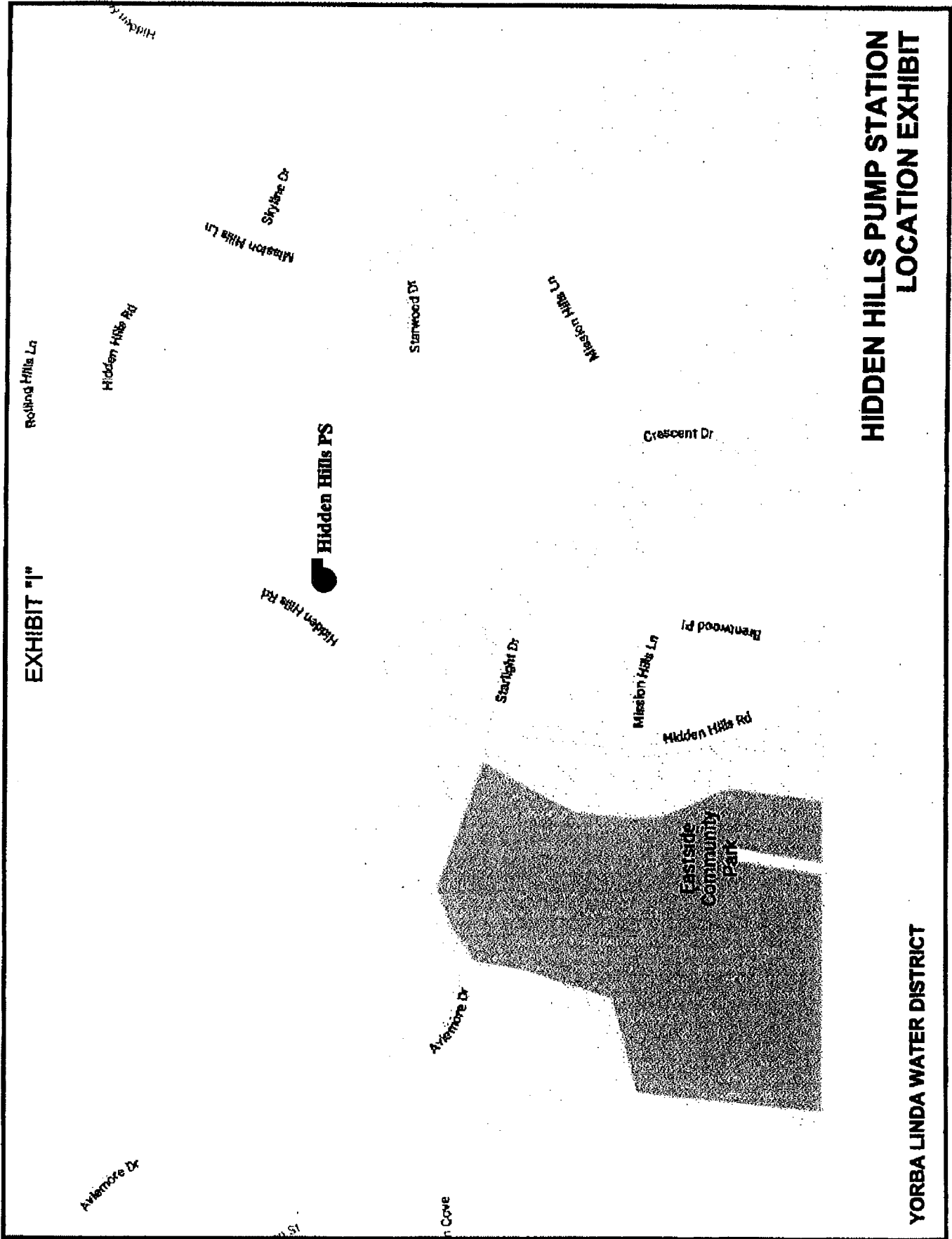


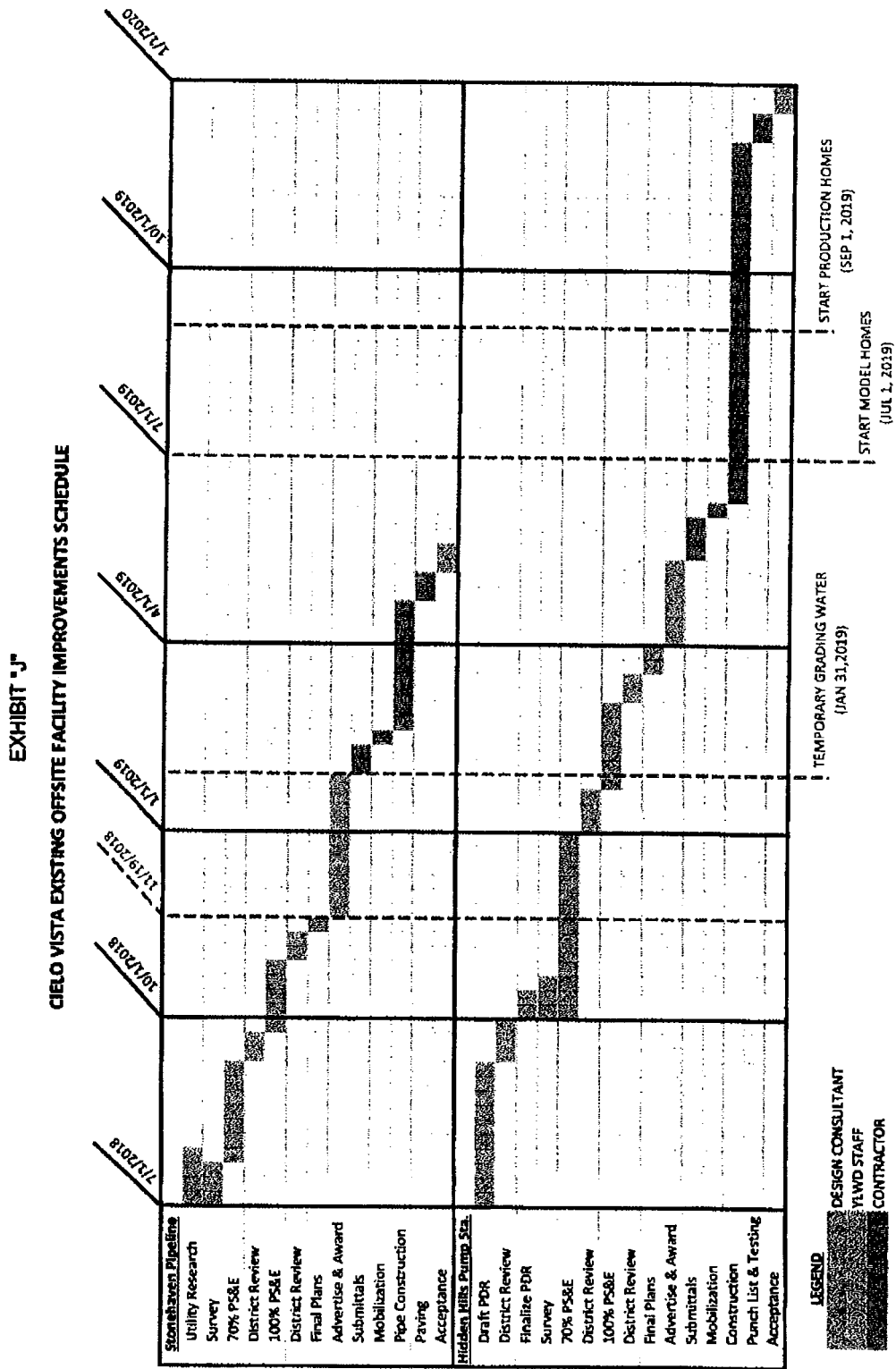
EXHIBIT "I"

HIDDEN HILLS PUMP STATION  
LOCATION EXHIBIT

YORBA LINDA WATER DISTRICT

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT E



## EXHIBIT "K"

**Schedule for YLWD to Provide Access to Water**

1. **Project Rough Grading:** YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2019. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.
2. **Drop Lumber and Residential Framing for Model Homes:** Before any lumber drop for project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Stonehaven water main final design plans and specifications, and receiving YLWD acceptance by November 19, 2018. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than November 19, 2018, the date for YLWD to provide construction water for lumber drop and residential framing of the model homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.
3. **Drop Lumber, Residential Framing and Construction of Remainder of Project homes:** The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2019. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than April 1, 2019, the date for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

**EXHIBIT E**

**EXHIBIT "L"**

**Scope of Work**

**for**

**Existing Off-Site Facility Improvements**

Stonehaven Pipeline – Construct approximately 2,200 linear feet of 12-inch diameter pipeline from Heatheridge Drive to proposed Cielo Vista entrance just east of Via de la Roca including connection to existing Santiago Reservoir 1000 Zone pipeline at Heatheridge Drive and connection to on-site subdivision pipeline at Cielo Vista entrance and ancillary valving and appurtenances.

Hidden Hills Pump Station Improvements – Replace existing 250 GPM jockey pump, motor and appurtenances with an 1,800 GPM pump and motor equipped with a variable frequency drive (VFD). Improvements will also include replacing portions of existing suction and discharge pipelines to maintain appropriate maximum hydraulic velocities through the station and may also include enlarging the building to provide adequate room for the new electrical equipment and VFD. A new, larger SCE transformer will also likely be required. A preliminary design report will be prepared, submitted to YLWD staff and reviewed and approved to confirm the exact scope but these are the minimum requirements. If YLWD decides to include additional improvements such as an emergency generator set and new automatic transfer switching gear, those additional improvements will be financed by YLWD.

**EXHIBIT "G.1"**  
**EXISTING OFFSITE FACILITIES FEE SUMMARY**  
**AND EXISTING OFFSITE FACILITY IMPROVEMENTS**

<b>Existing Water Allocation Fees</b> .....	<b>\$ 290,217</b>
<b>Existing Sewer Allocation Fees</b> .....	<b>\$ 109,242</b>
<b>Water &amp; Sewer Total</b> .....	<b>\$ 399,459</b>
<b>Annexation Fees<sup>1</sup></b> .....	<b>\$ 15,644</b>
<b>Total All Fees</b> .....	<b>\$ 415,103</b>
<b>Fee per Dwelling Unit (80 DUs)</b> .....	<b>\$ 5,188.79</b>

Description	Length (LF)	Cost per LF (\$)	Cost
12" Stonehaven Drive Watermain <sup>2</sup>	2,200	350	\$ 770,000
Hidden Hills Pump Station Upgrades <sup>3</sup>			\$ 500,000
<b>Subtotal</b> .....			<b>\$ 1,270,000</b>

**Total Fees + Offsite Costs** ..... **\$ 1,685,103**

**Footnotes:**

- 1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.
- 2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive Intersection to Project entrance assumed to be in Stonehaven Drive.
- 3) Hidden Hills Pump Station upgrade costs be analyzed and confirmed by the Developer's engineer.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

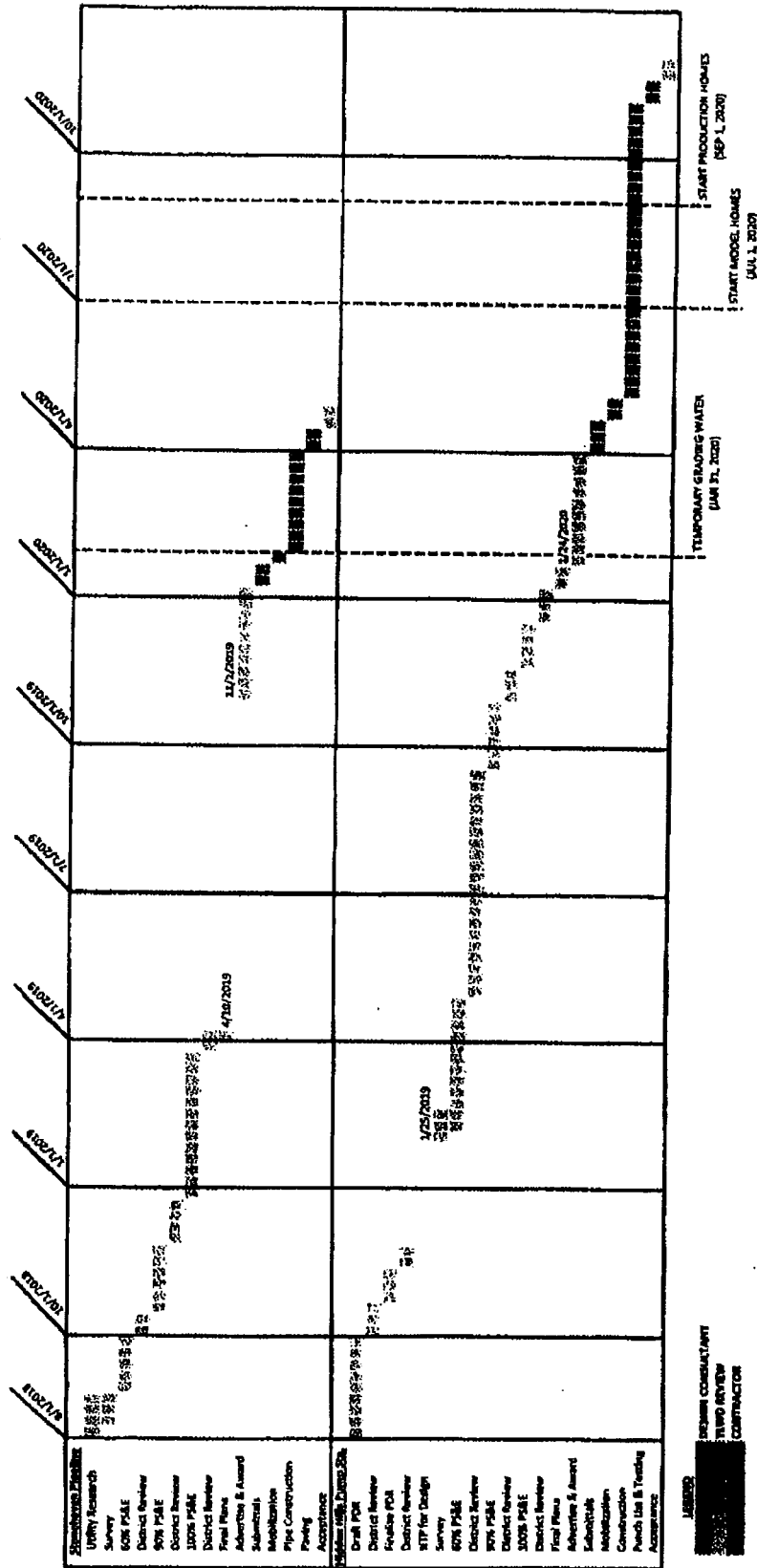


EXHIBIT E

9/7/2019

EXHIBIT "J.1"

CIELO VISTA OFF-SITE WATER IMPROVEMENTS SCHEDULE



**EXHIBIT "K.1"****Schedule for YLWD to Provide Access to Water**

1. **Project Rough Grading:** YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2020. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of Project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.
2. **Drop Lumber and Residential Framing for Model Homes:** Before any lumber drop for Project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule was also contingent upon Psomas completing the Stonehaven water main final design plans and specifications and receiving YLWD acceptance, which was completed and YLWD did provide such acceptance in April 2019. Based on typical construction practices and since it is ready to go to bid when necessary, the Stonehaven water main can be constructed in the same timeframe as the onsite water improvements for the Project and YLWD will make all efforts to coordinate the construction schedule of the Stonehaven water main with the Project onsite improvements such that it is operational by or before July 1, 2020.
3. **Drop Lumber, Residential Framing and Construction of Remainder of Project Homes:** The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2020. Subject to the Effective Date described in Section 2 and scheduling contingencies in Section 5.B.iii of the original agreement, if YLWD's acceptance occurs later than April 1, 2020, the date for YLWD to begin advertising the Hidden Hills Pump Station for bids in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

## EXHIBIT E

## EXHIBIT "M"

**WATER FACILITIES TO BE CONSTRUCTED BY CIELO VISTA BENEFITING EHE  
"SHARED FACILITY IMPROVEMENTS"**

<b>Item</b>	<b>Facility Description</b>	<b>Approx. Length (ft)</b>
1	16" 780 Zone Pipeline in YLWD/MWD Easement, Palo Verde, and Easement - Cielo Vista Boundary to Mar Vista	1,600
2	16" 780 Zone Pipeline in Easement - Mar Vista north to EHE Boundary	180
3	12" 1000-2 Zone Pipeline in Easement - Rideline Road north to EHE Boundary	560
4	Oversizing Cost of 8" to 12" 1000-2 Zone Pipeline in Palo Verde and Easement - Stonehaven Drive to Rideline Road	470
5	Pressure Reducing Station at Mar Vista (1 of 3 PRVs in Station is for 780 Zone emergency supply)	NA

EXHIBIT E

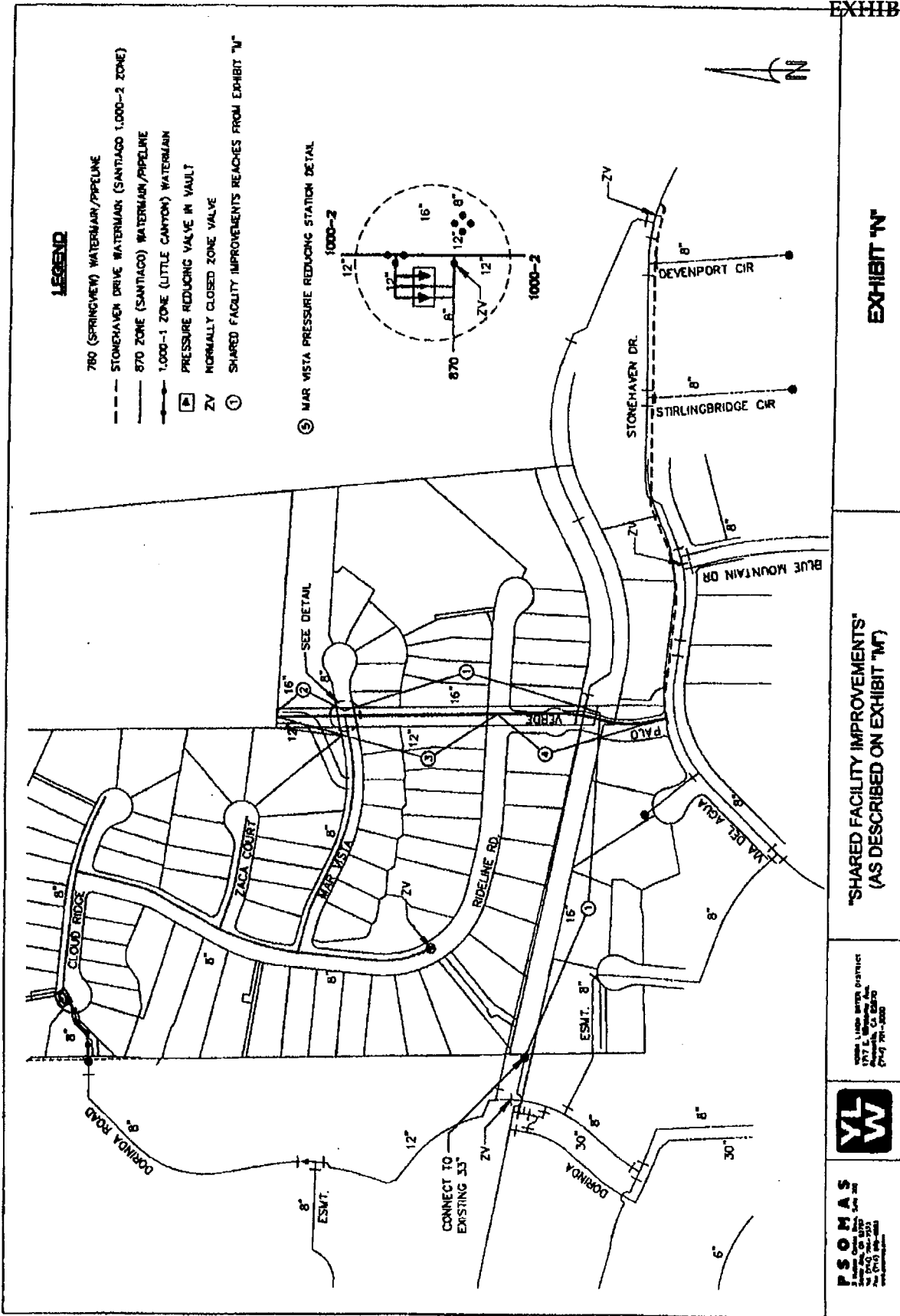


EXHIBIT 'N'

"SHARED FACILITY IMPROVEMENTS"  
(AS DESCRIBED ON EXHIBIT 'M')

WATER LINE WITH DISTRICT  
177 E. Mainway Ave.  
Orange, CA 92668  
City of Orange



**PSOMAS**  
2100 Orange Ave., Suite 200  
Orange, CA 92668  
Tel: 714.961.1000  
www.psomas.com

**Attachment 8 -  
Santa Ana Certificate of Completion**

**RECORDING REQUESTED BY:**  
ORANGE COUNTY LOCAL AGENCY  
FORMATION COMMISSION

**AND WHEN RECORDED MAIL TO:**  
ORANGE COUNTY LAFCO  
2677 N. MAIN ST.  
SUITE 1050  
SANTA ANA, CA 92705

Recorded in Official Records, Orange County  
Hugh Nguyen, Clerk-Recorder



NO FEE

\* \$ R 0 0 1 1 3 8 4 0 6 6 \$ \*

2019000551035 11:23 am 12/31/19

62 417 C16 59

0.00 0.00 0.00 0.00 174.00 0.00 0.000.000.00 0.00

THIS SPACE FOR RECORDER'S USE ONLY

**CERTIFICATE OF COMPLETION**

**LAFCO**

*Orange County Local Agency Formation Commission*

*Pursuant to Government Code Section 27383, because the Local Agency Formation Commission is a government agency, no filing fee shall be charged for the filing of this document.*

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of Orange County, California.

1. The short-term designation, as determined by LAFCO, is:  
  
Reorganization of the 17<sup>th</sup> Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)
2. The name of each district or city involved in this change of organization and the kind of type of change of organization ordered for each city or district as follows:  
  
CITIES/COUNTY: City of Santa Ana / County of Orange  
TYPE OF CHANGE: Reorganization
3. The above listed cities and district are located within the following county:  
County of Orange
4. A description of the boundaries of the above cited change of organization is shown on the attached vicinity map (See Attachment A) and by this reference incorporated herein.
5. The territory is inhabited.

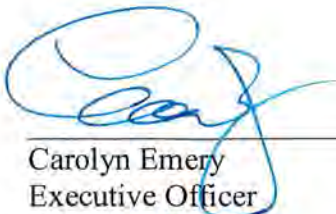
Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

6. The County and City respectively approved the “Cooperative Agreement between the City of Santa Ana and the County of Orange for the Reorganization of the 17<sup>th</sup> and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County” (Attachment B), which specifies that the City shall receive a one-time compensation to be used for public improvements and maintenance projects for the unincorporated island. Additionally, the cooperative agreement allows the County to continue to exercise permit and approval processing functions necessary to facilitate the development of two commercial buildings within the unincorporated island.
7. The City of Santa Ana and the City of Tustin approved the “Service Agreement by and between the City of Santa Ana and the City of Tustin Regarding Potable Water Service for Various Parcels of Unincorporated Real Property” (Attachment C), which allows the City of Tustin to provide water service to the entire Island.
8. The resolution (RO 19-07) ordering this reorganization subject to the following terms and conditions, was adopted on November 13, 2019, by the Local Agency Formation Commission (Attachment D).
  - a) Detachment of the 17<sup>th</sup> Street Unincorporated Island from the Municipal Water District of Orange County.
  - b) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Santa Ana, except for those properties to be retained by the County and specifically listed by these conditions.
  - c) Upon annexation of the territory, the City of Santa Ana shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Santa Ana shall also be responsible for the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Santa Ana.
  - d) Upon the effective date of annexation, the City of Santa Ana shall do the following: (1) assume ownership and maintenance responsibilities for all drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; (2) accept and adopt the County of Orange Master Plan of Drainage

(MPD), if any, which is in effect for the annexation area. Orange County Public Works Department/Planning & Development Services/Subdivision & Infrastructures should be contacted to provide any MPD which may be in effect for the annexation area. Deviations from the MPD shall be submitted to the Manager of Flood Control Division, Orange County Public Works Department for review to ensure that such deviations will not result in diversions between watersheds and/or will not result in adverse impacts to OCFCD's flood control facilities; (3) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area; (4) coordinate development within the annexation area that is adjacent to any existing flood control facilities for which OCFCD has a recorded flood control easement or owns fee interest, by submitting maps and proposals to the Manager of Flood Control Division, Orange County Public Works Department, for review and comment. If such facilities are in need of improvement to provide the required flood control and/or erosion protection for the development, require the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of such necessary flood control improvements, and; (5) for development proposals that are adjacent to regional drainage courses which are not owned or maintained by OCFCD, but are in need of improvements to provide the required flood control and/or erosion protection for the development, required the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of proposed regional flood control facilities.

- e) The Commission waives protest proceedings in accordance with Government Code Section 56375.3.
- f) Payment by the applicant of State Board of Equalization fees.
- g) The applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.
- h) The effective date shall be the date of recordation.

I hereby certify that I have examined the resolution cited above, including any terms and conditions, and that they are true and complete copies.



Carolyn Emery  
Executive Officer

Date: 12/31/19

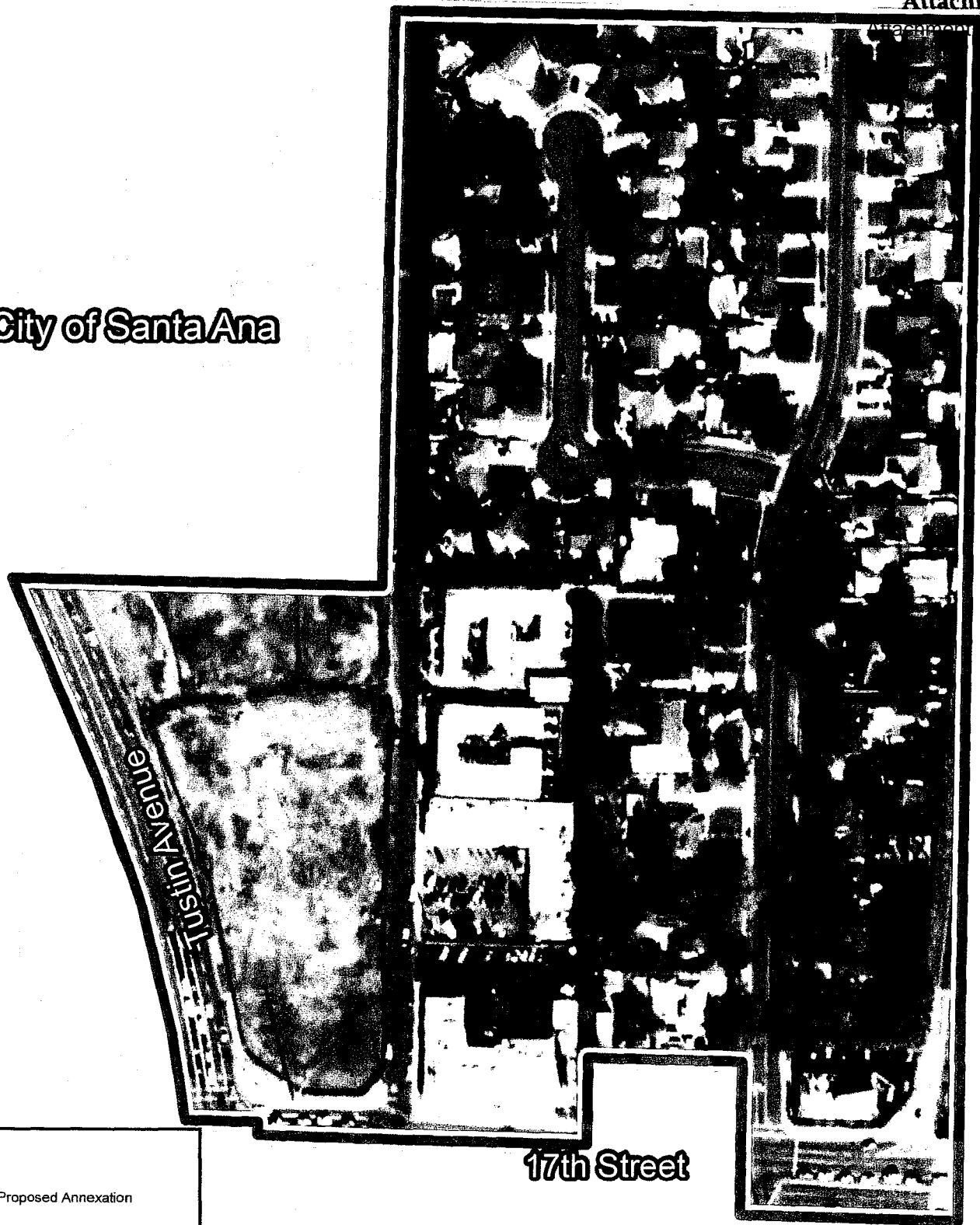
Orange County Local Agency Formation Commission






# Attachment A

City of Santa Ana

City of Tustin

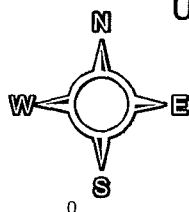


Legend

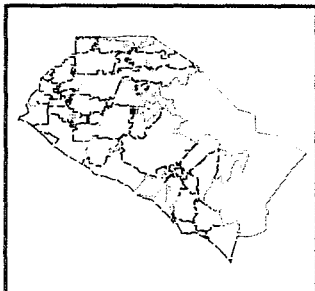
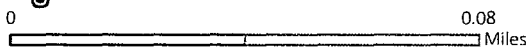
-  Proposed Annexation
-  SANTA ANA
-  TUSTIN

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS  
USDA, USGS, AeroGRID, IGN, and the GIS User Community

Reorganization of 17th Street and Tustin  
Unincorporated Island to the City of Santa Ana  
and Municipal Water District of  
Orange County (RO 19-07)



Vicinity Map



# Attachment B

Return ORIGINAL  
Executed Copy to COTC  
(M-30/T11)

SEP 05 2019

**COOPERATIVE AGREEMENT**

**BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE  
FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED  
ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF  
ORANGE COUNTY (RO19-07)**

①  
D: PBA (1)  
Vince Frigoso

THIS COOPERATIVE AGREEMENT ("Agreement"), dated September 3, 2019, between the CITY OF SANTA ANA ("CITY"), a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, and the COUNTY OF ORANGE ("COUNTY"), a political subdivision of the State of California, (collectively referred to as the "PARTIES" herein) is based on the following:

**RECITALS**

A. The City is in the process of annexing an unincorporated County island consisting of approximately 25 acres and referred to as the 17<sup>th</sup> and Tustin Unincorporated Island ("Annexation Area") and detachment of the Annexation Area from the Municipal Water District of Orange County. The Annexation Area is described in **Exhibit 1** and depicted in **Exhibit 2**.

B. The Annexation Area more specifically includes 57 parcels in the COUNTY bearing Assessor's Parcel Numbers ("APNs") 396-303-01 to 396-303-28, 396-304-01 to 396-304-11, 396-312-13 to 396-312-15, 396-313-01 to 396-313-03, 396-313-06 to 396-313-11, and 396-314-01 to 396-314-06, as depicted on **Exhibit 3**.

C. Among the individual parcels in the Annexation Area, the John C. Hall Trust UAD is the fee title holder of three parcels with APN Nos. 396-312-13 to 396-312-15, which parcels are currently under COUNTY review, application number PA160055, for discretionary permits for development. There may be additional ministerial permit applications to be submitted to the County, and County shall continue to retain all planning, building, safety, and inspection authority until the point of occupancy (collectively the discretionary and ministerial permits are the "Development Project").

**EXHIBIT 2**

D. The CITY and COUNTY are public entities possessing the common power to conduct and evaluate applications for discretionary and ministerial permits for development, including, but not limited to, subdivision maps, conditional use permits, grading permits and building permits, and approvals related to the implementation, planning, and development of real property ("Development Approvals").

E. The CITY intends, by way of this Agreement and pursuant to California Government Code section 51300 et seq. to contract with the COUNTY for the performance of all Development Approvals for the Development Project. Subject to this Agreement, and as limited to the Development Project alone, the COUNTY will assume the authority for the Development Approvals.

F. In the event of a "jurisdictional change" as defined in California Revenue and Taxation Code section 99, prior to the effective date of any jurisdictional change, the affected agencies of such change shall negotiate the amount of property tax revenues to be exchanged.

G. The Parties have met and negotiated both a property tax exchange and other consideration, all of which is conditional upon the CITY'S annexation of the Annexation Area becoming final and effective.

## **AGREEMENT**

NOW, THEREFORE, based on the foregoing and in consideration of the Parties' mutual agreements and promises hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **1. CITY'S ANNEXATION APPLICATION**

Within 90 days of the execution of this Agreement, the CITY will file an application for and diligently pursue annexation of the Annexation Area with the Orange County Local Agency Formation Commission (OCLAFCO).

## 2. PROPERTY TAX EXCHANGE

Upon annexation of the Annexation Area and assumption of services by the CITY becoming final and complete, the COUNTY and CITY agree to an exchange of property taxes generated within the Annexation Area as follows:

a. The COUNTY shall receive 41.4715 percent and the CITY shall receive 58.5285 percent of the COUNTY's share of the 1 percent basic levy of property tax from the annexation, with the re-allocation taking effect after OCLAFCO approval of the annexation. These proportional shares shall remain as the allocation of tax revenues between the CITY and the COUNTY for the annexations for all future years unless the CITY and COUNTY agree by written Resolution to adjust the allocation proportions.

b. The CITY shall receive a one-time compensation of \$711,814 to construct betterments in the Annexation Area, including Street Improvements (\$397,314), Storm Drain Improvements (\$187,500), and General Construction Costs (\$127,000).

c. As the CITY contracts with the Orange County Fire Authority, the Structural Fire Fund shall remain unchanged.

## 3. PERFORMANCE OF DEVELOPMENT APPROVALS

For the Development Project alone, the CITY hereby conveys to the COUNTY authority and responsibility for the Development Approvals, as defined above and pursuant to Government Code section 51300, et seq. County shall have such authority and responsibility for the Development Project through issuance of the Certificates of Occupancy. The County shall exercise the Development Approvals in substantial compliance with: (I) conditions imposed by any State or local agency; and (II) legally enforceable restrictions and limitations on development of the Property.

## 4. DISSOLUTION OF ANNEXATION AREA

Except with respect to matters addressed in Sections 5 and 6 herein, the COUNTY shall dissolve the Annexation Area, with the CITY to assume the services for the area, and the CITY to receive a transfer of the one-time compensation amount specified in paragraph 2.b herein at the time of dissolution.

## **5. OPEN CODE ENFORCEMENT CASES**

The COUNTY commits to making its best effort to close open code enforcement and building safety/planning cases prior to the date of annexation, with the understanding that CITY agrees that COUNTY shall be entitled to charge, receive and retain all code enforcement fine amounts, which shall be the COUNTY's sole consideration for all services performed in closing the open cases. For code enforcement cases that still remain open on the date of annexation, the COUNTY will administer the cases to completion, using COUNTY ordinances and code enforcement procedures.

## **6. PERMITS AND PLAN CHECKS**

CITY agrees that COUNTY shall be entitled to charge, receive and retain all customary fees for the Development Project through issuance of the Certificates of Occupancy, including planning application, building permit fees, grading fees, and inspection fees. The fees shall be the COUNTY's sole consideration for all services performed in closing the Development Project.

## **7. ANNEXATION FEES**

CITY shall request that OCLAFCO allow the annexation to be processed under the "Small Island Annexation Program" so that OCLAFCO fees and map and legal fees are waived for the CITY.

## **8. DEEDS**

COUNTY and CITY agree to execute, in recordable form, such documents as may be required to complete the annexation. In addition, if any transfer of ownership of real property that would not automatically result from the annexation is necessary to carry out the objectives of this Agreement, the COUNTY will execute, in recordable form, such deeds or other documents as may be required to accomplish those objectives.

## **9. TERM OF AGREEMENT**

This Agreement shall commence upon the execution of all necessary signatures, and except for the authority granted to COUNTY for the Development Approvals, this Agreement shall continue in full force and effect with respect to the Property until annexation of the Property by the City has been completed to the satisfaction of both parties.

## **10. ENTIRE AGREEMENT**

This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

## **11. SEVERABILITY**

If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

## **12. INTERPRETATION AND GOVERNING LAW**

This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties.

## **13. INDEMNIFICATION**

Each party agrees to indemnify, defend with counsel approved in writing by the other party, and hold the other party, and their officials, officers, employees and agents free and harmless from any claim, loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent act, omission or willful misconduct of the agreeing party, their respective officers, employees



or agents, arising out of or in connection with the execution or performance of this Agreement, including without limitation the payment of attorney fees.

**14. SECTION HEADINGS**

All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

**15. WAIVER**

The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure of a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, the other Party's strict compliance with the terms of this Agreement

**16. NO THIRD PARTY BENEFICIARIES**

The Parties expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. No person or entity not a signatory to this Agreement will have any rights or causes of action against the CITY or COUNTY, or any combination thereof, arising out of or due to CITY'S or COUNTY'S entry into this Agreement.

**17. SUCCESSORS IN INTEREST**

The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

**18. COUNTERPARTS**

This Agreement may be executed by the parties and counterparts, which counterparts shall be construed together and have the same effect as if all the parties had executed the same instrument.

## **19. JURISDICTION AND VENUE**

Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change of venue to any other court.

## **20. FURTHER ACTIONS AND INSTRUMENTS**

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement

## **21. AMENDMENTS**

This Agreement may be amended only by written consent of the parties specifically approving the amendment. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this Agreement.

## **22. AUTHORITY TO EXECUTE**

Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he or she has the authority to execute this Agreement on behalf of his or her agency and to bind that Agency to the performance of its obligations pursuant to this Agreement.

## **23. NOTICE**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on

the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Santa Ana  
20 Civic Center Plaza  
Santa Ana, CA 90702  
Attn: Clerk of the Council

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Robin Stieler, Clerk of the Board  
County of Orange  
333 W. Santa Ana Blvd  
Santa Ana, CA 92701


IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below:

CITY OF SANTA ANA

By: *Kristine Ridge*  
Kristine Ridge  
City Manager  
Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
Sonia R. Carvalho, City Attorney


By: *[Signature]*   
City Clerk

By: *John M. Funk*  
John M. Funk  
Assistant City Attorney

Return ORIGINAL  
Executed Copy to COTC  
(M-30/T11)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

COUNTY OF ORANGE

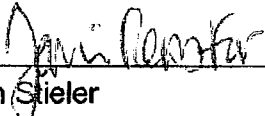
By: 

LISA A. BARTLETT  
Chairwoman of the Board of Supervisors  
County of Orange, California

Date: 9/24/19



SIGNED AND CERTIFIED THAT A COPY OF THIS  
AGREEMENT HAS BEEN DELIVERED TO THE CHAIR  
OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535  
ATTEST:

  
Robin Stieler  
Clerk of the Board  
Orange County, California

APPROVED AS TO FORM  
OFFICE OF THE COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By: 

Date: 9-17-19

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(M-30/T11)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**COOPERATIVE AGREEMENT  
BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE  
FOR THE REORGANIZATION OF THE 17TH AND TUSTIN  
UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA**

The 17<sup>th</sup> and Tustin Island annexation area is described as approximately 25 acres of unincorporated territory generally located near where the SR-55 Costa Mesa Freeway intersects 17<sup>th</sup> street, lying to the north of 17<sup>th</sup> Street, to the east of Tustin Avenue, to the south of Catalina Avenue, and west of SR-55 Costa Mesa Freeway.

Included in the annexation is unincorporated public right of way as follows:

- 17<sup>th</sup> Street from Tustin Avenue to SR-55 Costa Mesa Freeway
- Tustin Avenue from 17<sup>th</sup> Street to the north line produced of APN 396-312-15
- Ponderosa Street from 17<sup>th</sup> Street to the north line produced of APN 396-303-12
- Deodar Street from 17<sup>th</sup> Street to the north line produced of APN 396-303-12
- Medford Street from Deodar Street to Pasadena Street
- Pasadena Street from Medford Street to the north end of the cul-de-sac

The above described annexation area is depicted in Exhibit 2.

The area includes the private property parcels with Assessor's Parcel Numbers ("APNs") as shown in Exhibit 3.

**EXHIBIT 1**

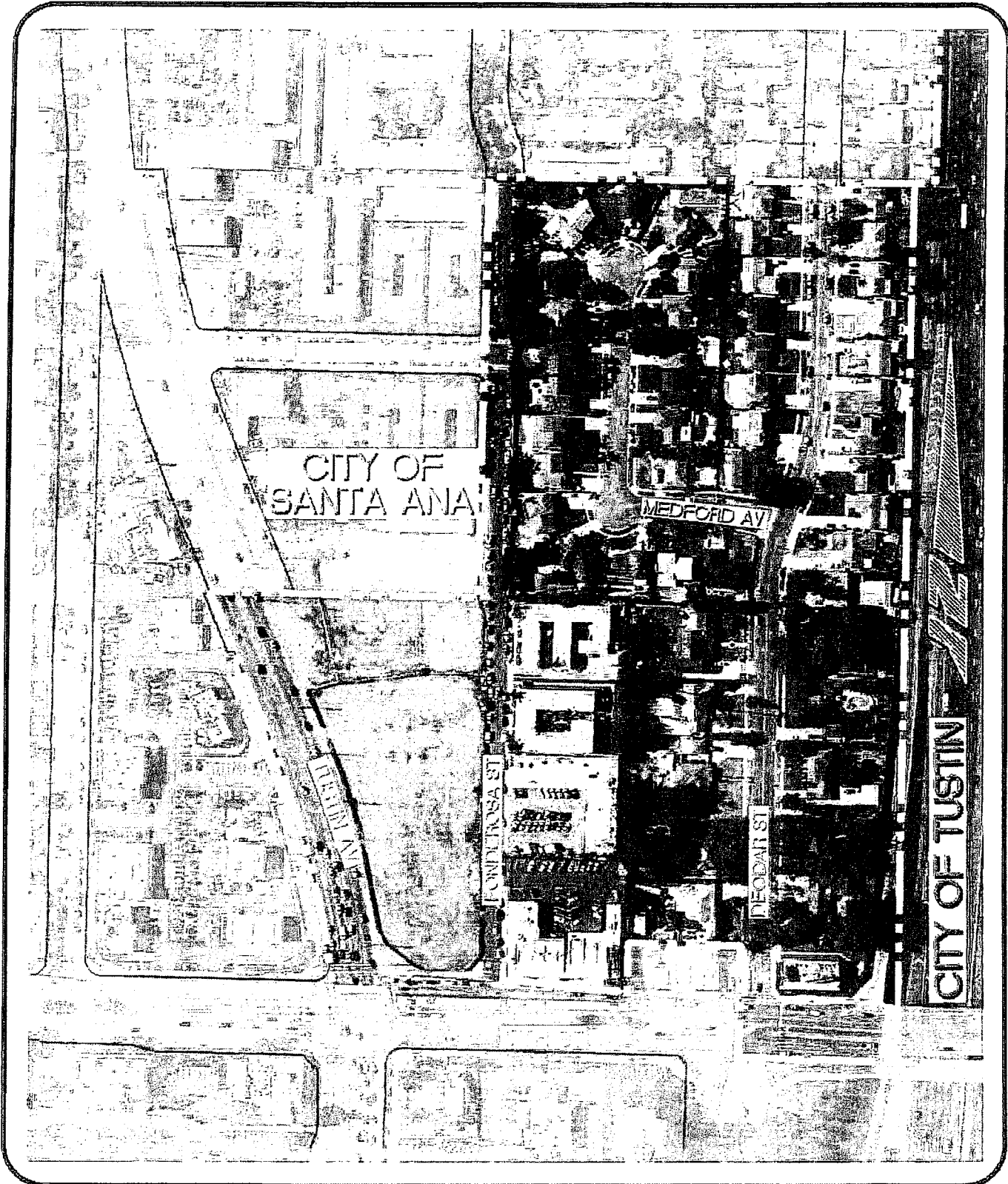
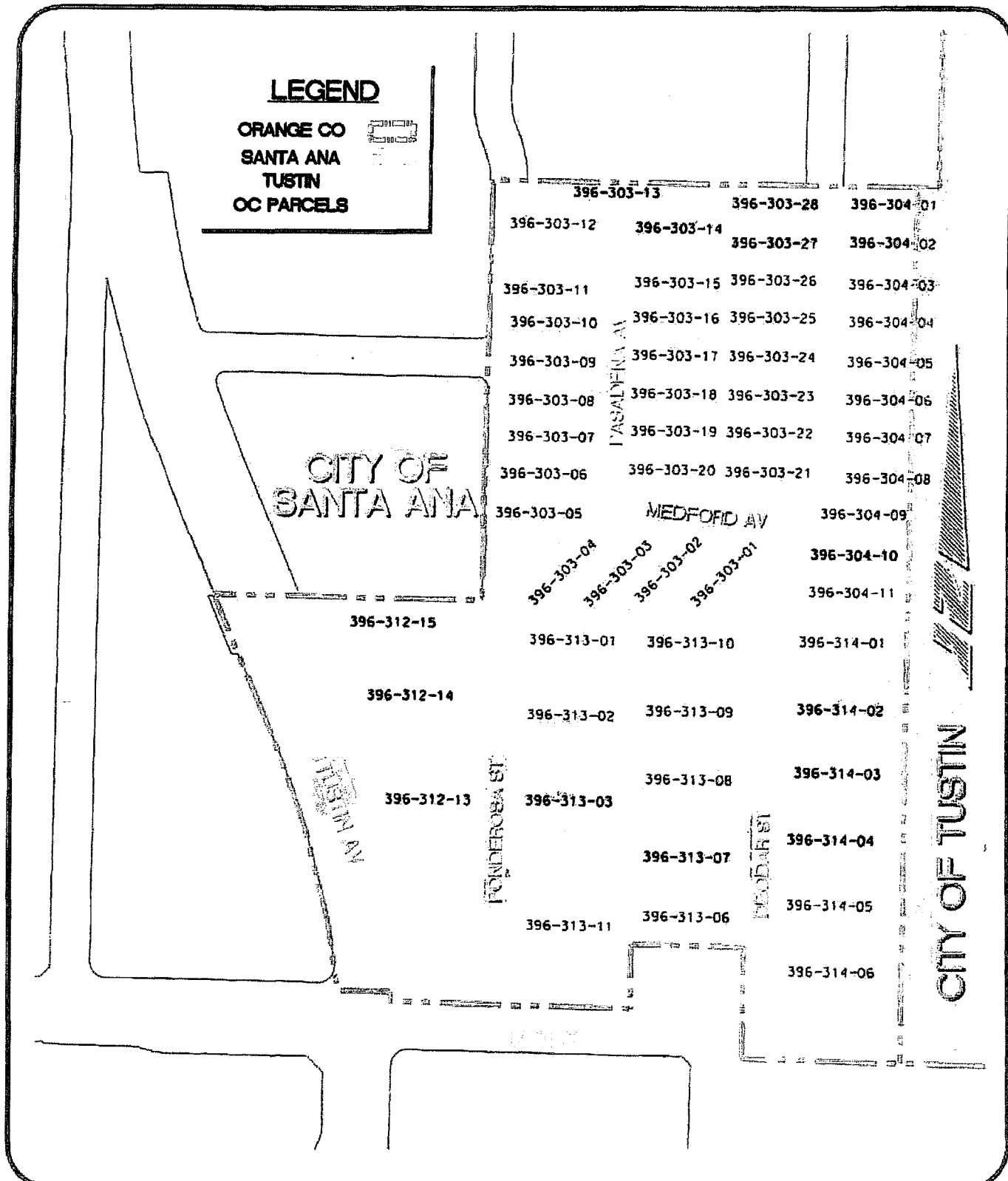


EXHIBIT 2  
 CITY OF SANTA ANA 17TH STREET ISLAND - VICINITY MAP



**EXHIBIT 3**  
**ASSESSOR'S PARCEL NUMBER MAP**

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

# Attachment C



Return ORIGINAL  
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(M-30/T11)

COPY

SI  
C.P.W.A(3)  
Kathia Reyes  
OCT 11 2019

**SERVICE AGREEMENT  
BY AND BETWEEN THE CITY OF SANTA ANA  
AND THE CITY OF TUSTIN  
REGARDING POTABLE WATER SERVICE FOR  
VARIOUS PARCELS OF UNINCORPORATED REAL PROPERTY**

This Service Agreement ("Agreement") is entered into by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("Santa Ana"), and the City of Tustin, a California municipal corporation ("Tustin") (each referred to as "Party" and collectively referred to as the "Parties") on the effective date of the reorganization of "Island Parcels" involving the annexation of the "Island Parcels" to Santa Ana and detachment of same territory from the Municipal Water District of Orange County as specified in Section A below.

**RECITALS**

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission's ("OC LAFCO") policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana's sphere of influence with Assessor's Parcel Numbers ("APNs") 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 ("Island Parcels") as shown on Exhibit A.

B. Santa Ana is presently without the necessary water system infrastructure to directly provide Potable Water Services to the Island Parcels, but contemplates and fully intends to ensure that the Island Parcels receive adequate Potable Water Service consistent with the level of service contemplated by Santa Ana subsequent to the Annexation, including installation and completion of all necessary water system infrastructure and performance of all customer service functions ("Potable Water Service") following Santa Ana's annexation of the Island Parcels.

C. Tustin maintains and operates water lines and facilities that provide Potable Water Services to all developed Island Parcels.

D. Santa Ana and Tustin desire to enter into this Agreement, whereby Tustin will provide Potable Water Service to the Island Parcels. Tustin will to provide water service to the Island Parcels until such time Santa Ana has completed water system infrastructure to serve the entire Island Parcels.

E. This Agreement constitutes a service agreement in which "[t]wo or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider." (Gov. Code, § 56133(e)(1)).

F. Under Government Code, section 56133 and OC LAFCO's "Policy & Procedures for the Review and/or Processing of Out-Of-Area Agreements by the Executive Officer (Gov't Code §56133)," this Agreement is not an out-of-area service agreement requiring OC LAFCO's review and approval because: (1) Santa Ana and Tustin are both public agencies; and (2) upon annexation, Santa Ana will have the exclusive authority to provide Potable Water Services to the Island Parcels. However, Santa Ana has found that such activities can be more efficiently and more conveniently performed by Tustin pursuant to this Agreement at this time.

G. This Agreement will in no way adversely impact water services to current customers of Santa Ana or Tustin, will not induce growth, and will not result in the duplication of services in the territory of either city.

H. This Agreement serves the public interest, economy, and general welfare.

#### TERMS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

#### 1. CONSENT FOR AND PROVISION OF SERVICES

1.1. Santa Ana's Consent for Service. Except as provided in Section 1.2, Santa Ana consents to Tustin's provision of Potable Water Service to the Island Parcels, upon Santa Ana's annexation of the Island Parcels.

1.2. Following the annexation, in the event that Santa Ana has or creates the infrastructure and the capacity to provide Potable Water Service to the Island Parcels, any new development or redevelopment within the Island Parcels shall be served by Santa Ana.

#### 1.3. Tustin's Provision of Service.

1.3.1. Provision of Service. Tustin agrees to provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Tustin's provision of services to its remaining service area, subject only to a changeover as set forth in Section 2 of this Agreement.

1.3.2. Applicable Law. Tustin's provision of the Potable Water Service shall comply with applicable local, state, or federal statutes, regulations, rules, or policies.

## 2. TERMINATION

Santa Ana's Capacity for Service. If, at any time during the course of this Agreement, Santa Ana determines that it has the infrastructure and capacity to economically and conveniently provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Santa Ana's service to the remainder of its service area, then Santa Ana will send written notice to Tustin and OC LAFCO of such determination. The notice shall provide reasonable terms, conditions, and times for accomplishing the changeover from Tustin to Santa Ana as the provider of Potable Water Service; provided, however, that cooperation with the notice shall be at no cost to Tustin. Tustin will work in good faith with Santa Ana to reasonably comply with the notice. This Agreement shall terminate when the changeover is accomplished. When this Agreement is terminated for any reason, any costs reasonably required to disconnect, transfer, cap, abandon, and/or otherwise cease Potable Water Service by Tustin will be reimbursed by Santa Ana within ninety (90) days of delivery of written request for such reimbursement. The manner of cessation of Tustin Potable Water Service shall be in compliance with all then-current Tustin standards and requirements.

## 3. EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement is the date this Agreement is executed by both Parties as it appears on the Signatures page of this Agreement referred to as Effective Date.

## 4. SCOPE OF AGREEMENT

Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by Santa Ana to generally allow Tustin to provide Potable Water Service within Santa Ana's jurisdiction or by Tustin to provide Potable Water Service within Santa Ana's jurisdiction on the terms and conditions contained herein or on any terms and conditions whatsoever.

## 5. INDEMNIFICATION

The Parties shall indemnify and hold harmless each other and their officers, employees, and agents, against any and all claims, liabilities, expenses, attorney's fees or damages, for injury or death of any person, or damage to property, or interference with use of property ("Claims"), to the extent the Claims arise from the negligence or willful misconduct of the indemnifying Party or to the extent any Claim arises in connection with the indemnifying Party's negligent performance of this Agreement.

## 6. MISCELLANEOUS PROVISIONS

6.1. Changes to Agreement. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without the prior written consent of the Parties to the Agreement, which consent may not be unreasonably withheld, conditioned or delayed.

6.2. Performance. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing Party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

6.3. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

6.4. Form of Notice. Any notice to any Party shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the Parties thereto are, until changed as hereinafter provided, the following:

- To Santa Ana: Fuad Sweiss, PE, PLS  
Executive Director  
Public Works Agency  
20 Civic Center Plaza  
Santa Ana, Ca. 92702
- With copy to: Clerk of the Council  
20 Civic Center Plaza  
Santa Ana, Ca. 92702
- To Tustin: Douglas Stack  
Director of Public Works/City Engineer  
300 Centennial Way  
Tustin, Ca. 92780
- To OC LAFCO: Carolyn Emery  
2677 North Main St Suite 1050  
Santa Ana, Ca 92705

6.5. Change of Address. Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten days prior to the date such change is considered effective.

6.6. Effective Date of Notice. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effective or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

6.7. Content of Notice. Every notice (other than the giving or withholding of consent, approval, or satisfaction under this Agreement, but including requests therefore) given to a Party or other person shall comply with the following requirements. Each notice shall state:

6.7.1. The paragraph of this Agreement pursuant to which the notice is given; and

6.7.2. The period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect.

6.7.3. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

6.8. Entire Agreement. This writing constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements that may have been entered into between the Parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).

6.9. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of Orange, State of California.

6.10. Counterparts. This Agreement may be executed by the parties in one or more counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such parts shall together constitute one and the same instrument.

6.11. Section Headings. All section headings and subheadings are inserted for convenience only and will not affect any construction or interpretation of this Agreement.

**Signatures and OC LAFCO certification on the next pages.**

SIGNATURES

In witness thereof, the Parties here to have executed this Agreement on 12 17 2019 which is the Effective Date.  
Month Day Year

CITY OF SANTA ANA,  
a California municipal corporation


CITY OF TUSTIN,  
a California municipal corporation

By: [Signature]  
KRISTINE RIDGE,  
CITY MANAGER

By: [Signature]  
CITY MANAGER

Attest:

Attest:

By: [Signature]   
DAISY GOMEZ, MMC  
CLERK OF THE COUNCIL

By: [Signature]  
ERICA N. YASUDA,  
CITY CLERK

Approved as to Form:

Approved as to Form:

By: [Signature]  
SONIA CARVALHO, *for*  
CITY ATTORNEY

WOODRUFF, SPRADLIN & SMART, APC.  
By: [Signature]  
DAVID E. KENDIG,  
CITY ATTORNEY

CERTIFICATION

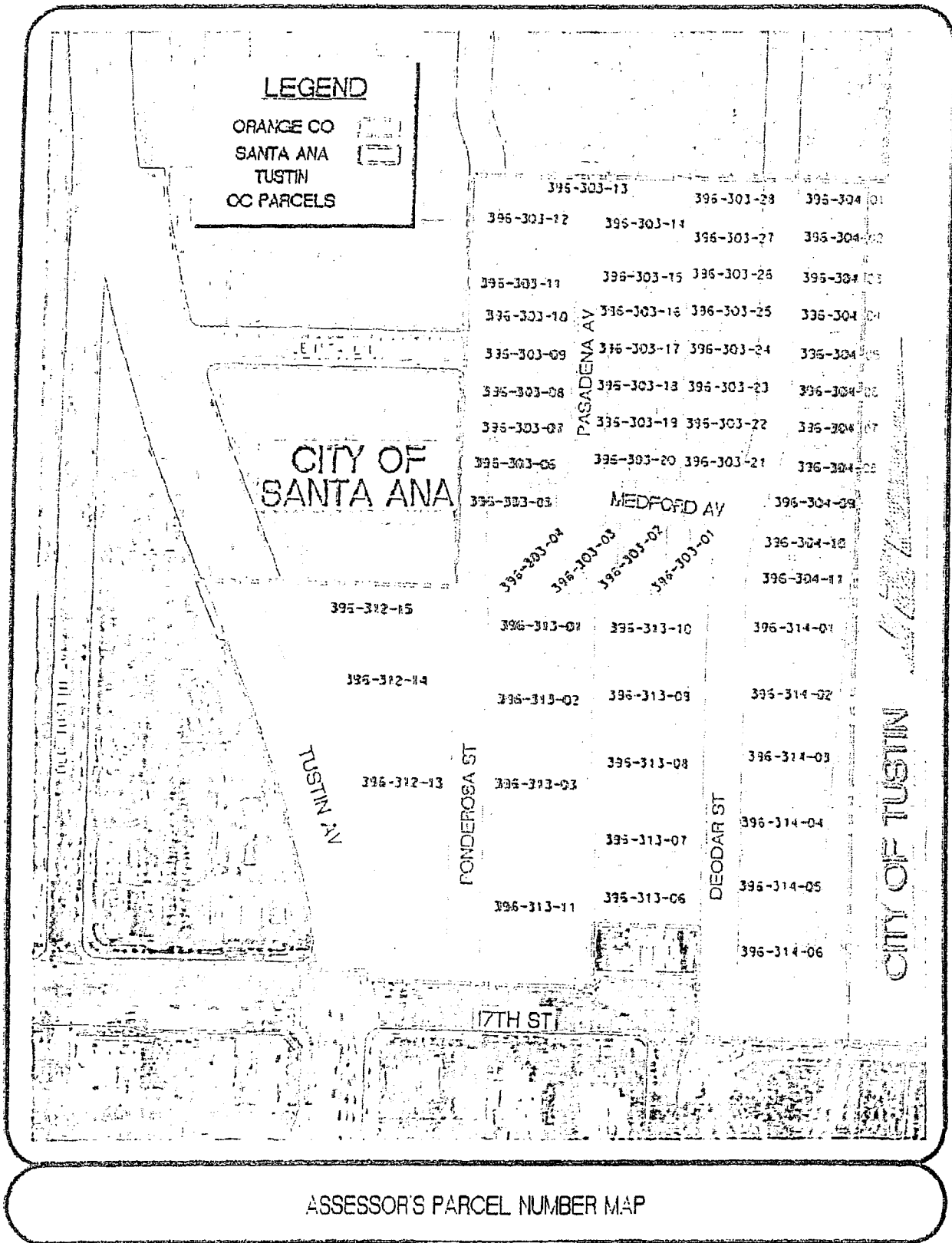
Based upon the recitals and the terms of this Agreement, I find that Tustin's provision of Potable Water Services outside its jurisdictional boundary to the Island Parcels does not constitute a contract or agreement requiring OC LAFCO approval under Government Code section 56133.

By: [Signature]  
CAROLYN EMERY,  
EXECUTIVE OFFICER  
OC LAFCO

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Executed Copy to COTC  
(M-30/T11)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT A



ASSESSOR'S PARCEL NUMBER MAP



# Attachment D

**RO 19-07**

**RESOLUTION OF THE LOCAL AGENCY  
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA  
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT AND APPROVING THE  
"REORGANIZATION OF THE 17<sup>TH</sup> STREET AND TUSTIN UNINCORPORATED  
ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT  
OF ORANGE COUNTY (RO 19-07)"**

**November 13, 2019**

On motion of Commissioner Davert, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of reorganization, designated as "Reorganization of the 17<sup>th</sup> Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)," was hereto filed with and accepted for filing on November 13, 2019 by the Executive Officer of the Local Agency Formation Commission of Orange County ("OC LAFCO") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set November 13, 2019 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendations therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposal consists of the annexation of approximately 24.79 acres to the City of Santa Ana and detachment of the same territory from the Municipal Water District of Orange County; and

WHEREAS, the County of Orange served as "lead agency" for the environmental review, analysis, and approval of a "Chick-fil-A/In-N-Out 17<sup>th</sup> and Tustin"

Resolution (19-07)

development and the proposed reorganization pursuant to the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on September 3, 2019, the County of Orange adopted a Mitigated Negative Declaration (SCH#2019079044) (“MND”) for the “Chick-fil-A/In-N-Out 17<sup>th</sup> and Tustin” development. The MND explicitly identified the reorganization in the project description and included the reorganization as a possible future contemplated action by OC LAFCO; and

WHEREAS, OC LAFCO has been asked to approve the “Reorganization of the 17<sup>th</sup> Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)”;

WHEREAS, OC LAFCO has limited approval and implementing authority over the development site and, thus, is a “responsible agency” for the proposed reorganization pursuant to the requirements of CEQA; and

WHEREAS, OC LAFCO, at its agendaized public meeting on November 13, 2019, independently reviewed and considered the MND prepared by the County of Orange, and other related documents in the record before it; and

WHEREAS, all of the procedures of CEQA have been met, and the Mitigated Negative Declaration prepared in connection with the reorganization, is sufficiently detailed so that all of the potential effects of the proposal on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with CEQA; and

WHEREAS, as contained herein, OC LAFCO has endeavored in good faith to set forth the basis for its decision on the proposal; and

WHEREAS, this Commission called for and held a public hearing on the proposal on November 13, 2019, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

Resolution (19-07)

WHEREAS, all of the findings and conclusions made by OC LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the Commission of OC LAFCO does hereby resolve as follows:

Section 1. Compliance with the Environmental Quality Act.

As the decision-making body for OC LAFCO, and in OC LAFCO's limited role as a "responsible agency" under CEQA, the Commission has reviewed and considered the information contained in the MND and all supporting documents incorporated by reference as though set forth fully herein. Based on this review, the Commission finds that, as to those potential environmental impacts within the Commission's powers and authorities as the "responsible agency", the MND and supporting environmental documentation contain a complete, objective, and accurate reporting of those potential impacts, and that these findings reflect the independent judgement and analysis of the Commission.

Section 2. Findings on Environmental Impacts.

The Commission concurs with the County of Orange's environmental findings regarding the proposed reorganization, and adopts these findings, attached hereto as "Exhibit A," as though fully set forth herein. The Commission finds that there is no substantial evidence in the administrative record supporting a fair argument that the reorganization proposal may result in significant environmental impacts.

Section 3. OC LAFCO Findings.

The 17th Street and Tustin Unincorporated Island is currently within the City of Santa Ana's Sphere of Influence and is assigned the following distinctive short-form designation, "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County." The proposal consists of the annexation of approximately 24.79 acres located east of Tustin Avenue and north of 17th Street and the detachment of the subject territory from the Municipal Water District of Orange County. (See Vicinity Map attached as "Exhibit B")

Section 4. Approval of the "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)" Conditions of Approval:

- a) The annexation of the 17th Street and Tustin Unincorporated Island consisting of approximately 24.79 acres to the City of Santa Ana.
- b) Detachment of the subject territory from the Municipal Water District of Orange County.
- c) The Cooperative Agreement executed by the County of Orange and the City of Santa Ana ("Exhibit C").
- d) The City of Santa Ana shall provide the OC LAFCO Executive Officer with an executed copy of the Water Agreement executed by the Cities of Santa Ana and Tustin in substantially the same form as the draft agreement attached as "Exhibit D" prior to the recordation of the Certificate of Completion for the proposed reorganization.
- e) The sphere of influence for the Municipal Water District of Orange County is hereby amended to exclude the subject territory. The Statement of Determinations and amended sphere of influence map are shown as "Exhibit E."

- f) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Santa Ana, except for those properties to be retained by the County and specifically listed by these conditions.
- g) Upon annexation of the territory, the City of Santa Ana shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Santa Ana shall also be responsible for the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Santa Ana.
- h) Upon the effective date of annexation, the City of Santa Ana shall do the following: (1) assume ownership and maintenance responsibilities for all drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; (2) accept and adopt the County of Orange Master Plan of Drainage (MPD), if any, which is in effect for the annexation area. Orange County Public Works Department/Planning & Development Services/Subdivision & Infrastructures should be contacted to provide any MPD which may be in

effect for the annexation area. Deviations from the MPD shall be submitted to the Manager of Flood Control Division, Orange County Public Works Department for review to ensure that such deviations will not result in diversions between watersheds and/or will not result in adverse impacts to OCFCD's flood control facilities; (3) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area; (4) coordinate development within the annexation area that is adjacent to any existing flood control facilities for which OCFCD has a recorded flood control easement or owns fee interest, by submitting maps and proposals to the Manager of Flood Control Division, Orange County Public Works Department, for review and comment. If such facilities are in need of improvement to provide the required flood control and/or erosion protection for the development, require the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of such necessary flood control improvements, and; (5) for development proposals that are adjacent to regional drainage courses which are not owned or maintained by OCFCD, but are in need of improvements to provide the required flood control and/or erosion protection for the development, required the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of proposed regional flood control facilities.

- i) Payment by the applicant of State Board of Equalization fees is a condition of approval.
- j) As a condition of approval, the applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.

Resolution (19-07)

k) The effective date shall be the date of recordation.

Section 5. Notice of Determination.

The Commission directs staff to file a Notice of Determination with the Orange County Clerk's Office within five working days of adoption of this Resolution.

Section 6. Conducting Authority.

The Commission shall authorize conducting authority proceedings to be waived in accordance with Government Code Section 56375.3.

Section 7. Mail Copy of Resolution.

The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code Section.


Section 8. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of OC LAFCO. The custodian for these records is OC LAFCO, and is located at 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

**PASSED, APPROVED AND ADOPTED**, by the Commissioners of the Local Agency Formation Commission of Orange County this 13<sup>th</sup> day of November 2019.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of November 2019.

Cheryl Brothers  
Chair of the Orange County  
Local Agency Formation Commission

By:   
Cheryl Brothers



**EXHIBIT A****NOTICE OF DETERMINATION**

<b>TO:</b>	<input type="checkbox"/> Clerk of the Board of Supervisors or <input checked="" type="checkbox"/> County Clerk County of: Orange Address: 12 Civic Center Plaza, Santa Ana, CA 92701	<b>FROM:</b>	Orange County Local Agency Formation Commission (Responsible Agency) Address: 2677 N. Main St., Suite 1050 Santa Ana, CA 92705 Contact: Luis Tapia Phone: 714-640-5100
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<b>TO:</b>	<input checked="" type="checkbox"/> Office of Planning and Research P. O. Box 3044 Sacramento, CA 95812-3044  <input type="checkbox"/> 1400 Tenth Street (overnight or hand delivery) Sacramento, CA 95814	<b>Lead Agency:</b>	County of Orange Address: 300 North Flower Street Santa Ana, CA 92703  Contact: Kevin Shannon Phone: 714-667-1632
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**SUBJECT:** Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

<b>Project Title:</b> Reorganization of the 17 <sup>th</sup> Street and Tustin Unincorporated Island and Municipal Water District of Orange County (RO 19-07)		
<b>State Clearinghouse Number</b> (If submitted to SCH): 2019079044	<b>Applicant:</b> City of Santa Ana Contact Person: Vince C. Fregoso, AICP 20 Civic Center Santa Ana, CA 92701	<b>Telephone Number:</b>  (714) 667-2713
<b>Specific Project Location – Identify street address and cross street or attach a map showing project site (preferably a USGS 15' or 7 ½' topographical map identified by quadrangle name):</b> See attached vicinity map.		
<b>General Project Location (City and/or County):</b> The 17 <sup>th</sup> Street and Tustin Unincorporated Island is substantially surrounded by the City of Santa Ana and it is to the northeast portion of the City's sphere of influence. The subject territory is located in the County of Orange.		
<b>Project Description:</b> The proposed reorganization consists of: (1) the annexation of approximately 24.79 acres to the City of Santa Ana and (2) detachment of the same territory from the Municipal Water District of Orange County.		
<b>Identify the person or entity undertaking the project, including any private applicant, any other person undertaking an activity that receives financial assistance from the Public Agency as part of the project, and any person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the project.</b>		
The Orange County Local Agency Formation Commission, as a responsible agency. 2677 North Main Street Suite 1050, Santa Ana, CA 92705		

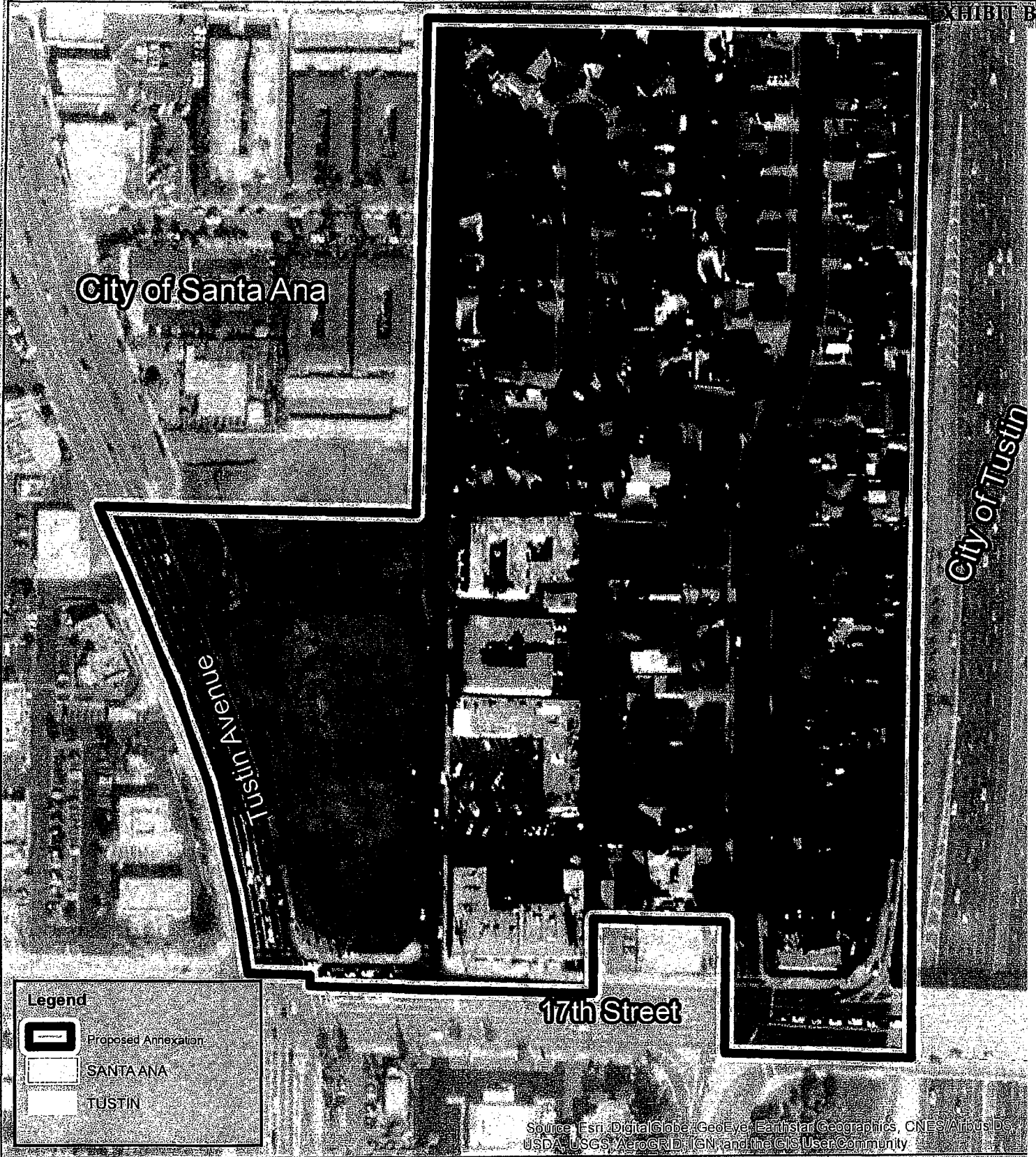
This is to advise that the ( Lead Agency or  Responsible Agency) has approved the above described project on November 13, 2019 and has made the following determinations regarding the above described project:

**EXHIBIT A**

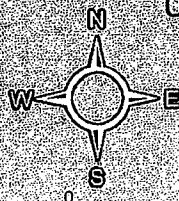
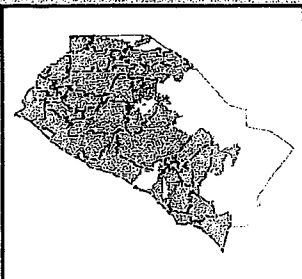
1.	<input type="checkbox"/>	The project will have a significant effect on the environment.
	<input checked="" type="checkbox"/>	The project will NOT have a significant effect on the environment
2.	<input type="checkbox"/>	An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input type="checkbox"/>	A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input checked="" type="checkbox"/>	A Mitigated Negative Declaration was previously prepared and adopted for this project by the Lead Agency pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
3.	<input checked="" type="checkbox"/>	Mitigation measures were made a condition of the Lead Agency's approval of the project.
	<input type="checkbox"/>	Mitigation measures were NOT made a condition of the approval of the project.
4.	<input checked="" type="checkbox"/>	A Mitigation Monitoring or Reporting Plan was adopted by the Lead Agency for this project.
	<input type="checkbox"/>	A Mitigation Monitoring or Reporting Plan was NOT adopted for this project.
5.	<input type="checkbox"/>	A Statement of Overriding Considerations was adopted for this project.
	<input checked="" type="checkbox"/>	A Statement of Overriding Considerations was NOT adopted for this project
6.	<input checked="" type="checkbox"/>	Findings were made pursuant to the provisions of CEQA.
	<input type="checkbox"/>	Findings were NOT made pursuant to the provisions of CEQA.
This certifies that the location and custodian of the documents which comprise the record of proceedings for the Final EIR (with comments and responses) or Negative Declaration are available to the general public at the following location(s):		
Custodian:		Location: County of Orange 300 N. Flower Street, 1 <sup>st</sup> Floor Santa Ana, CA 92702  Orange County Local Agency Formation Commission 2677 North Main Street Suite 1050 Santa Ana, CA 92705
Date: _____		Signature: _____
Date Received for Filing: _____		Title: _____

Authority cited: Sections 21083, Public Recourse Code.  
Reference Section 21000-21174, Public Resources Code.

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)



**Reorganization of 17th Street and Tustin  
Unincorporated Island to the City of Santa Ana  
and Municipal Water District of  
Orange County (RO 19-07)**



Vicinity Map

0.08  
Miles



Return ORIGINAL  
Executed Copy to COTC  
(M-30/T11)

INSURANCE NOT REQUIRED  
WORK MAY PROCEED  
CLERK OF COUNCIL  
DATE: SEP 05 2019

Ⓢ PBA (1)  
VINCE FRIGOSO

**COOPERATIVE AGREEMENT  
BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE  
FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED  
ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF  
ORANGE COUNTY (RO19-07)**

THIS COOPERATIVE AGREEMENT ("Agreement"), dated September 3, 2019, between the CITY OF SANTA ANA ("CITY"), a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, and the COUNTY OF ORANGE ("COUNTY"), a political subdivision of the State of California, (collectively referred to as the "PARTIES" herein) is based on the following:

**RECITALS**

A. The City is in the process of annexing an unincorporated County island consisting of approximately 25 acres and referred to as the 17<sup>th</sup> and Tustin Unincorporated Island ("Annexation Area") and detachment of the Annexation Area from the Municipal Water District of Orange County. The Annexation Area is described in **Exhibit 1** and depicted in **Exhibit 2**.

B. The Annexation Area more specifically includes 57 parcels in the COUNTY bearing Assessor's Parcel Numbers ("APNs") 396-303-01 to 396-303-28, 396-304-01 to 396-304-11, 396-312-13 to 396-312-15, 396-313-01 to 396-313-03, 396-313-06 to 396-313-11, and 396-314-01 to 396-314-06, as depicted on **Exhibit 3**.

C. Among the individual parcels in the Annexation Area, the John C. Hall Trust UAD is the fee title holder of three parcels with APN Nos. 396-312-13 to 396-312-15, which parcels are currently under COUNTY review, application number PA160055, for discretionary permits for development. There may be additional ministerial permit applications to be submitted to the County, and County shall continue to retain all planning, building, safety, and inspection authority until the point of occupancy (collectively the discretionary and ministerial permits are the "Development Project").

**EXHIBIT 2**

**EXHIBIT C**

D. The CITY and COUNTY are public entities possessing the common power to conduct and evaluate applications for discretionary and ministerial permits for development, including, but not limited to, subdivision maps, conditional use permits, grading permits and building permits, and approvals related to the implementation, planning, and development of real property ("Development Approvals").

E. The CITY intends, by way of this Agreement and pursuant to California Government Code section 51300 et seq. to contract with the COUNTY for the performance of all Development Approvals for the Development Project. Subject to this Agreement, and as limited to the Development Project alone, the COUNTY will assume the authority for the Development Approvals.

F. In the event of a "jurisdictional change" as defined in California Revenue and Taxation Code section 99, prior to the effective date of any jurisdictional change, the affected agencies of such change shall negotiate the amount of property tax revenues to be exchanged.

G. The Parties have met and negotiated both a property tax exchange and other consideration, all of which is conditional upon the CITY'S annexation of the Annexation Area becoming final and effective.

**AGREEMENT**

NOW, THEREFORE, based on the foregoing and in consideration of the Parties' mutual agreements and promises hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. CITY'S ANNEXATION APPLICATION**

Within 90 days of the execution of this Agreement, the CITY will file an application for and diligently pursue annexation of the Annexation Area with the Orange County Local Agency Formation Commission (OCLAFCO).

## EXHIBIT C

**2. PROPERTY TAX EXCHANGE**

Upon annexation of the Annexation Area and assumption of services by the CITY becoming final and complete, the COUNTY and CITY agree to an exchange of property taxes generated within the Annexation Area as follows:

a. The COUNTY shall receive 41.4715 percent and the CITY shall receive 58.5285 percent of the COUNTY's share of the 1 percent basic levy of property tax from the annexation, with the re-allocation taking effect after OCLAFCO approval of the annexation. These proportional shares shall remain as the allocation of tax revenues between the CITY and the COUNTY for the annexations for all future years unless the CITY and COUNTY agree by written Resolution to adjust the allocation proportions.

b. The CITY shall receive a one-time compensation of \$711,814 to construct betterments in the Annexation Area, including Street Improvements (\$397,314), Storm Drain Improvements (\$187,500), and General Construction Costs (\$127,000).

c. As the CITY contracts with the Orange County Fire Authority, the Structural Fire Fund shall remain unchanged.

**3. PERFORMANCE OF DEVELOPMENT APPROVALS**

For the Development Project alone, the CITY hereby conveys to the COUNTY authority and responsibility for the Development Approvals, as defined above and pursuant to Government Code section 51300, et seq. County shall have such authority and responsibility for the Development Project through issuance of the Certificates of Occupancy. The County shall exercise the Development Approvals in substantial compliance with: (I) conditions imposed by any State or local agency; and (II) legally enforceable restrictions and limitations on development of the Property.

**4. DISSOLUTION OF ANNEXATION AREA**

Except with respect to matters addressed in Sections 5 and 6 herein, the COUNTY shall dissolve the Annexation Area, with the CITY to assume the services for the area, and the CITY to receive a transfer of the one-time compensation amount specified in paragraph 2.b herein at the time of dissolution.

**EXHIBIT C**

**5. OPEN CODE ENFORCEMENT CASES**

The COUNTY commits to making its best effort to close open code enforcement and building safety/planning cases prior to the date of annexation, with the understanding that CITY agrees that COUNTY shall be entitled to charge, receive and retain all code enforcement fine amounts, which shall be the COUNTY's sole consideration for all services performed in closing the open cases. For code enforcement cases that still remain open on the date of annexation, the COUNTY will administer the cases to completion, using COUNTY ordinances and code enforcement procedures.

**6. PERMITS AND PLAN CHECKS**

CITY agrees that COUNTY shall be entitled to charge, receive and retain all customary fees for the Development Project through issuance of the Certificates of Occupancy, including planning application, building permit fees, grading fees, and inspection fees. The fees shall be the COUNTY's sole consideration for all services performed in closing the Development Project.

**7. ANNEXATION FEES**

CITY shall request that OCLAFCO allow the annexation to be processed under the "Small Island Annexation Program" so that OCLAFCO fees and map and legal fees are waived for the CITY.

**8. DEEDS**

COUNTY and CITY agree to execute, in recordable form, such documents as may be required to complete the annexation. In addition, if any transfer of ownership of real property that would not automatically result from the annexation is necessary to carry out the objectives of this Agreement, the COUNTY will execute, in recordable form, such deeds or other documents as may be required to accomplish those objectives.

## EXHIBIT C

**9. TERM OF AGREEMENT**

This Agreement shall commence upon the execution of all necessary signatures, and except for the authority granted to COUNTY for the Development Approvals, this Agreement shall continue in full force and effect with respect to the Property until annexation of the Property by the City has been completed to the satisfaction of both parties.

**10. ENTIRE AGREEMENT**

This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

**11. SEVERABILITY**

If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

**12. INTERPRETATION AND GOVERNING LAW**

This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties.

**13. INDEMNIFICATION**

Each party agrees to indemnify, defend with counsel approved in writing by the other party, and hold the other party, and their officials, officers, employees and agents free and harmless from any claim, loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent act, omission or willful misconduct of the agreeing party, their respective officers, employees



**EXHIBIT C**

or agents, arising out of or in connection with the execution or performance of this Agreement, including without limitation the payment of attorney fees.

**14. SECTION HEADINGS**

All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

**15. WAIVER**

The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure of a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, the other Party's strict compliance with the terms of this Agreement

**16. NO THIRD PARTY BENEFICIARIES**

The Parties expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. No person or entity not a signatory to this Agreement will have any rights or causes of action against the CITY or COUNTY, or any combination thereof, arising out of or due to CITY'S or COUNTY'S entry into this Agreement.

**17. SUCCESSORS IN INTEREST**

The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

**18. COUNTERPARTS**

This Agreement may be executed by the parties and counterparts, which counterparts shall be construed together and have the same effect as if all the parties had executed the same instrument.

**EXHIBIT C****19. JURISDICTION AND VENUE**

Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change of venue to any other court.

**20. FURTHER ACTIONS AND INSTRUMENTS**

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement

**21. AMENDMENTS**

This Agreement may be amended only by written consent of the parties specifically approving the amendment. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this Agreement.

**22. AUTHORITY TO EXECUTE**

Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he or she has the authority to execute this Agreement on behalf of his or her agency and to bind that Agency to the performance of its obligations pursuant to this Agreement.

**23. NOTICE**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on

EXHIBIT C

the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Santa Ana  
20 Civic Center Plaza  
Santa Ana, CA 90702  
Attn: Clerk of the Council

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Robin Stieler, Clerk of the Board  
County of Orange  
333 W. Santa Ana Blvd  
Santa Ana, CA 92701


IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below:

CITY OF SANTA ANA

By: *Kristine Ridge*  
Kristine Ridge  
City Manager  
Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
Sonia R. Carvalho, City Attorney

By: *[Signature]*   
City Clerk

By: *John M. Funk*  
John M. Funk  
Assistant City Attorney

Return ORIGINAL  
Executed Copy to COTC  
(M-30/T11)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C

COUNTY OF ORANGE

By: *Lisa A. Bartlett*

LISA A. BARTLETT  
Chairwoman of the Board of Supervisors  
County of Orange, California

Date: 9/24/19



SIGNED AND CERTIFIED THAT A COPY OF THIS  
AGREEMENT HAS BEEN DELIVERED TO THE CHAIR  
OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535  
ATTEST:

*Robin Stieler*  
Robin Stieler  
Clerk of the Board  
Orange County, California

APPROVED AS TO FORM  
OFFICE OF THE COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By: *[Signature]*

Date: 9.17.19

Return ORIGINAL  
Executed Copy to COTC  
(M-30/T11)

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C

COOPERATIVE AGREEMENT  
BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE  
FOR THE REORGANIZATION OF THE 17TH AND TUSTIN  
UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA

The 17<sup>th</sup> and Tustin Island annexation area is described as approximately 25 acres of unincorporated territory generally located near where the SR-55 Costa Mesa Freeway intersects 17<sup>th</sup> street, lying to the north of 17<sup>th</sup> Street, to the east of Tustin Avenue, to the south of Catalina Avenue, and west of SR-55 Costa Mesa Freeway.

Included in the annexation is unincorporated public right of way as follows:

- 17<sup>th</sup> Street from Tustin Avenue to SR-55 Costa Mesa Freeway
- Tustin Avenue from 17<sup>th</sup> Street to the north line produced of APN 396-312-15
- Ponderosa Street from 17<sup>th</sup> Street to the north line produced of APN 396-303-12
- Deodar Street from 17<sup>th</sup> Street to the north line produced of APN 396-303-12
- Medford Street from Deodar Street to Pasadena Street
- Pasadena Street from Medford Street to the north end of the cul-de-sac

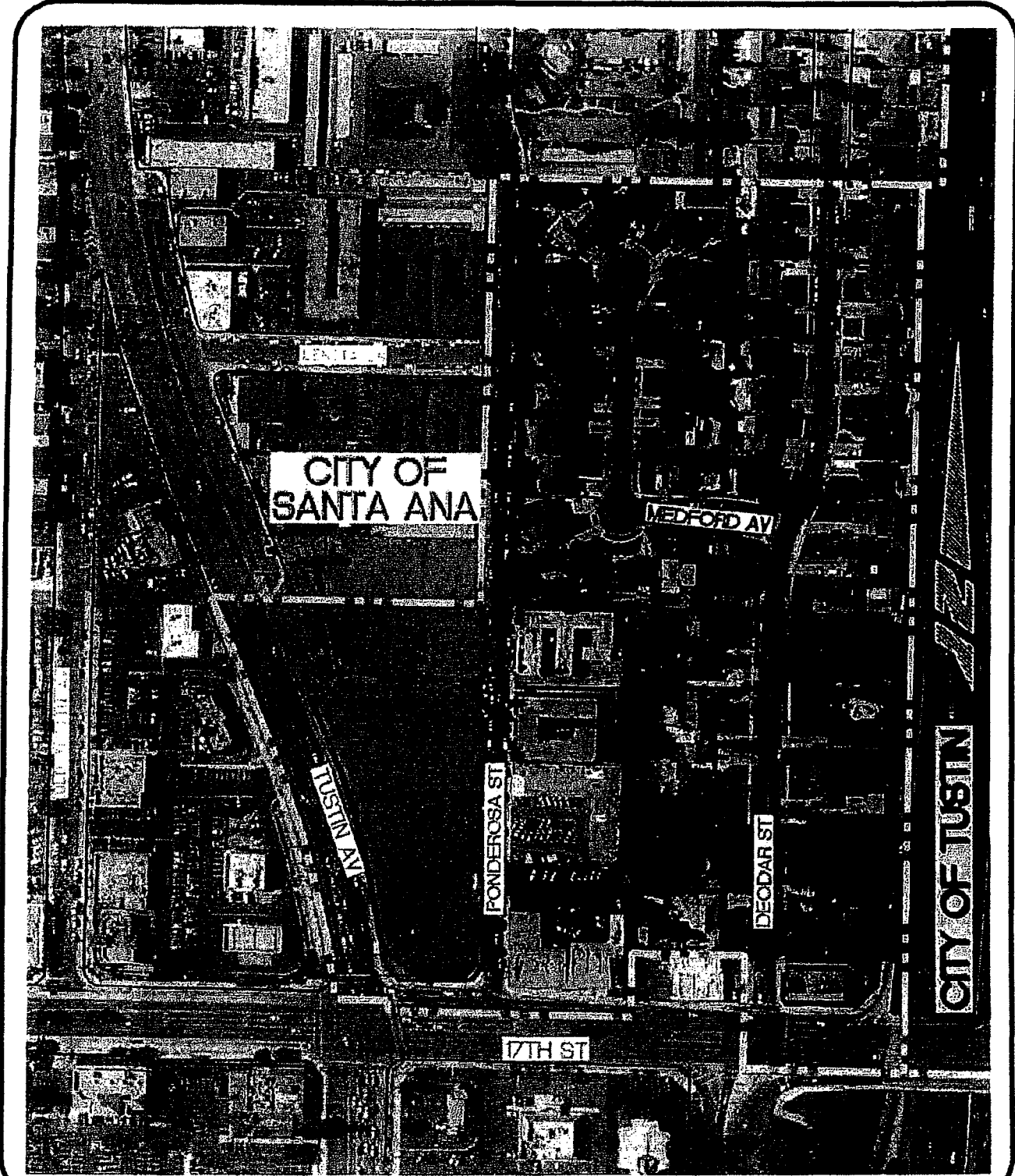
The above described annexation area is depicted in Exhibit 2.

The area includes the private property parcels with Assessor's Parcel Numbers ("APNs") as shown in Exhibit 3.

EXHIBIT 1

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C



**EXHIBIT 2**  
 CITY OF SANTA ANA 17TH STREET ISLAND - VICINITY MAP

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT C

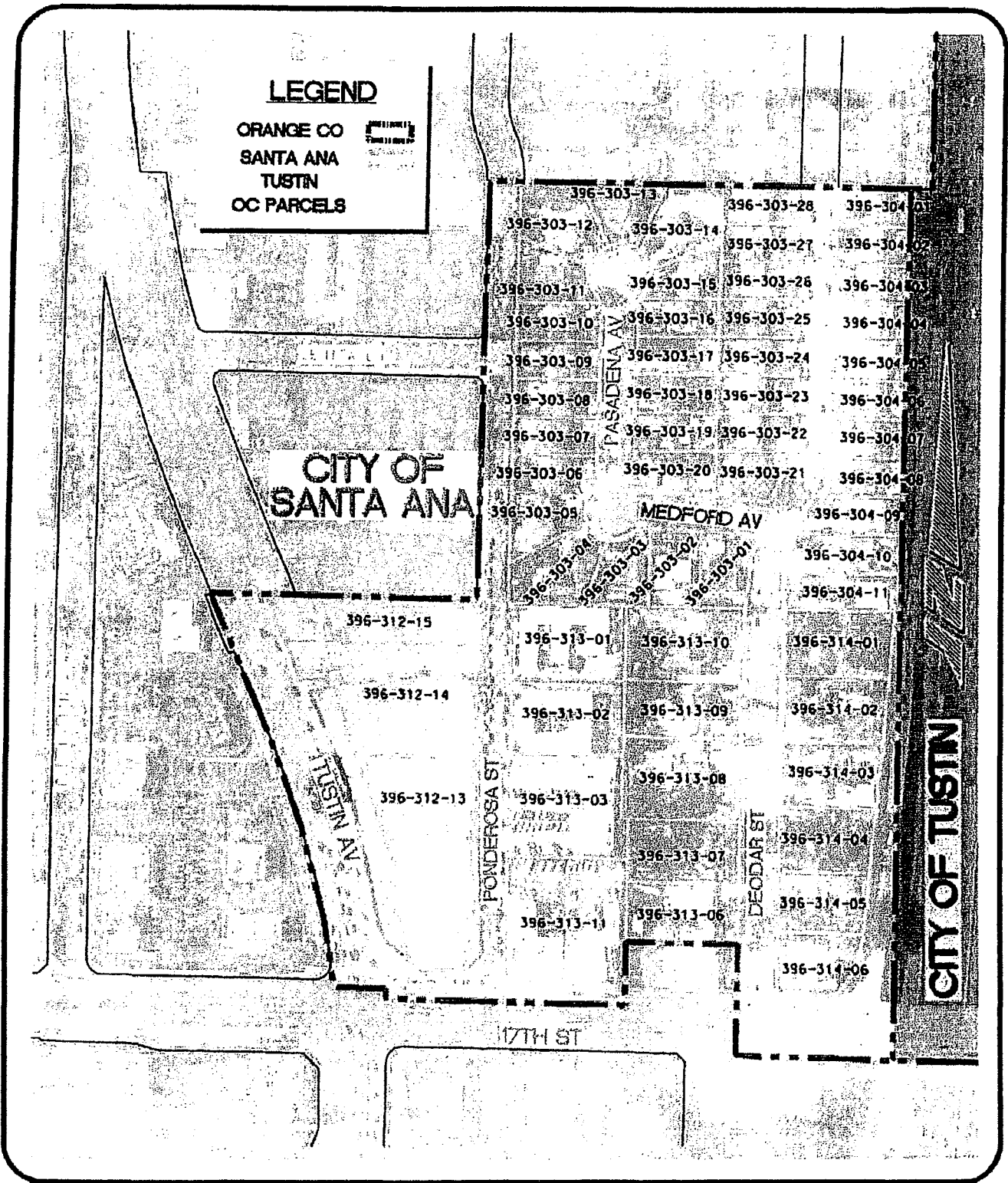


EXHIBIT 3  
ASSESSOR'S PARCEL NUMBER MAP

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

EXHIBIT D

**SERVICE AGREEMENT  
BY AND BETWEEN THE CITY OF SANTA ANA  
AND THE CITY OF TUSTIN  
REGARDING POTABLE WATER SERVICE FOR  
VARIOUS PARCELS OF UNINCORPORATED REAL PROPERTY**

This Service Agreement (“Agreement”) is entered into by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (“Santa Ana”), and the City of Tustin, a California municipal corporation (“Tustin”) (each referred to as “Party” and collectively referred to as the “Parties”) on the effective date of the reorganization of “Island Parcels” involving the annexation of the “Island Parcels” to Santa Ana and detachment of same territory from the Municipal Water District of Orange County as specified in Section A below.

**RECITALS**

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission’s (“OC LAFCO”) policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana’s sphere of influence with Assessor’s Parcel Numbers (“APNs”) 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 (“Island Parcels”) as shown on Exhibit A.

B. Santa Ana is presently without the necessary water system infrastructure to directly provide Potable Water Services to the Island Parcels, but contemplates and fully intends to ensure that the Island Parcels receive adequate Potable Water Service consistent with the level of service contemplated by Santa Ana subsequent to the Annexation, including installation and completion of all necessary water system infrastructure and performance of all customer service functions (“Potable Water Service”) following Santa Ana’s annexation of the Island Parcels.

C. Tustin maintains and operates water lines and facilities that provide Potable Water Services to all developed Island Parcels.

D. Santa Ana and Tustin desire to enter into this Agreement, whereby Tustin will provide Potable Water Service to the Island Parcels. Tustin will provide water service to the Island Parcels until such time Santa Ana has completed water system infrastructure to serve the entire Island Parcels.

E. This Agreement constitutes a service agreement in which “[t]wo or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.” (Gov. Code, § 56133(e)(1)).



EXHIBIT D

F. Under Government Code, section 56133 and OC LAFCO’s “Policy & Procedures for the Review and/or Processing of Out-Of-Area Agreements by the Executive Officer (Gov’t Code §56133),” this Agreement is not an out-of-area service agreement requiring OC LAFCO’s review and approval because: (1) Santa Ana and Tustin are both public agencies; and (2) upon annexation, Santa Ana will have the exclusive authority to provide Potable Water Services to the Island Parcels. However, Santa Ana has found that such activities can be more efficiently and more conveniently performed by Tustin pursuant to this Agreement at this time.

G. This Agreement will in no way adversely impact water services to current customers of Santa Ana or Tustin, will not induce growth, and will not result in the duplication of services in the territory of either city.

H. This Agreement serves the public interest, economy, and general welfare.

TERMS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. CONSENT FOR AND PROVISION OF SERVICES

1.1. Santa Ana’s Consent for Service. Except as provided in Section 1.2, Santa Ana consents to Tustin’s provision of Potable Water Service to the Island Parcels, upon Santa Ana’s annexation of the Island Parcels.

1.2. Following the annexation, in the event that Santa Ana has or creates the infrastructure and the capacity to provide Potable Water Service to the Island Parcels, any new development or redevelopment within the Island Parcels shall be served by Santa Ana.

1.3. Tustin’s Provision of Service.

1.3.1. Provision of Service. Tustin agrees to provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Tustin’s provision of services to its remaining service area, subject only to a changeover as set forth in Section 2 of this Agreement.

1.3.2. Applicable Law. Tustin’s provision of the Potable Water Service shall comply with applicable local, state, or federal statutes, regulations, rules, or policies.

EXHIBIT D

2. TERMINATION

Santa Ana's Capacity for Service. If, at any time during the course of this Agreement, Santa Ana determines that it has the infrastructure and capacity to economically and conveniently provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Santa Ana's service to the remainder of its service area, then Santa Ana will send written notice to Tustin and OC LAFCO of such determination. The notice shall provide reasonable terms, conditions, and times for accomplishing the changeover from Tustin to Santa Ana as the provider of Potable Water Service; provided, however, that cooperation with the notice shall be at no cost to Tustin. Tustin will work in good faith with Santa Ana to reasonably comply with the notice. This Agreement shall terminate when the changeover is accomplished. When this Agreement is terminated for any reason, any costs reasonably required to disconnect, transfer, cap, abandon, and/or otherwise cease Potable Water Service by Tustin will be reimbursed by Santa Ana within ninety (90) days of delivery of written request for such reimbursement. The manner of cessation of Tustin Potable Water Service shall be in compliance with all then-current Tustin standards and requirements.

3. EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement is the date this Agreement is executed by both Parties as it appears on the Signatures page of this Agreement referred to as Effective Date.

4. SCOPE OF AGREEMENT

Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by Santa Ana to generally allow Tustin to provide Potable Water Service within Santa Ana's jurisdiction or by Tustin to provide Potable Water Service within Santa Ana's jurisdiction on the terms and conditions contained herein or on any terms and conditions whatsoever.

5. INDEMNIFICATION

The Parties shall indemnify and hold harmless each other and their officers, employees, and agents, against any and all claims, liabilities, expenses, attorney's fees or damages, for injury or death of any person, or damage to property, or interference with use of property Claims, to the extent the Claims arise from the negligence or willful misconduct of the indemnifying Party or to the extent any Claim arises in connection with the indemnifying Party's negligent performance of this Agreement.

6. MISCELLANEOUS PROVISIONS

6.1. Changes to Agreement. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without the prior written consent of the Parties to the Agreement, which consent may not be unreasonably withheld, conditioned or delayed.

EXHIBIT D

6.2. Performance. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing Party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

6.3. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

6.4. Form of Notice. Any notice to any Party shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the Parties thereto are, until changed as hereinafter provided, the following:

- To Santa Ana: Fuad Sweiss, PE, PLS  
Executive Director  
Public Works Agency  
20 Civic Center Plaza  
Santa Ana, Ca. 92702
- With copy to: Clerk of the Council  
20 Civic Center Plaza  
Santa Ana, Ca. 92702
- To Tustin: Douglas Stack  
Director of Public Works/City Engineer  
300 Centennial Way  
Tustin, Ca. 92780
- To OC LAFCO: Carolyn Emery  
2677 North Main St Suite 1050  
Santa Ana, Ca 92705

6.5. Change of Address. Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten days prior to the date such change is considered effective.

EXHIBIT D

6.6. Effective Date of Notice. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effective or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

6.7. Content of Notice. Every notice (other than the giving or withholding of consent, approval, or satisfaction under this Agreement, but including requests therefore) given to a Party or other person shall comply with the following requirements. Each notice shall state:

6.7.1. The paragraph of this Agreement pursuant to which the notice is given; and

6.7.2. The period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect.

6.7.3. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

6.8. Entire Agreement. This writing constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements that may have been entered into between the Parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).

6.9. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of Orange, State of California.

6.10. Counterparts. This Agreement may be executed by the parties in one or more counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such parts shall together constitute one and the same instrument.

6.11. Section Headings. All section headings and subheadings are inserted for convenience only and will not affect any construction or interpretation of this Agreement.

EXHIBIT D

Signatures and OC LAFCO certification on the next pages.

SIGNATURES

In witness thereof, the Parties here to have executed this Agreement on \_\_\_\_\_ which is the Effective Date.

Month Day Year

CITY OF SANTA ANA, a California municipal corporation

CITY OF TUSTIN, a California municipal corporation

By: KRISTINE RIDGE, CITY MANAGER

By: MATHEW S. WEST, ACTING CITY MANAGER

Attest:

Attest:

By: NORMA MITRE-RAMIREZ, ACTING CITY CLERK

By: ERICA N. YASUDA, CITY CLERK

Approved as to Form:

Approved as to Form:

WOODRUFF, SPRADLIN & SMART, APC.

By: SONIA CARVALHO, CITY ATTORNEY

By: DAVID E. KENDIG, CITY ATTORNEY

CERTIFICATION

Based upon the recitals and the terms of this Agreement, I find that Tustin's provision of Potable Water Services outside its jurisdictional boundary to the Island Parcels does not constitute a contract or agreement requiring OC LAFCO approval under Government Code section 56133.

By: CAROLYN EMERY, EXECUTIVE OFFICER OC LAFCO

Attachment: Appeal Form and Supporting Documentation (County of Orange) (Appeal of the Draft RHNA Allocation for the County of Orange)

**EXHIBIT E**

**STATEMENT OF DETERMINATIONS  
FOR THE REORGANIZATION OF THE 17<sup>TH</sup> STREET AND TUSTIN  
UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA  
AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (RO 19-07)  
SPHERE OF INFLUENCE AMENDMENT**

**Government Code Section 56425**

- 1. The present and planned land uses in the area, including agriculture and open-space lands.

The current County zoning designations include Single-Family Residence (R1), Multi-Family Dwelling (R2) and Local Business (C1 and 100-C-1-100). The proposed land use designation of the island by the City of Santa Ana are Single-Family Residence (R1), Two-Family Residence (R2), Community Commercial (C1) and Arterial Commercial (C5). The subject territory does not include agricultural lands or open space areas.

- 2. The present and probable need for public facilities and services in the area.

Currently the City of Santa Ana and the City of Tustin provide sewer and water service respectively to the developed parcels within the 17<sup>th</sup> Street and Tustin Unincorporated Island. Upon annexation of the 17<sup>th</sup> Street and Tustin Unincorporated Island, the City of Santa Ana and the City of Tustin will provide retail water and wastewater service, respectively, to all of the parcels within the island. The City of Tustin will enter into a water agreement with the City of Santa Ana to provide the retail water service to the subject territory.

- 3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.

The amendment to the Municipal Water District of Orange County's (MWDOC) sphere of influence is consistent with the annexation of the 17<sup>th</sup> Street and Tustin Unincorporated Island to the City of Santa Ana. MWDOC is a member agency of the Metropolitan Water District of Southern California (MWD) and was formed to provide wholesale water service to those areas of Orange County not covered by an MWD member agency. The City of Santa Ana is an MWD city member agency, and because the service boundaries of MWD member agencies cannot overlap, the

**EXHIBIT E**

reorganization requires a concurrent detachment and sphere amendment of the same territory from MWDOC.

4. The existence of any social or economic communities of interest in the area.

There are no existing social or economic communities of interest in the area.

5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

There are no disadvantaged unincorporated communities within or adjacent to the subject territory.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
916) 263-2911 FAX: (916) 263-7453  
www.hcd.ca.gov



December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and



land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach's position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach's input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068





# CITY OF YORBA LINDA

4845 CASA LOMA AVENUE • YORBA LINDA • CALIFORNIA 92886

December 9, 2020

Peggy Huang  
RHNA Appeals Board Chair  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017

**Subject: Appeal of the RHNA Allocation by the County of Orange**

Dear Chair Huang:

The City of Yorba Linda appreciates the opportunity to review and provide comment on the RHNA appeals. The purpose of this letter is to provide jurisdictional comments related to the RHNA appeal from the County of Orange. In their appeal, the County of Orange requests a reduction of their RHNA by 80 housing units because of an annexation that occurred within the City of Yorba Linda's Sphere of Influence on December 20, 2019. Although state housing law requires that adjustments from successful RHNA appeals shall be redistributed proportionally to all local governments,<sup>1</sup> the SCAG-adopted RHNA procedures state that jurisdictions not subject to an appeal may receive an adjustment to their allocation based on another jurisdiction's appeal.<sup>2</sup> The County of Orange did not appeal the City of Yorba Linda's RHNA allocation; therefore, if RHNA adjustments total 7 percent or less of the total RHNA, a successful appeal of these units must be redistributed throughout the region. However, given the SCAG-adopted RHNA procedures, the City of Yorba Linda is concerned that this request from the County of Orange could result in a potential increase in the City's RHNA by 80 housing units. Therefore, we are writing this letter to discourage those 80 housing units from being assigned to the City of Yorba Linda.

This project was approved by the County of Orange on December 13, 2016, as an 80-unit market rate subdivision. Prior to annexation, the City of Yorba Linda entered into a cooperative agreement with the County of Orange dated October 22, 2019. This agreement states that the County of Orange will be responsible for completion of the development approvals, which includes all permits, licenses, consents, inspections, and other actions that are associated with the construction of this project until it is fully improved, or until the County of Orange has issued certificates of occupancy for all housing units.

One of the responsibilities associated with housing construction is the reporting of those housing units on a jurisdiction's mandatory Annual Progress Report (APR) to the State Department of Housing and Community Development (HCD). Given that the cooperative agreement between the County of Orange and the City of Yorba Linda grants **all** responsibilities for the completion of the development solely to the County of Orange, this would also include the responsibility to report these units to HCD on the County's APR. These APRs are used to track progress for each jurisdiction on meeting its RHNA obligations. Furthermore, it would be infeasible for the City of Yorba Linda to report the progress of these housing units on its APR, since the City will have none of this data. Although there has been a good working relationship between the City and the

<sup>1</sup> Government Code 65584.05(f)

<sup>2</sup> SCAG's 6<sup>th</sup> RHNA Cycle Appeals Procedures adopted March 5, 2020

County, it would not be reasonable for the City to be required to provide the time-sensitive data associated with the APR that relies on coordinating with another jurisdiction for that data.

Therefore, if the RHNA Appeals Board is inclined to support the County's request to reduce their RHNA allocation, the City's request is that these housing units be redistributed throughout the region as required by state housing law and not be transferred to the City of Yorba Linda. However, if the RHNA Appeals Board decides to transfer these 80 housing units directly to the City of Yorba Linda, our request is that these units only be transferred at the above-moderate income level, since the project has already been entitled as an above-market housing project. Due to the cooperative agreement with the County of Orange, the City does not have any legal mechanism to require lower income housing units in this area and it would not be reasonable to require the City's RHNA allocation to increase by 80 units across the four income levels for a previously approved above-market project.

The City appreciates the time each of the RHNA Appeals Board members has committed to reviewing the individual merits of each of these appeals. Please let us know if you need any additional clarification or have any questions by contacting Nate Farnsworth, Planning Manager, at (714) 961-7131 or [nfarnsworth@yorbalindaca.gov](mailto:nfarnsworth@yorbalindaca.gov).

Sincerely,



Mark Pulone  
City Manager

cc: Yorba Linda City Council  
David Brantley, Community Development Director  
Nate Farnsworth, Planning Manager  
SCAG RHNA Appeals Board  
Kome Ajise, SCAG Executive Director



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist,  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of  
Westminster

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Westminster to reduce the Draft RHNA Allocation for the City of Westminster by 8,526 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**RECOMMENDATION:**

Deny the appeal filed by the City of Westminster to reduce the Draft RHNA Allocation for the City of Westminster by 8,526 units.

**SUMMARY OF APPEAL:**

The City of Westminster requests a reduction of its RHNA Allocation by 8,526 units (from 9,737 units to 1,211 units) based on the following factors:

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)
- 2) Existing or projected jobs-housing balance
- 3) Affirmatively furthering fair housing

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal and recommend no change to the City of Westminster's RHNA Allocation. Regarding Issue 1, the City proposes an alternative data source to calculate the percent of residents living in disadvantaged communities; however, the new data source was published seven months after the adoption of the Final RHNA Methodology. Regarding Issue 2, Westminster

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*



challenges SCAG's Methodology of determining share of regional jobs accessibility; however, the City's allocation on the basis of job accessibility was determined to be consistent with the Final RHNA Methodology. Regarding Issue 3, Westminster argues that their allocation promotes socioeconomic inequality; however, the Final RHNA Methodology was found by HCD to advance the five statutory requirements, including Affirmatively Furthering Fair Housing.

## **BACKGROUND:**

### **Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the Westminster: 9,737 units  
Very Low Income: 1,876 units  
Low Income: 1,470 units  
Moderate Income: 1,781 units  
Above Moderate Income: 4,610 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

### **Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Westminster. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and

their opposition to any action which would result in a transfer of additional units to Long Beach.

#### ANALYSIS:

***Issue 1: Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(2)].***

*The City of Westminster argues that it is unfairly burdened by the application of the RHNA Methodology because the Methodology does not use draft 2021 TCAC/HCD Opportunity Index scores data that would increase the percentage of the City's population living in a "low-resource area" from 38% to 52%, which would qualify the City to receive a net residual factor of 5,516 units.*

**SCAG Staff Response:** SCAG's final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make any changes to HCD's regional housing needs assessment. Only improper application of the methodology is grounds for an appeal. An example of an improper application of the adopted methodology might be a data error which was identified by a local jurisdiction.

With respect to the statutory objectives<sup>1</sup>, SCAG used objective measures to advance certain principles, but since local and regional conditions vary tremendously across the state and over time, there are few consistent quantitative standards which can be used to evaluate all aspects of the methodology. Ultimately, however, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met.

As described in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the Final RHNA Methodology was found by HCD to further the five statutory

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing (Govt. Code § 65584(d)).

objectives in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another.

The adopted RHNA Methodology has a clear delineation to determine whether a jurisdiction is identified as a disadvantaged community, or DAC.

In the methodology, several jurisdictions are considered DACs on the basis of their opportunity scores, but they also score highly in job and transit access. Such jurisdictions may have their total RHNA Allocations capped based on their long-range (2045) household forecast. This would result in a negative net residual factor and result in a lower RHNA Allocation than if the Methodology had not included this component. The purpose of this feature of the Methodology was to further two of the five objectives of State housing law, avoiding an overconcentration of lower income households where they are already located and affirmatively further fair housing. In HCD's comment letter dated December 20, 2020 (HCD Comment Letter), HCD specifically explains that the cap on units allocated to DACs furthers the AFFH statutory objective:

“Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.” (HCD Comment Letter at p.2).

The adopted RHNA Methodology defines a DAC as a jurisdiction where more than half of its population lives in high segregation and poverty or low resource areas as defined by the California Tax Credit Allocation Committee (TCAC)/HCD Opportunity Index Scores.<sup>2</sup> Using this delineation, the City of Westminster's population in low/very low-resource tracts is 37.84 percent, which is below

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<sup>2</sup> The TCAC and HCD Opportunity mapping tool includes a total of 11 census-tract level indices to measure exposure to opportunity based on measures of economic, environmental, and educational factors (poverty, adult education, employment, low-wage job proximity, medium home value, CalEnviroScreen 3.0 indicators, math/reading proficiency, high school graduation rates, and student rate poverty). Regional patterns of segregation are also identified based on this tool. Based on its respective access to opportunity, each census tract is given a score that designates it under one of the following categories: High segregation & poverty, Low resource, Moderate resource, High resource, and Highest resource. Tract-level indices were summed to the jurisdictional-level by SCAG using area-weighted interpolation. Using 2013-2017 American Community Survey population data, SCAG determined the share of each jurisdiction's population in each of these five categories.

the 50 percent threshold to be considered DAC. While SCAG recognizes there may be other ways to assess resource levels, disadvantage, and segregation, such as the City of Westminster’s proposal to use draft 2021 TCAC/HCD data, alternative data sources that use a different methodology than was used in the adopted Methodology cannot be used as a substitute data source as part of the RHNA appeals process.

TCAC data for 2019 were used in the adopted RHNA Methodology since they were the most recently available at the time of its development. As the purpose of the RHNA Methodology is to use objective factors to compare jurisdictions to each other, it would not be possible to substitute more recent data for one jurisdiction but not others. Furthermore, each annual release of TCAC’s opportunity mapping data is accompanied by a substantially revised methodology document, covering the changes and refinements made to their approach in the past year. For example, 2020 opportunity maps added a category of “Moderate Resource (Rapidly Changing)” which was not part of the approach in 2019. As such, newer versions of the opportunity maps are substantively different measurements.

The Final RHNA Methodology was adopted on March 5, 2020, and the draft TCAC/HCD Opportunity Index Scores that the City of Westminster contends should have been used in the Methodology were published in October 2020. As noted above, an appeal citing RHNA Methodology as its basis must appeal the application of the adopted Methodology, not the Methodology itself. The jurisdiction has not provided evidence that SCAG misapplied input data in the adopted Methodology and consequently miscalculated the percentage of the City’s population living within areas of high segregation and poverty or low-resource areas, but rather that data published months after the adoption of the Final RHNA Methodology would change the City’s Allocation.

For this reason, SCAG staff does not recommend a reduction to its draft RHNA allocation based on this application of the adopted Final RHNA Methodology.

***Issue 2: Existing or projected jobs-housing balance [Government Code section 65584.04(e)(1)].***

*The City contends that the Draft RHNA Allocation will increase the job/housing imbalance. The City cites the fact that only 7.2% of employed Westminster residents work in the city as well as its 0.65 jobs/housing ratio, which demonstrates that it has 50% more housing availability than it does jobs. Moreover, the City challenges the objective of the RHNA Methodology to quantify access to regional jobs within a 30-minute driving commute, citing worse commute times within Westminster relative to the other eight cities within the Central Region Service Planning Area.*

**SCAG Staff Response:** The adopted RHNA Methodology includes a calculation of job accessibility as one of the factors to determine a jurisdiction’s Draft RHNA Allocation. Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute (additional details are found in the adopted RHNA Methodology). This is not a measure of the number of jobs within a jurisdiction nor a measure of average commute times between cities; rather, it is a measure of how many jobs can be accessed by a jurisdiction’s residents, which can include jobs outside of the jurisdiction. Over 80 percent of SCAG region workers live and work in different

jurisdictions, which calls for an approach to the region's job housing relationship through the measurement of access rather than number of jobs within a certain jurisdiction. Limiting a jobs housing balance solely within jurisdictions can effectively worsen a regional jobs housing balance and thus SCAG staff does not recommend a reduction/increase to the jurisdiction's Draft RHNA Allocation based on this factor.

***Issue 3: Affirmatively furthering fair housing.***

*The City of Westminster argues that they received a higher RHNA allocation on a per-capita and per-mile relative to the allocations of neighboring cities. The City further contends that the RHNA Allocation they received promotes socioeconomic inequity, citing the City's relatively high Asian and Latino and Hispanic (non-white) populations, compared to the lower per-capita RHNA allocations of neighboring cities with relatively higher white populations, lower poverty rates, and higher incomes.*

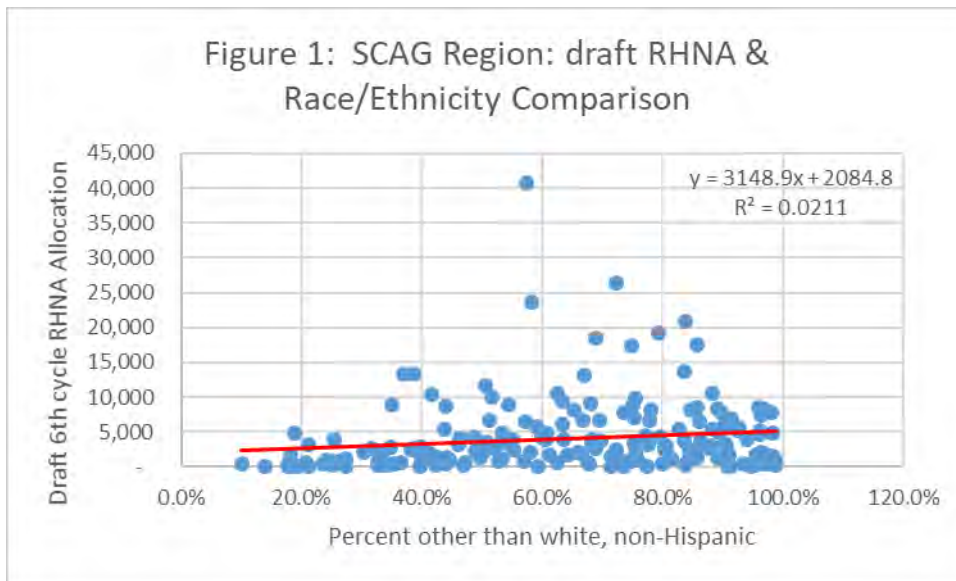
**SCAG Staff Response:** See also Response to Issue 1 above. One of the five objectives of RHNA law is to ensure that the RHNA allocation plan allocates "a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category". While SCAG staff accepts the assertion that the City of Westminster has a currently disproportionately high percentage of lower income households in comparison to the other eight cities in the Central Region Service Planning Area, the RHNA Methodology addresses this disparity through its social equity adjustment and inclusion of access to resources as an influencing factor.

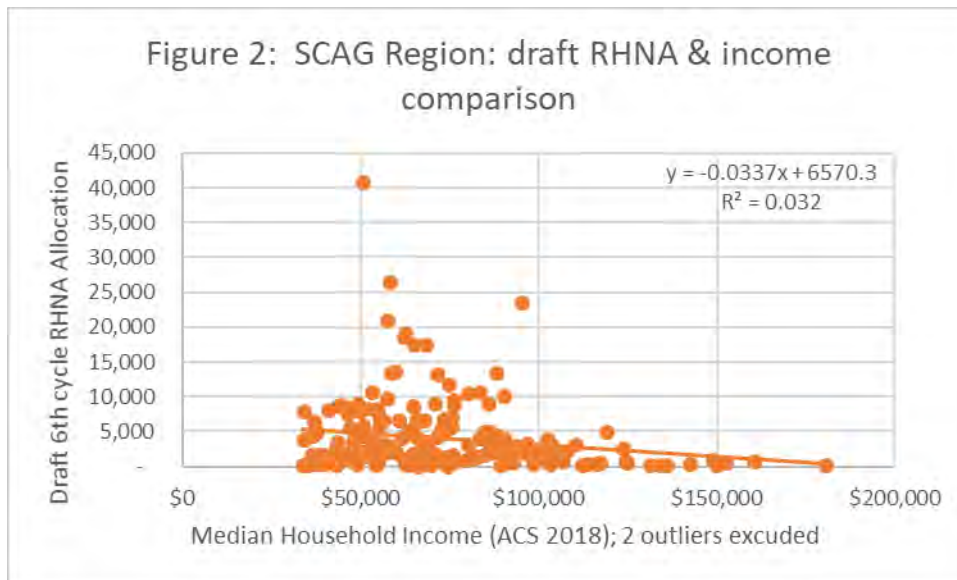
To further the objectives of allocating a lower proportion of households by income and affirmatively furthering fair housing (AFFH), the RHNA Methodology includes a minimum 150 percent social equity adjustment and an additional 10 to 30 percent added in areas with significant populations that are defined as very low or very high resource areas, referred to as an AFFH adjustment. A social equity adjustment ensures that jurisdictions accommodate their fair share of each income category. It does so by adjusting current household income distribution in comparison to the county distribution, also known as a "social equity" adjustment. The result is that jurisdictions that have a higher concentration of lower income households than the county will receive lower percentages of RHNA for the lower income categories. For example, approximately 37% of the City of Westminster's households are considered very low income while 25.2% of the County's households are very low income. After a social equity adjustment to reduce the high concentration of low income households within the City, the City's requirement to accommodate very low income households in its Draft RHNA Allocation was reduced to 19.3%, far lower than the county distribution of 25.2%. Thus, the RHNA Methodology, and by extension the jurisdiction's Draft RHNA Allocation, has already considered this objective to ensure that there is not an overconcentration of lower income households in these currently impacted areas. For this reason, SCAG staff does not recommend a reduction to the jurisdiction's Draft RHNA Allocation based on this factor.

The City’s comparisons of Draft RHNA Allocation by income, poverty level, and race/ethnicity also include a small subset of neighboring jurisdictions, whereas RHNA’s statutory objectives are regional in nature. As aforementioned, the RHNA Methodology must balance several statutory objectives and HCD’s approval indicates that these have been sufficiently met. Generally speaking, in the SCAG region, job accessibility and transit accessibility tend to be higher in non-white and lower income areas.

The below analysis compares 195 SCAG local jurisdictions based on 2018 American Community Survey data found in SCAG’s 2019 local profiles as well as the RHNA Methodology data appendix (note that Los Angeles City and County are removed since their RHNA allocations in excess of 80,000 units are statistical outliers):

- Draft 6<sup>th</sup> cycle RHNA allocation
- Percent of population **other than** white, non-Hispanic
- Median household income





Source for two figures above: ACS 2018.

Figure 1, shows the 6<sup>th</sup> Cycle draft allocation as compared to percentage of the population that is other than white, non-Hispanic and indicates a modest, but not statistically significant relationship between minority (i.e. other than white, non-Hispanic) population share and Draft RHNA Allocation across the region’s local jurisdictions. Figure 2, shows the 6<sup>th</sup> cycle draft allocation as compared to median household income and indicates a modest, but not statistically significant, relationship between median household income and Draft RHNA Allocation.

Ultimately, these scatterplots indicate that there is not a strong predominant relationship between any of these factors regionally, and certainly not a “nearly direct correlation” as Westminster argues. Ultimately, HCD’s analysis (found in the attached comment letter) confirms these findings vis-à-vis RHNA’s statutory objectives. Based on the discussion above, SCAG does not recommend a change in the City’s Draft RHNA Allocation based on affirmatively furthering fair housing.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Westminster)
2. Appeal Form and Supporting Documentation (City of Westminster)
3. Comments Received During the Comment Period (General)
4. Map of HQTAs in the City of Westminster (2045)
5. Map of Job Accessibility in the City of Westminster (2045)

## **Attachment 1: Local Input and Development of the Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Westminster had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Westminster's Draft RHNA Allocation.

### **1. Local input**

#### ***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Westminster, the anticipated number of households in 2020 was 26,683 and in 2030 was 27,448 (growth of 765 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Westminster to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>.



### **b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Westminster submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### **c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://scag.ca.gov/sites/main/files/file-attachments/growth-vision-methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spmdm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG

received additional technical corrections from the City of Westminster and incorporated them into the Growth Vision in December 2019.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d)).*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*"This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes.*

*In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTA) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### 3. Draft RHNA Allocation for the City of Westminster

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Westminster received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the City of Westminster as summarized in the data and calculations in the tables below.

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<b>Westminster city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	631
Percent of households who are renting:	47%
Housing unit loss from demolition (2009-18):	58
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	1,154
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	21.61%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	2,172,000
Share of region's job accessibility (population weighted):	0.78%
Jurisdiction's HQTa population (2045):	67,353
Share of region's HQTa population (2045):	0.66%
Share of population in low/very low-resource tracts:	37.84%
Share of population in very high-resource tracts:	0.00%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Westminster city	
Forecasted household (HH) growth, RHNA period:	631
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	20
Replacement Need	58
<b>TOTAL PROJECTED NEED:</b>	<b>709</b>
Existing need due to job accessibility (50%)	3259
Existing need due to HQTAs pop. share (50%)	2755
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	3013
<b>TOTAL EXISTING NEED</b>	<b>9027</b>
<b>TOTAL RHNA FOR WESTMINSTER CITY</b>	<b>9737</b>
Very-low income (<50% of AMI)	1876
Low income (50-80% of AMI)	1470
Moderate income (80-120% of AMI)	1781
Above moderate income (>120% of AMI)	4610

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 67,353 living within HQTAs, the City of Westminster represents 0.66% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific

jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Westminster's median TAZ, it will be possible to reach 21.61% of the region's jobs in 2045 within a 30-minute automobile commute (2,172,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 3,013 units assigned to the City of Westminster.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: \_\_\_\_\_ Jurisdiction Subject to This Appeal Filing: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
*(to file another appeal, please use another form)*

Filing Party (Jurisdiction or HCD)  
 \_\_\_\_\_

Filing Party Contact Name \_\_\_\_\_ Filing Party Email: \_\_\_\_\_  
 \_\_\_\_\_

**APPEAL AUTHORIZED BY:**

Name: \_\_\_\_\_

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

**Brief Description of Appeal Request and Desired Outcome:**

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced \_\_\_\_\_ Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**  
**(Numbers may be continued to accommodate additional supporting documentation):**

- 1.
- 2.
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_





# City of Westminster

8200 Westminster Boulevard, Westminster, CA 92683 714.898.3311  
www.westminster-ca.gov

Via email: [housing@scag.ca.gov](mailto:housing@scag.ca.gov)

**October 26, 2020**

SCAG – Main Office  
900 Wilshire Blvd., Suite 1700  
Los Angeles, CA 90017

Re: Appeal of 6th RHNA Cycle Allocation

TRI TA  
Mayor

KIMBERLY HO  
Vice Mayor

SERGIO CONTRERAS  
Council Member

TAI DO  
Council Member

CHI CHARLIE NGUYEN  
Council Member

SHERRY JOHNSON  
Interim City Manager

Dear SCAG:

The City of Westminster, a city of only 90,643 residents, appeals its RHNA allocation of 9,733 units because the allocation does the *exact opposite* of the goals of the allocation process set forth in Government Code section 65584(d).<sup>1</sup>

Those five goals are to (1) allocate equitably; (2) reduce socioeconomic inequity; (3) reduce the jobs/housing imbalance; (4) allocate fewer units to a community with an abundance of units; and (5) reduce segregation / encourage fair housing.

The overwhelming majority of Westminster’s residents do not speak English at home (63.4%). It has among the highest poverty rates (15.9%) and is consistently either the second highest, or the *highest unemployment rate in all of Orange County* (12.5%).<sup>2</sup> It is among the most racially segregated of all cities (49.4% Asian and 22.8% Latino/Hispanic). And yet it received among the *highest* RHNA allocations on both a per-capita and on a per-square-mile basis.

<sup>1</sup> Unless otherwise all demographic statistics are from the most current data of the U.S. Census, which derives the data from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

<sup>2</sup> Source: CA State Employment Development Department, Labor Market Information Division. Unemployment Rates for Cities and Census Designated Places (CDP), Orange County, California. <http://www.labormarketinfo.edd.ca.gov>. The preliminary data for September 2020 show Westminster with an unemployment rate of 12.5%, second only to Garden Grove with 12.6%. Data from June 2020 showed Westminster with the highest unemployment rate in the state. The third highest unemployment rate cities are a full percentage point lower: the cities of Stanton (11.5%) and Buena Park.

Why? In every instance, based upon the goals of the RHNA allocation process, it should have received among the lowest allocations, but the allocation methodology, as applied to Westminster resulted in it receiving among the highest on a per capita basis.

Had SCAG used the most current 2021 data, rather than antiquated data, Westminster would have been calculated to have more than 50% of its population living in a “low resourced area”, and therefore would have had a “net residual factor” of negative 5,516 units. Not only does the 2021 draft California Tax Credit Allocation Committee (TCAC)/HCD Opportunity Index Scores data show 52% of the Westminster population lives within a disadvantaged community (DAC), but that it has been trending unfavorably, dramatically increasing from 38% to 52% over the course of 3 years. Westminster should have had a RHNA allocation of 1,207 units.

Instead, we have an absurd situation where Westminster would receive RHNA at levels that the allocation will deter, rather than further the goals of 65584(d).

**A. Westminster’s RHNA allocation undermines the five objectives listed in Government Code Section 65584(d).**

The City of Westminster has received a grossly excessive RHNA allocation. Westminster is a city of 90,643 people that received an allocation of 9,733 units – an allocation of 10.74 units per 100 residents.

Westminster is one of the nine cities in the Central Region Service Planning Area (Costa Mesa, Fountain Valley, Garden Grove, Huntington Beach, Newport Beach, Santa Ana, Seal Beach, Tustin, Westminster). Collectively, these cities will be referred to as the “SPA Cities.”

This allocation of 10.74 units per 100 residents places its allocation at the second most in all of the SPA Cities – only Garden Grove (at 11.14 units per 100 residents) is slightly higher. And, as shown below, Westminster’s allocation is *11.57 times* Santa Ana’s allocation. This is but one of many examples of how the allocation received by Westminster causes the *exact opposite* of these stated goals in Government Code section 65584(d).

**1. The Opposite of Objective #1 Will Occur -- The Allocation to Westminster is Inequitable**

Objective #1 is as follows:

*“Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.”*

SCAG is charged with increasing the housing supply in an “equitable” manner. Merriam Webster defines “equitable” as: “dealing fairly and equally with all concerned.” In no way is the end result fair or equal.

**a. Westminster’s Allocation is 11.54 times that of Santa Ana**

The following chart shows that Westminster received a per-capita RHNA allocation more than 11 times higher than Santa Ana, and substantially higher than the median allocation of the SPA Cities.

City	RHNA Allocation	U.S. Census 2019 estimated population	RHNA allocation per 100 people in population
Garden Grove	19,124	171,644	11.14
Westminster	9,733	90,643	10.74
Costa Mesa	11,727	113,003	10.38
Fountain Valley	4,837	55,357	8.74
Tustin	6,777	79,348	8.54
Huntington Beach	13,337	199,223	6.69
Newport Beach	4,832	84,534	5.72
Seal Beach	1,240	23,896	5.19
Santa Ana	3,087	332,318	0.93

By any metric, allocating 11.54 times Santa Ana’s per person allocation is inequitable, as is allocating more than double Seal Beach’s amount.

By this metric, Santa Ana (0.93), Seal Beach (5.19) and Newport Beach (5.72) received substantially fewer units than they should have, whereas Westminster (10.74) and Garden Grove (11.14) received far too many.

This disparity is caused in large part by Santa Ana receiving a reduction of 23,167 units due to “Net Residual Factor” resulting from the DAC analysis. Had Santa Ana not received these reductions, Santa Ana would have had an allocation rate similar to Westminster – and had Westminster received the reduction of 5,516 units above, Westminster would instead have a rate similar to Santa Ana. To be treated equitably, Westminster should have had a RHNA reduction similar to Santa Ana.

**b. Westminster and Garden Grove received Nine Times that of Santa Ana and Seal Beach on a per square mile basis.**

Westminster’s allocations were also the second highest on a per square mile basis:

City	RHNA Allocation	Square Miles in City	RHNA allocation per square mile
Garden Grove	19,124	17.94	1,066.0
Westminster	9,733	10.05	968.5
Costa Mesa	11,727	15.65	749.3
Tustin	6,777	11.08	611.6
Fountain Valley	4,837	9.02	536.3

Huntington Beach	13,337	26.75	498.6
Newport Beach	4,832	23.81	202.9
Santa Ana	3,087	27.27	113.2
Seal Beach	1,240	11.29	109.8

Westminster received an allocation of 968 units/square mile, whereas Seal Beach and Santa Ana received only 110 and 113 per square mile, and Newport Beach only 203. Westminster received an allocation nearly *nine* times that of other cities on a per square mile basis. Again, this is inequitable.

To remedy this situation, Westminster should have a reduced RHNA allocation.

**2. The Opposite of Objective #2 Will Occur -- The Allocation to Westminster Incorrectly Promotes Socioeconomic Inequity**

Objective #2 is as follows:

*Objective #2: “Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.”*

The proposed RHNA allocation is also inequitable based upon socioeconomic factors. As shown in the chart below, the greater the percentage of Asians, the greater the chances that there is a high RHNA allocation. The two SPA cities with the highest percentage of Asians received the highest per-capita RHNA allocation. Westminster is 49.4% Asian, and Garden Grove is 40.5% Asian, and their allocations were 10.74 and 11.14, respectively. Compare this to the five cities with the lowest per capita RHNA allocation – they are on average only 15.2% Asian. This suggests that if one lives in a city with a high percentage of people of that self-identify as Asian, the RHNA allocation will be substantially higher.

City	RHNA Allocation per 100 people in population	% Asian
Westminster	10.74	49.4
Garden Grove	11.14	40.5
Fountain Valley	8.74	34.9
Newport Beach	5.72	21.6
Huntington Beach	6.69	12.1
Santa Ana	0.93	11.8
Seal Beach	5.19	10.5
Costa Mesa	10.38	8.4
Tustin	8.54	8.3

The disparate racial impact is even more pronounced when one adds the percentage of Asian (only with Latino and Hispanic (non-white)). When Santa Ana is excluded (due to the reduction of the 23,167 units), you can see nearly a 1:1 relationship between an increase in the percentage of non-whites in a city, and an increase of the RHNA allocation. The two cities with the highest percentage of minorities (excluding Santa Ana) have the highest RHNA allocation, and the lowest two have the lowest RHNA allocation. This promotes the *opposite* of socioeconomic equity. Instead of treating all ethnicities equitably, the allocation has the effect of protecting white cities at the expense of minority cities.

City	RHNA Allocation per 100 people in population	% Asian + Latino and Hispanic (non-white)
Santa Ana	0.93 <sup>3</sup>	88.6
Garden Grove	11.14	77.5
Westminster	10.74	72.2
Fountain Valley	8.74	50.7
Tustin	8.54	50.1
Costa Mesa	10.38	44.5
Huntington Beach	6.69	32.1
Newport Beach	5.72	30.6
Seal Beach	5.19	22.8

Opponents to this argument of unfairness will argue that the correlation between the RHNA allocation and race is not due to racial animus, but due to economics – minorities tend to live in poorer neighborhoods. Let’s assume for the moment that this is correct –it still means that what is happening is unfair – rich cities do not receive RHNA allocations whereas poor cities do. Regardless of the cause, *this is the exact opposite of what is supposed to occur: socioeconomic equity.*

**3. The Opposite of Objective #3 Will Occur -- The Allocation to Westminster Increases the Job/Housing Imbalance**

Objective #3 is intended to decrease the jobs/housing balance by providing more affordable housing in those areas where there are jobs:

*“Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.”*

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<sup>3</sup> Santa Ana would have had the highest RHNA allocation but for it receiving the reduction of 23,167 units.

As applied to Westminster, SCAG’s proposed allocation does the exact *opposite* of what it should do. Only 7.2% of employed Westminster residents work in the city,<sup>4</sup> and yet Westminster received one of the highest pro-rata RHNA allocations.

Westminster already has substantially more housing units than jobs – it has a 0.65 jobs/housing ratio. Stated differently, Westminster has 50% more housing availability than it does jobs. Of all of the SPA Cities, Westminster has the second *least*, yet is allocated the second *most* RHNA on a per capita basis. The following chart shows the jobs v. housing imbalance:

City	RHNA Allocation per 100 people in population	Job / Housing ratio <sup>5</sup>
Santa Ana	0.93	2.69
Costa Mesa	10.38	2.15
Tustin	8.54	1.85
Newport Beach	5.72	1.50
Fountain Valley	8.74	1.15
Garden Grove	11.14	1.07
Huntington Beach	6.69	0.98
Westminster	10.74	0.65
Seal Beach	5.19	0.60

Based upon the jobs/housing balance, the cities of Westminster and Seal Beach should have *reduced* RHNA allocations, with the other jurisdictions receiving an increased allocation (especially Santa Ana and Costa Mesa). Again, Westminster’s allocation causes the exact opposite of what should occur, when compared to the jurisdictions within Westminster’s SPA.

The apparent reason for the allocation is that roughly 20% of the *region’s* jobs are within a 30 minute drive of Westminster. But regional transportation times shows that However, residents in Westminster already have commute times that are *worse* than the average of the SPA cities:

City	Mean Travel Time
Seal Beach	31.9
Huntington Beach	29.7
Garden Grove	28.4
Westminster	28.2
Fountain Valley	27.9
Santa Ana	25.3

<sup>4</sup> Westminster General Plan, page 3-89. [“In 2014 only 7.2 percent of employed Westminster residents worked in the city.”]

<sup>5</sup> The job / housing data is from SCAG’s publication, “The New Economy and the Jobs/Housing Balance in Southern California.” This data is consistent with page 13 of the January 2017 study from UCI School of Social Ecology “Jobs-Housing Balance in EgoHoods in Southern California.”

Newport Beach	25.2
Tustin	24.3
Costa Mesa	22.7

Among the SPA cities, the mean commute time is 27 minutes – the average commute from Westminster is 28 minutes. In other words, even if one cares only about regional transport, again, Westminster should have a lower RHNA allocation.

In short, as applied to Westminster, the allocation is unreasonable. Westminster should have a reduced RHNA allocation.

**4. The Opposite of Objective #4 Will Occur – Contrary to Objective #4, Westminster Receives an Increased Percentage of Affordable Units, rather than a Decreased Percentage.**

Objective #4 is as follows:

*“Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.”*

Westminster has the *highest poverty rate* of the SPA Cities (excluding Santa Ana). The following chart shows nearly a direct correlation between the percentage of poverty in a city, and the amount of units allocated to that city. In other words – the greater the percentage of poor in a city, the *greater* the RHNA allocation. This is the exact opposite of what should occur. Rather than Westminster receiving among the highest allocations, it should be among the lowest.

City	RHNA Allocation per 100 people in population	% of people in poverty <sup>6</sup>
Westminster	10.74	15.9%
Garden Grove	11.14	15.1%
Costa Mesa	10.38	13.0%
Tustin	8.54	12.3%
Huntington Beach	6.69	8.8%
Fountain Valley	8.74	8.6%
Newport Beach	5.72	6.6%
Seal Beach	5.19	6.3%

<sup>6</sup> The chart excludes Santa Ana because it had a reduced RHNA allocation of 23,167. Otherwise, it would have had the highest RHNA allocation. Coincidentally it also has the highest poverty rate: 17.7%. Stated differently, but for that reallocation, the Santa Ana would have further bolstered the conclusion that the greater the poverty rate, the greater the RHNA allocation – the exact opposite of what should occur.

Similarly, the lower the per capita income, the higher the RHNA allocation tends to be (with the exception of Santa Ana).

City	RHNA Allocation per 100 people in population	Per Capita Income in the past 12 months (in 2018 dollars)
Newport Beach	5.72	\$90,042
Seal Beach	5.19	\$56,256
Huntington Beach	6.69	\$47,078
Costa Mesa	10.38	\$39,028
Fountain Valley	8.74	\$38,149
Tustin	8.54	\$36,982
Westminster	10.74	\$27,603
Garden Grove	11.14	\$24,520
Santa Ana	0.93	\$19,517

The two cities with the highest RHNA allocation easily have the lowest per capita income. To remedy this situation, Westminster should have a reduced RHNA allocation.

**5. The Opposite of Objective #5 Will Occur – The Allocation Will Affirmatively Deter Fair Housing**

All of the following support the conclusion that the proposed allocation will deter, rather than encourage, fair housing.

Objective #5 is as follows:

*“Affirmatively furthering fair housing.” Pursuant to Government Code 65584(e): “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, **that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.**”*

In other words, the RHNA allocation should further, not hinder the goals of reducing segregation, and changing “areas of poverty into areas of opportunity.”

The opposite is occurring here despite the following characteristics of the city:

- Highest percentage of Asians (49.4%)



- Second highest percentage of minorities (72.2%)
- Third lowest per capita income (\$27,603)
- Second lowest jobs/housing ratio (0.65)
- Highest rate of poverty (15.9%)

Even though Westminster is among the poorest, and most segregated cities, Westminster received among the highest allocations.

**B. Westminster’s RHNA allocation Also Undermines Fair Housing Requirements of Government Code Section 65584.04**

**1. Existing or projected jobs-housing balance.**

As more fully described above, there is a substantial jobs-housing imbalance (2:3). The proposed allocation would exacerbate that existing imbalance.

**2. Affirmatively furthering fair housing.**

As described above, Westminster is one of the most racially segregated cities, and allocating an excessive number of units to Westminster is contrary to the goal of affirmatively furthering fair housing.

**C. Current Data Show That Westminster Should Have Received only 1,207 Units.**

Jurisdictions with more than 50% of their population already living in a “low resourced area” or in a “high segregation area” (a “High/Low Zone”) are to have their RHNA allocation substantially reduced. However, the 2020 data show that only 46% of the City is in a High/Low Zone. But if one uses the most current (2021) data, 53% of Westminster is in such an area. This is because Tract number 6059099701 has switched from “moderate” to low.”

Tract Number	Category	Population in Tract	% of Tract in Westminster	Estimated Westminster Population in Tract	Westminster Population in Low Resource/High Segregation Area
6059088802	low	5,072	1%	41	41
6059088901	low	7,060	4%	297	297
6059088904	mod	6,013	87%	5,201	0
6059088905	mod	5,273	100%	5,273	0
6059099203	low	6,246	2%	119	119
6059099204	mod	4,466	87%	3,885	0
6059099222	mod	5,420	100%	5,420	0
6059099223	low	4,940	84%	4,145	4,145
6059099241	mod	4,379	76%	3,328	0
6059099601	low	7,260	100%	7,260	7,260
6059099602	mod	3,437	43%	1,478	0

6059099603	mod	6,962	18%	1,281	0
6059099701	low	6,185	100%	6,185	6,185
6059099702	low	2,416	100%	2,416	2,416
6059099703	mod	5,962	67%	3,995	0
6059099801	low	5,583	98%	5,471	5,471
6059099802	low	5,404	100%	5,404	5,404
6059099803	low	5,483	100%	5,483	5,483
6059099902	mod	4,414	100%	4,414	0
6059099903	low	5,661	100%	5,661	5,661
6059099904	low	6,542	100%	6,542	6,542
6059099905	mod	4,252	100%	4,252	0
6059099906	mod	5,073	100%	5,073	0
Total				92,623	49,023
<b>Percent of Westminster in Low Resource/High Segregation Area</b>					<b>52.9%</b>

Because the most current data show Westminster at more than 50%, Westminster’s RHNA allocation should be reduced to 1,207 units.

Even if one were to solely rely on the 2020 data, Westminster’s RHNA allocation should be reduced. This is true for all the inequity-related reasons stated above. Moreover, adding 9,733 units would add an estimated 32,216 people to the city – a 35% increase<sup>7</sup> the pace of which would likely greatly outstrip available resources, and cause at least one, if not multiple census tracts in the city, to switch into a High/Low Zone. The policy is likely to cause the very harms the allocation process is attempting to avoid.

## CONCLUSION

The City of Westminster, a city of only 90,643 residents, appealed its allocation of 9,733 units because the allocation creates the exact opposite effects as compared to the goals of the allocation process set forth in Government Code section 65584(d).

Of the nine jurisdictions in the SPA, it has the highest percentage of Asians (49.4%), third highest percentage of minorities (72.2%), second lowest jobs/housing ratio (0.65), the second highest rate of poverty (15.9%), and the third lowest per capita income. Each of these factors should cause Westminster to have among the lowest, if not the lowest RHNA allocation rates – and yet it ended up with the second highest.

This improper allocation would easily be solved if the most recent data were used – Westminster has a 53% rate under the 2021 data. This minor change of a single assumption would change the entire outlook of the city. Instead Westminster having one of the highest RHNA allocation rates,

<sup>7</sup> Westminster averages 3.31 per household based upon the most recent census data (2014-2018).

it would have among the lowest – something that perfectly aligns with the RHNA allocation goals stated in Government Code 65584(d).

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Smittle". The signature is fluid and cursive, with the first name "Alexa" being more prominent than the last name "Smittle".

Alexa Smittle,  
Community Development Director

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

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(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File



**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

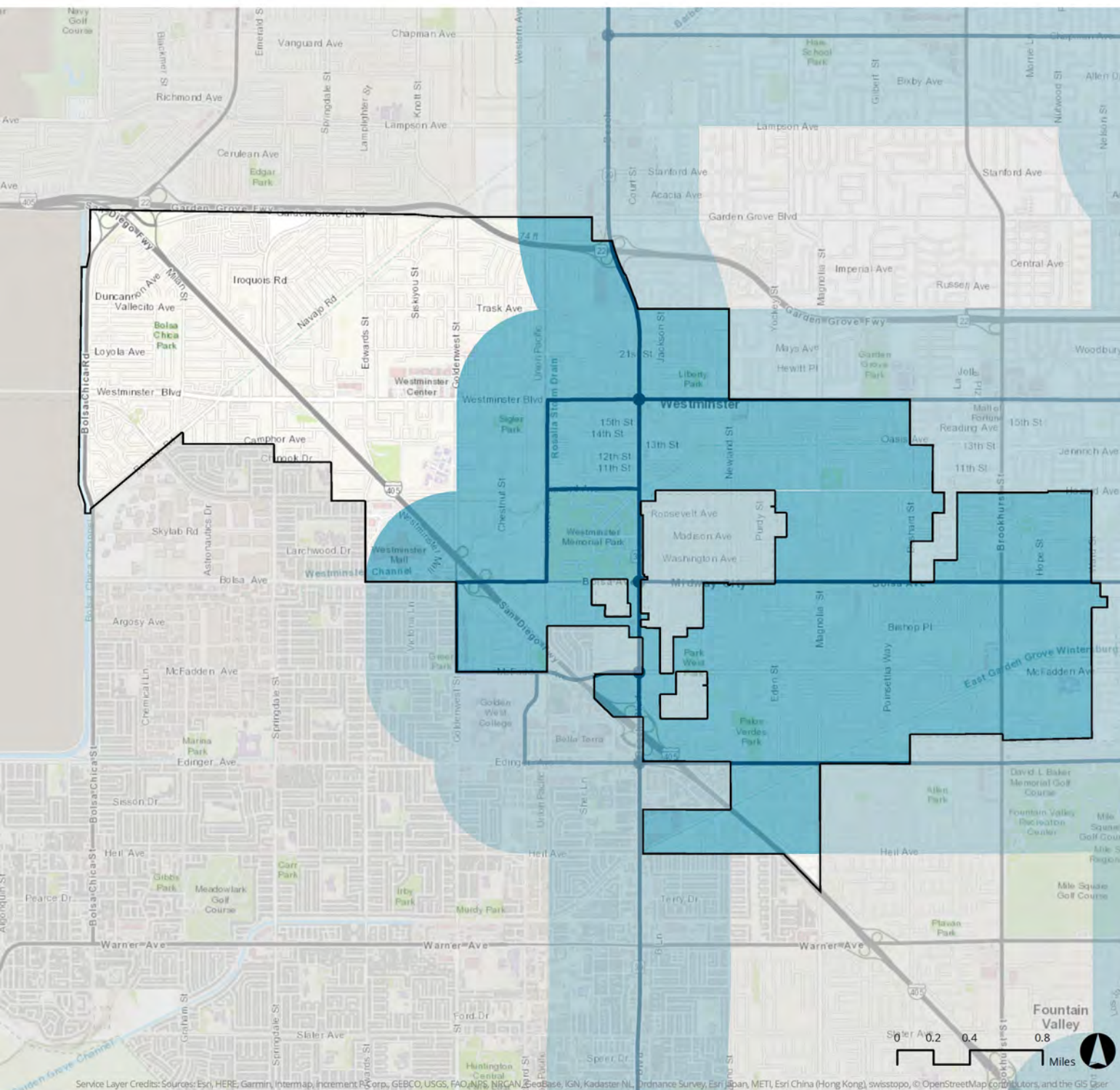
We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068



Attachment: Comments Received During the Comment Period (General) (Appeal of the Draft RHNA Allocation for the City of Westminster)



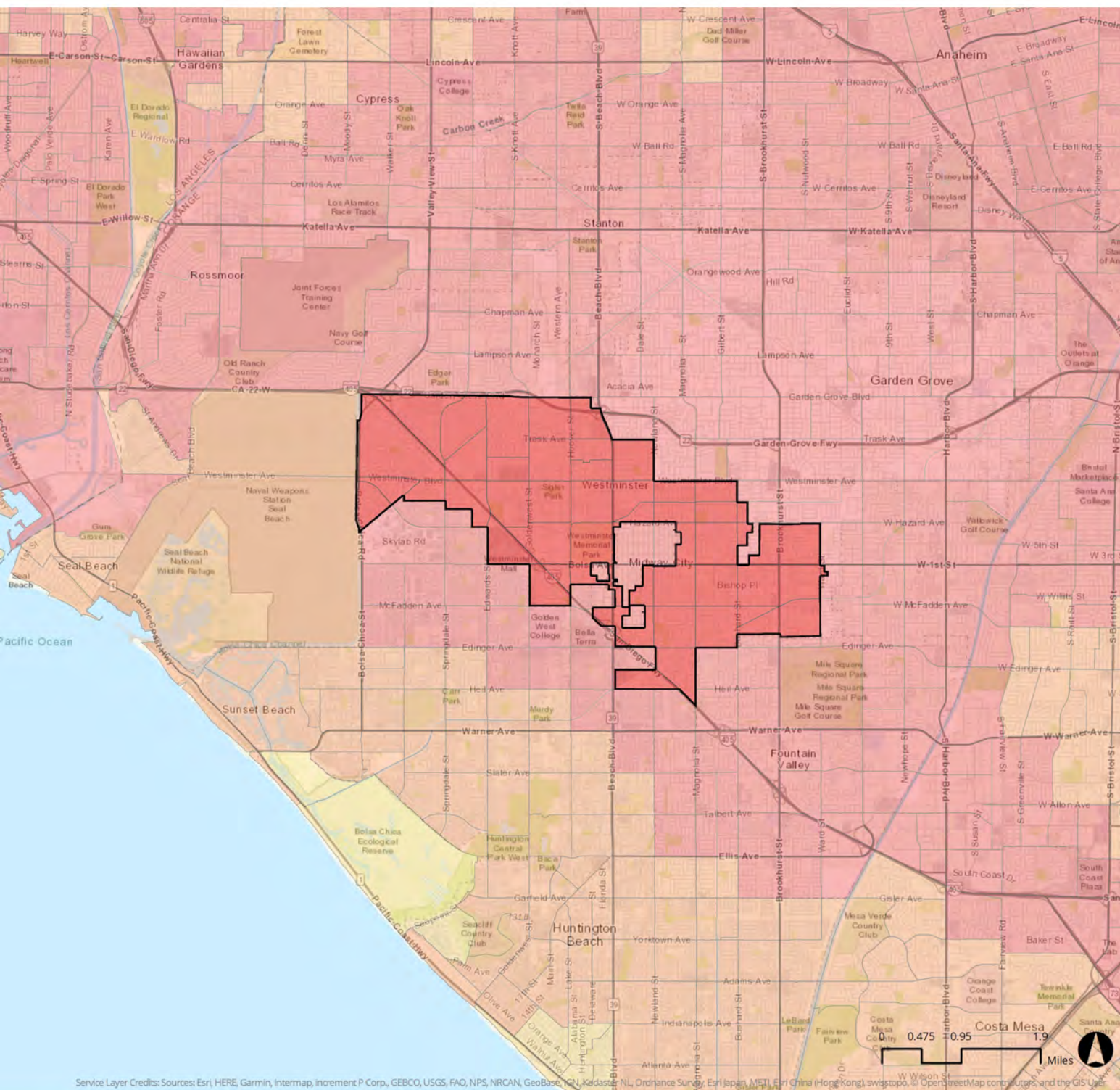
## Major Transit Stops and High Quality Transit Areas in City of Westminister [Year 2045]

- Major Transit Stops
- ⚡ High Quality Transit Corridors (HQTCs)
- High Quality Transit Areas (HQTAs)

Note: SCAG identifies Major Transit Stops and High Quality Transit Corridors (HQTCs), and their surrounding areas in one-half mile radius distance as specified in Section 21155.(b)(3). Major transit stops and HQTCs are extracted from 2045 plan year data of Connect SoCal. SCAG's High Quality Transit Area (HQTA) is within one-half mile from Major Transit Stops and HQTCs and developed based on the language in SB375; however, freeway transit corridors with no bus stops on the freeway alignment do not have a directly associated HQTA. The RHNA process, per Section 65584 et seq., specifies that SCAG's housing needs allocation plan shall further several objectives including those related to infill development and jobs-housing balance. To that end, SCAG's Regional Council-adopted 6th Cycle Final RHNA Methodology relies on a jurisdiction's forecasted 2045 population within HQTAs to allocate housing need.

Data Source: SCAG, County Transportation Commissions, 2020 | Map Created: 10/22/2020

Disclaimer: The information shown on this map reflect jurisdiction's input submitted during the Local Input and Envisioning Process for the City of Westminister. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodologies and data please refer to the SCAG Data/Map Book at [connectsoal.org/Pages/Local-Input-Process.aspx](https://connectsoal.org/Pages/Local-Input-Process.aspx) or contact [RTPLocalInput@scag.ca.gov](mailto:RTPLocalInput@scag.ca.gov).



Service Layer Credits: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, © OpenStreetMap contributors, and the GIS User Community

## TAZ-level job accessibility in and around: City of Westminster [Year 2045]



Note: These data represent the share of jobs in the SCAG region accessible by automobile commute in 30 minutes in 2045 during the peak AM commute (6-9am). Further detail on the job accessibility measure can be found in SCAG's Final RHNA Methodology. Note that since the SCAG region's total employment forecast for 2045 is 10,049,000 jobs, the number of jobs available can be measured by multiplying the percentage found on the map by this number. For example, a TAZ-level job accessibility measure of 10.0% means that 1,049,000 future jobs could be reached in 30 minutes.

Attachment: Map of Job Accessibility in the City of Westminster (2045) (Appeal of the Draft RHNA Allocation for the City of Westminster)



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist,  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Costa Mesa

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Costa Mesa to reduce their draft RHNA allocation by 5,867 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Costa Mesa requests a reduction of its RHNA allocation for 5,867 units (from 11,733 units to 5,866 units) based on the following issues:

1. Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
2. Availability of land suitable for urban development or for conversion to residential use
3. Lands protected from urban development under existing federal or state programs
4. Changed circumstances

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal and recommend no change to the City of Costa Mesa's RHNA allocation. Regarding Issue 1, no evidence was provided to support an incorrect application of the adopted RHNA methodology and or that it is inconsistent with the adopted Connect SoCal Plan. It is also outside the scope of the appeals process to change the regional determination provided by the California Department of Housing and Community Development (HCD). Regarding Issue 2, the availability of land was not demonstrated to be an impediment to meeting the City's RHNA allocation since it does not provide evidence that it cannot accommodate housing on other areas in the jurisdiction. Regarding Issue 3, for lands protected from development, no evidence has been provided that the City cannot accommodate its housing need in non-protected areas. Finally, in

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

regard to Issue 4, change in circumstance, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the appeal that indicates that the impacts within jurisdiction is disproportionate in comparison to the rest of the SCAG region.

**BACKGROUND:**

**Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Costa Mesa: 11,733 units  
Very Low Income: 2,912 units  
Low Income: 1,790 units  
Moderate Income: 2,084 units  
Above Moderate Income: 4,947 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

**Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Costa Mesa. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

**ANALYSIS:**

Issue 1: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(2)].

*The City indicates that it is appealing its draft RHNA allocation based on an incorrect application of the adopted Final RHNA Methodology. It states SCAG failed to adequately consider local household growth factors and utilized growth projects that are inconsistent with the Connect SoCal Plan, and that the draft RHNA allocation is not consistent with the development patterns projected in the same plan. The appeal indicates the City's projected households in 2045 is estimated to reach 44,200 and argues that the household formation defined in the draft RHNA allocation far exceeds any reasonable projection for growth during the 6<sup>th</sup> cycle housing element period. It further argues that this inconsistency demonstrates that the draft RHNA allocation fails to provide the distribution of units in an equitable manner, which is one of the five objectives of State housing law.*

*The appeal further indicates that the adopted RHNA methodology artificially allocated 3,778 units of growth to Costa Mesa in order to shift growth within counties to higher resource jurisdictions, and that "SCAG's own growth forecasts do not support this growth." The City argues that with the adopted RHNA methodology not distributing this need regionally instead of by county, the methodology fails to consider regional employment factors and is arbitrary and artificial.*

*The City also argues that recent studies, such as the Freddie Mac Housing Supply Report and a study by the Embarcadero Institute, warrant re-evaluation of SCAG's adopted RHNA methodology based on its included vacancy rate and calculations. Also, the City asserts that HCD's regional determination exaggerated the state housing need by over 900,000 units.*

*In addition, the City indicates argues that the SCAG methodology should not include bus service in its definition of high quality transit area (HQTA), which is used to determine housing need based on access to transit. The appeal writes that bus service is not an efficient mode of transportation in Orange County compared to other modes such as commuter rail.*

**SCAG Staff Response:** The 6th Cycle RHNA regional housing need total of 1,341,827 units, as determined by HCD, consists of both "projected need" and "existing need". "Projected need" is intended to accommodate the growth of population and households between 2021-2029, and "existing need" reflecting additional latent housing needs in the existing population. On January 13, 2020, HCD's finding that SCAG's draft RHNA methodology (which was later adopted as the final RHNA methodology in March) furthered the statutory objectives of RHNA<sup>1</sup>, reflected that the

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental

determination is separated into “projected need” and “existing need” components. Projected need is based on the household growth for the comparable RHNA period (2021 to 2029) of the regional transportation plan.

SCAG has allocated both “projected need” and “existing need” consistent with the development pattern in the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (“Connect SoCal”). The Connect SoCal Forecasted Regional Development Pattern is shown on Exhibit 1 of the Sustainable Communities Strategy Technical Report, p. 13. Specifically, the development pattern includes priority growth areas, incorporated areas, job centers, entitled projects and sphere of influence which together would accommodate 95% of the growth till 2045. The development pattern is a reflection of the strategies and policies contained in Connect SoCal.

The “projected need” portion of the 6th Cycle RHNA is based on the Connect SoCal Growth Forecast and is consistent with the Connect SoCal development pattern. Specifically, each jurisdictional-level growth forecast of households is translated into “projected need” of housing units after adjusting for two factors of vacancy need and replacement needs.

The “existing need” portion, though not part of the Sustainable Communities Strategy, is also allocated consistent with the Connect SoCal development pattern. Specifically, based on SCAG’s adopted RHNA methodology, “existing need” is allocated based on transit and job access (i.e., assign 50% based on jurisdiction’s share of the region’s population within HQTAs and 50% based on a jurisdiction’s share of the region’s jobs that can be accessed within a 30- minute commute). Accordingly, this allocation is aligned with the strategies and policies underlying the development pattern in the SCS, meaning that allocated total regional housing need (“existing need” and “projected need”) is consistent with the Connect SoCal development pattern.

Additionally, as described above and in Attachment 1: Local Input and development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally-reviewed input data and describes data sources and how they are calculated in detail. The basis for an appeal for this factor is the application of the RHNA methodology, and not the RHNA methodology itself, which was a separate but extensive process that involved multiple steps and public involvement leading up to final adoption.

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and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)

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Additionally, the appeal further indicates that the adopted RHNA methodology “artificially allocated” 3,778 units of growth to the City in order to shift growth within counties to higher resource jurisdictions and that SCAG’s own growth forecasts do not support this growth. However, as indicated above, SCAG’s adopted RHNA methodology is consistent with the development pattern of the Connect SoCal plan and projected growth is only one component of the RHNA methodology. The residual need that is shifted to higher resource jurisdictions is consistent with the existing need methodology of distributing growth based on transit and job access, and is therefore also consistent with the strategies of the Connect SoCal plan.

The City argues that recent studies warrant re-evaluation of SCAG’s adopted RHNA methodology based on its included vacancy rate and calculations and that HCD’s regional determination exaggerated the state housing need by over 900,000 units. A report by Freddie Mac’s Economic & Housing Research Group titled “The housing supply shortage: State of the states” was released in February 2020, and a slide deck titled “Double counting in the latest housing needs assessment” was placed on the Embarcadero Institute’s website during 2020 (last update September 2020). Notwithstanding the merits (or lack thereof) of these studies, this material cannot now be considered for re-evaluating the RHNA methodology or the regional determination. As discussed above, the RHNA methodology itself is not a basis for appeal. Furthermore, the RHNA Appeals Board has no authority to change the regional determination. The RHNA statute outlines a very specific process for arriving at a regional housing needs determination for RHNA. It also prescribes a specific timeline which necessitated the completion of the regional determination step by fall 2019 in order to allow enough time for the development of a methodology, appeals, and local housing element updates.

Without assessing the merits of the studies, because they were not available during at the time HCD was determining regional housing need, they could not be considered then; and they cannot be considered now that the regional housing need has been determined. Furthermore, these studies are regional in nature and do not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was incorrectly applied to determine the jurisdiction’s share of regional housing need. Because a regional study does not meet this criterion, these studies cannot be used to justify a particular jurisdiction’s appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

In sum, it would be untenable to reopen the process anytime new data or materials become available, particularly when there is a codified process. If so, there would be no finality to the process and local government could not meet the deadlines for their housing element updates. Procedurally, SCAG cannot consider a regional study outside of the regional determination process nor should it apply a regional study to reduce an individual jurisdiction’s draft RHNA allocation.



With respect to the inclusion of bus service in the Methodology, as explained in the Response to Issue 1, the only basis for an appeal with respect to the adopted RHNA Methodology is the *application* of the methodology and not the RHNA Methodology itself, which was a separate but extensive process that involved multiple steps and public involvement leading up to final adoption.

SCAG's final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make any changes to HCD's regional housing needs determination. For these reasons, SCAG staff does not recommend a reduction to the City of Costa Mesa's draft RHNA allocation based on based on the application of the adopted RHNA methodology.

***Issue 2: Availability of land suitable for urban development or for conversion to residential use [Government Code section 65584.04(e)(2)(B)].***

*The City of Costa Mesa indicates in its appeal that it has several major constraints in certain areas that limit or restrict its ability to accommodate its draft RHNA allocation. It highlights three multi-acre vacant sites that are unavailable for development due to binding development agreements or ownership by the State. The appeal states that there are no other substantial vacant lands for residential development in the City.*

*The appeal also argues that accommodating a significantly sized RHNA allocation would force the City to redesignate commercial and industrial zoned lands to residential, which would limit the City to create jobs and reduce the employment demand factor in the adopted RHNA methodology. It suggests that this conversion is infeasible and that the RHNA methodology should not rely exclusively on the conversion of commercial and industrial uses to accommodate the RHNA allocation.*

*The appeal further argues that the City will need to find at least 391 acres of available land to accommodate its RHNA need and that to do so it would need to facilitate enough landowners to make their land available for housing through various regulatory incentives. It also adds that "SCAG should have included a reasonable level of analysis as to the availability of land upon which the City would be able to plan for its RHNA" and indicated that they submitted information on this factor to SCAG as part of the local planning factor survey that was used to help develop the RHNA methodology.*

*Finally, the appeal indicates that high land values have decreased the development of multi-ownerships lots, which impact the determination of whether a non-vacant or underutilized site is feasible or has potential for development. The appeal states that SCAG "should have made some*

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*reasonable effort to ascertain the impact of local market conditions on the feasibility for redevelopment or reuse strategies.”*

**SCAG Staff Response:** Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG “may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality” (which includes the land use policies in its General Plan). “Available land suitable for urban development or conversion to residential use,” as expressed in 65584.04(e)(2)(B), is not restricted to vacant sites; rather, it specifically indicates that underutilized land, opportunities for infill development, and increased residential densities are a component of “available” land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

“In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.” (HCD Letter at p. 2).

Furthermore, on June 10, 2020, HCD released extensive guidelines for housing element site inventories.<sup>2</sup> A wide range of adequate sites are detailed including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).<sup>3</sup> Specifically, the guidelines indicate that (page 32):

“In consultation with HCD, other alternatives may be considered such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.”

As such, the City can and must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City’s projected growth.

While the City indicates that there are no currently available vacant sites, it does not provide evidence that it is unable to consider underutilization of other sites, increased densities, and other planning tools to accommodate its assigned need. There is also no evidence provided that all other sites within the City are unsuitable for any development, nor is there any supporting evidence that the rezoning of non-residential sites is impossible. Again, SCAG is prohibited from limiting the consideration of suitable sites due to the City’s land use restrictions and is required to review

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<sup>2</sup> See [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf).

<sup>3</sup> See also Accessory Dwelling Unit Handbook, HCD, September 2020 at <https://www.hcd.ca.gov/policy-research/docs/adu-ta-handbook-final.pdf>

alternative methods to meet housing need, neither of which is provided in the appeal application. SCAG reviewed the submitted local planning factors survey submitted by the City, including this particular factor, but for the same reasons outlined in this paragraph did not reduce the City's allocation based on the response submitted.

In regard to housing market conditions, the feasibility of parcel development may fluctuate depending on a multitude of factors, including costs of land and geographical location. However, the feasibility of a parcel's development does not determine housing demand. While it may be more challenging than in previous market conditions to accommodate housing need, a jurisdiction is still required to accommodate its housing need through a variety of tools to determine which sites should be included in its sites inventory analysis in its housing element.

For these reasons, SCAG staff does not recommend a reduction to the City of Costa Mesa's draft RHNA allocation based on this factor.

***Issue 3: Lands Protected from Urban Development under Existing Federal or State Programs [Government Code section 65584.04(2)(C)].***

*The appeal provides several examples of areas where it cannot accommodate growth. Its John Wayne Airport Environs Land Use Plan, for example, has limited ability to develop residential units due to noise impacts and height restricts from the airport. Additionally, the City has 454 acres of protected open space, including historic sites, parks, and habitat ecosystems. The appeal indicates that 25% of the City's land area is developed with public-owned open space, parks, or other public institutional uses and are infeasible for housing development.*

**SCAG Staff Response:** While SCAG staff does not doubt that the City has dedicated open space land and other types of land designations that are protected by federal and State programs, it does not preclude the City from accommodating its housing need in non-protected areas (see also Response to Issue 2 above). To preserve its dedicated protected and open space, SCAG encourages the jurisdiction to consider available land, increased densities, and other alternative zoning tools in non-open space and protected areas to accommodate its RHNA allocation. SCAG reviewed the submitted local planning factors survey submitted by the City as part of the RHNA methodology development, including this particular factor, but for the same reasons outlined in this paragraph did not reduce the City's allocation based on the response submitted. For these reasons, SCAG staff does not recommend a reduction to its draft RHNA allocation based on this factor.

***Issue 4: Changed Circumstances [Government Code section 65584.05(b)].***

*The City argues that the COVID-19 pandemic has had lasting and considerable impacts on economy and housing market of the City and Orange County. The appeal indicates that job opportunities in*

*various sectors have been eliminated or are operating a fraction of their pre-COVID-19 levels. There has been an increased vacancy in office uses since more office workers are working from home, and the appeal argues that the potential continuation of this trend warrants a re-evaluation or adjustment in the factors related to the job access consideration in the adopted RHNA methodology.*

*The appeal indicates that due to COVID-19 transit ridership has significantly decreased. Based on a recent survey by the Orange County Transit Authority (OCTA), there has been an increase in work-from-home employment. The same survey indicated that ridership of bus lines starting and ending in the City have decreased by about 50,000 riders per month. Because of this, the appeal argues that a re-evaluation of “some of the main factors included in the RHNA methodology that resulted in a disproportionate distribution of units to cities like Cosa Mesa with strong job markets.”*

**SCAG Staff Response:** SCAG recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment. However, these facts, as presented by the City, do not “merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.” (Govt. Code § 65584.05(b)(3)). Furthermore, Section 65584.05(b) requires that:

“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”

SCAG’s Regional Council delayed the adoption of its 2020-2045 RTP/SCS by 120 days in order to assess the extent to which long-range forecasts of population, households, and employment may be impacted by COVID-19; however, the document’s long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report<sup>4</sup> outlines the process for forecasting long-range employment growth which involves understanding national growth trends and regional competitiveness, i.e., the SCAG’s region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts generally do not provide a basis for changes in the region’s long-term competitiveness or the region’s employment outlook for 2023-2045. As such, SCAG’s assessment is that comparable data would not suggest long-range regional employment declines.

The COVID-19 pandemic has had various impacts throughout Southern California; however, it has not resulted in a slowdown in major construction nor has it resulted in a decrease in a demand for housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties.

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<sup>4</sup> See [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Demographics-And-Growth-Forecast.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Demographics-And-Growth-Forecast.pdf)

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Demand for housing as quantified by the RHNA allocation is a need that covers an 8-year period, not simply for impacts that are in the immediate near-term. Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the appeal that indicates that housing need within jurisdiction is disproportionately impacted in comparison to the rest of the SCAG region.

Furthermore, it is speculative at this time to assume the level of long-term impacts that would affect the Final RHNA Allocation Plan which reflects existing and projected housing needs for the next eight years. Also, as a procedural matter, the City fails to explain how its requested revision (downward adjustment to 5,867 units) is justified by the data presented and how the revision would further the intent of the objectives in Section 65584(d).

For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's Draft RHNA Allocation.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Costa Mesa)
2. Appeal Form and Supporting Documentation (City of Costa Mesa)
3. Comments Received During the Comment Period (General)
4. CostaMesa\_hqta
5. CostaMesa\_jobaccess

## Attachment 1: Local Input and Development of the Draft RHNA Allocation

This attachment sets forth the nature and timing of the opportunities which the City of Costa Mesa had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Costa Mesa's Draft RHNA Allocation.

### 1. Local input

#### *a. Bottom-Up Local Input and Envisioning Process*

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Costa Mesa, the anticipated number of households in 2020 was 41,984 and in 2030 was 42,465 (growth of 481 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Costa Mesa to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>

### **b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Costa Mesa submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### **c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://scag.ca.gov/sites/main/files/file-attachments/growth-vision-methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spm dm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG received additional technical corrections from the City of Costa Mesa and incorporated them into the

Growth Vision in December 2019. The City of Costa Mesa's TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:



*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTa) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### 3. Draft RHNA Allocation for the City of Costa Mesa

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Costa Mesa received its draft RHNA allocation on September 11, 2020. Application of the RHNA

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

methodology yields the draft RHNA allocation for the City of Costa Mesa as summarized in the data and calculations in the tables below.

<b>Costa Mesa city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	397
Percent of households who are renting:	61%
Housing unit loss from demolition (2009-18):	-
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	2,285
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	18.44%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	1,853,000
Share of region's job accessibility (population weighted):	0.84%
Jurisdiction's HQTAs population (2045):	98,804
Share of region's HQTAs population (2045):	0.97%
Share of population in low/very low-resource tracts:	19.20%
Share of population in very high-resource tracts:	8.21%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Costa Mesa city	
Forecasted household (HH) growth, RHNA period:	397
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	14
Replacement Need	-
<b>TOTAL PROJECTED NEED:</b>	<b>411</b>
Existing need due to job accessibility (50%)	3501
Existing need due to HQTAs pop. share (50%)	4042
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	3778
<b>TOTAL EXISTING NEED</b>	<b>11322</b>
<b>TOTAL RHNA FOR COSTA MESA CITY</b>	<b>11733</b>
Very-low income (<50% of AMI)	2912
Low income (50-80% of AMI)	1790
Moderate income (80-120% of AMI)	2084
Above moderate income (>120% of AMI)	4947

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 98,804 living within HQTAs, the City of Costa Mesa represents 0.97% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute

automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the [ City of Costa Mesa]'s median TAZ, it will be possible to reach 18.44% of the region's jobs in 2045 within a 30-minute automobile commute (1,853,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 3,778 units assigned to the City of Costa Mesa.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).*  
*Late submissions will not be accepted.*

Date:  
10/26/20

Jurisdiction Subject to This Appeal Filing:  
*(to file another appeal, please use another form)*  
City of Costa Mesa

Filing Party (Jurisdiction or HCD)  
City of Costa Mesa

Filing Party Contact Name  
Jennifer Le

Filing Party Email:  
jennifer.le@costamesaca.gov

**APPEAL AUTHORIZED BY:**

Name: Lori Ann Farrell Harrison

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

See Attached Letter.

**Brief Description of Appeal Request and Desired Outcome:**

See attached letter.

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced 5,867      Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**

**(Numbers may be continued to accommodate additional supporting documentation):**

1. Costa Mesa's Submitted Local Planning Factors (19 pgs.)
2. Costa Mesa's submitted RHNA Public Comment Letters (Sept. 12, 2019; Oct. 4, 2019; Nov. 6, 2019; March 3, 2020) (5 pgs.)
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_



# CITY OF COSTA MESA

P.O. BOX 1200, COSTA MESA, CALIFORNIA 92628-1200

FROM THE OFFICE OF THE CITY MANAGER

October 26, 2020

Mr. Kome Ajise  
Executive Director Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

**Subject: City of Costa Mesa Appeal of the Sixth Cycle Draft Regional Housing Needs Assessment (RHNA) Allocation**

Dear Mr. Ajise:

On behalf of our City Council and the Costa Mesa community, and in accordance with applicable California Government Code ("Government Code") Section 65584.05, the City of Costa Mesa ("City") hereby submits this appeal to the Southern California Association of Governments ("SCAG") of the Draft Regional Housing Needs Assessment (RHNA) Allocation ("Draft RHNA Allocation"), received September 11, 2020, for the Sixth Housing Element Cycle (2021-2029).

The City of Costa Mesa believes that based on the facts of this letter a revision to the Draft RHNA Allocation of 11,733 units is necessary to reflect the current socioeconomic conditions of the City and to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable Sustainable Communities Strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following:

- 1) **Local Planning Factors** – *SCAG failed to adequately consider the information previously submitted by the City of Costa Mesa that articulated a variety of local factors that directly influence housing production.*
  - a. *Specifically, this information includes lands preserved or protected from urban development under federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis; and*
  - b. *Availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.*

- 2) **Changed Circumstances** – *A significant and unforeseen change in circumstances has occurred that supports revisions to the information submitted pursuant to Government Code Section 65584.04(b); and*
- 3) **Methodology** – *SCAG failed to determine the share of the regional housing need in accordance with the information described in and the methodology established pursuant to Government Code Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Government Code Section 65584(d).*

## **JUSTIFICATIONS FOR REVISIONS TO COSTA MESA'S RHNA ALLOCATION**

**1(a) Local Planning Factors:** *SCAG failed to adequately consider the information submitted pursuant to Section 65584.04(b). Availability of Land Suitable for Urban Development or for Conversion to Residential Use, the Availability of Underutilized Land, and Opportunities for Infill Development and Increased Residential Densities*

The City has several major constraints on existing lands that severely limit or restrict the City's ability to accommodate growth to the extent identified in the Draft RHNA Allocation. The City participated in the Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey, required to allow jurisdictions to identify local planning factors (formerly known as "AB 2158 Factors") prior to the development of a proposed RHNA methodology, per Government Code Section 65584.04(b). Information collected from the survey is required to be included as part of the proposed RHNA methodology. The City submitted responses to the Local Planning Factors Survey, provided herein as Attachment 1. Additionally, the City provided comments and testimony before SCAG's RHNA Sub-Committee and submitted additional written correspondence to SCAG during the RHNA Methodology process, which articulated these concerns (Attachment 2 – four comment letters submitted to SCAG by the City of Costa Mesa). The City of Costa Mesa has a number of legitimate and justifiable claims to demonstrate SCAG's failure to adequately address local factors that further undermines Government Code Section 65588(d). The following factors, pursuant to Government Code Section 65584.04(e), are relevant to determine the City's ability to accommodate growth and were not adjusted for in the Draft RHNA Allocation.

### **Local Factor – John Wayne Airport Environs Land Use Plan (AELUP)**

The City's Airport Area could be considered as one of the City's opportunities to create new residential neighborhoods through the replacement of existing underutilized sites and parking lots. However, lands located within the Airport Planning Area for the John Wayne Airport are subject to the development restrictions of the John Wayne Airport Environs Land Use Plan (AELUP), which limits the ability to develop residential units. Any amendment to the City's General Plan or zoning, including the rezoning for residential use, requires review by the Orange County Airport Land Use Commission (ALUC).



Residential development in the Airport Area is restricted due to the noise impacts and height restrictions of John Wayne Airport. Much of the City's land south of Red Hill Avenue is within the John Wayne Airport Environs Land Use Plan (AELUP) 65 dBA CNEL (Community Noise Equivalent Level) contour, which is unsuitable for residential and other "noise-sensitive" uses per the State's own General Plan Guidelines.

The Citywide Existing Noise Environment Exhibit N-3 (ref: City of Costa Mesa General Plan, 2015) illustrates the future CNEL 65 contours associated with the John Wayne Airport's operation, which includes roughly half of the light industrial land uses between the SR-55 Freeway and the City's southeasterly boundaries. The State's General Plan Guidelines and Technical Advisories (as well as Costa Mesa's adopted General Plan) require that the future noise contours be considered in identifying potential land use/noise compatibility issues and are further used to determine the requirement for project specific noise studies and noise mitigation. In addition, the California Environmental Quality Act (CEQA) also specifically requires consistency with a project's applicable Airport Land Use Plan as a threshold for identifying significant environmental impacts.

Requisite analysis for the Sixth Cycle housing elements will require review of adequacy and feasibility of sites based upon known environmental factors, including noise and safety impacts. The limitation of the use of these sites severely limit the ability for the City of Costa Mesa to accommodate future residential growth and must be considered by SCAG in assigning appropriate RHNA allocations to Costa Mesa, particularly in comparison to cities who do not have similar airport related environmental factors that limit residential development potential.



**N-3: Future Noise Contours - 2035**

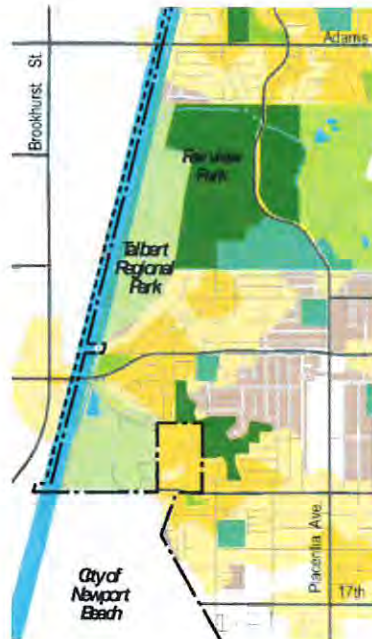
Local Factor – Protected Land Area

Costa Mesa includes 454 acres of protected open space. Fairview Park is a protected open space of 211 acres. There are two Nationally Registered Cultural Resource Historic Sites and five distinct habitat ecosystems, which are home to many rare and endangered plant and animal species within this park. Talbert Regional Park is approximately 244 acres and operated by OC Parks, located North and South of Victoria Street in Costa Mesa between Pacific Avenue and the Santa Ana River. The park includes large areas of protected habitat such as the "Native Grassland" zone, which is the largest zone in the park and provides opportunities for wildlife habitats and the "Wetland Zone" which consists of the southern 14.8 acres and contains elements of riparian woodland and mulefat scrub.

In fact, approximately 25% of Costa Mesa’s land area is developed with publicly-owned open space, parks or other public institutional uses such as the County Fairgrounds and contain environmental resources, parkland or other similar resources that render those properties infeasible for housing development.

Requisite analysis for the Sixth Cycle housing elements will require review of adequacy and feasibility of sites based upon known environmental factors, including taking into

consideration the protected status of local and regional open space resources. The limitation of the use of protected open space sites severely limit the ability for the City of Costa Mesa to accommodate future residential growth and must be considered by SCAG in assigning appropriate RHNA allocations to Costa Mesa, particularly in comparison to cities who do not have a similar proportion of land area dedicated to protected lands and open space.



**1(b) Local Planning Factors:** *SCAG failed to adequately consider the information submitted pursuant to Section 65584.04(b). Availability of Land Suitable for Urban Development or for Conversion to Residential Use, the Availability of Underutilized Land, and Opportunities for Infill Development and Increased Residential Densities*

Vacant and Underutilized Land

The vacant land in Costa Mesa is restricted to two areas along the 405-Freeway referred to as Home Ranch (44 acres) and Sakioka Lot 2 (33 acres). The combination of these two parcels at maximum density could accommodate a maximum of 2,310 units; however, both of these areas are under a development agreement that is binding until 2030 and 2024 respectively, which are in conflict with the timeline of the 6<sup>th</sup> Cycle.

The Fairview Developmental Center containing 102 acres is located within the City; however, this site is owned and operated by the State Department of General Services. Although, the City included development of 582 residential units on this site at the 2016 General Plan update, there are no indications that the State will be developing the site in the 6<sup>th</sup> Cycle timeline and any such decisions are largely outside of the City's control.

### Conversion of Industrial and Commercial Land to Residential

Other than the noted areas, there are no other substantial vacant lands for residential development.

One of the factors included within the methodology to determine future RHNA allocations is employment generation. Employment generation is based on the existing job base and the forecast potential for new job creation. Therefore, future employment growth is dependent upon the preservation and expansion of existing inventory of land suitable for employment-generating activities like commercial and industrial land. The significant size of RHNA allocations will force the City to re-designate such land for residential development. This effectively limits the City's ability to create jobs, thus reducing the employment demand factor in the RHNA methodology. As such, there is an inherent flaw in relying nearly exclusively on conversion of commercial and industrial uses to accommodate housing and is an unsustainable system, even if such conversion was feasible.

In the Draft RHNA allocation to the City, SCAG does not appear to have made an effort to determine if there is sufficient non-vacant land in the City that can satisfy the substantial evidence standard and provides no reasonable basis for its allocations in light of these limited land resources. In order to meet its RHNA, the City will need at least 391 acres of available land, assuming a density of 30 units per acre. That means property owners of 391 acres of land in the City must conclude that a conversion of some, or all, of their land to a residential use is more advantageous based on market forces than the land's current commercial or industrial use. Before assigning the City its Draft RHNA, SCAG should have included a reasonable level of analysis as to the availability of land upon which the City would be able to plan for its RHNA. If the City cannot facilitate enough landowners to make their land available for housing through various regulatory incentives, as described in HCD Guidebook during the limited 8-year cycle timeline, the City will have very limited alternatives and could face severe consequences. The State should not punish the City for a lack of land resources to accommodate a housing mandate, particularly when that mandate was made without a reasonable factual basis to begin with.

### Housing Market Conditions

Housing market conditions also play a vital role in determining the feasibility or realistic potential of non-vacant sites and/or underutilized sites for residential development. For example, the City experienced an uptick in the live/work and residential development in 2012-2018; however, with the high land values, development on multi-ownerships lots have slowed down in the recent years. SCAG should have made some reasonable effort to ascertain the impact of local market conditions on the feasibility for redevelopment or reuse strategies, which are significantly different from county to county in the SCAG region. This is particularly true when the City has provided information demonstrating a

lack of non-vacant land resources that is disproportionate compared to other cities in the SCAG region with much more vacant land.

Representative Development Capacity

The following is representative of current land uses and market trends in Costa Mesa and the overall residential capacity of the City’s vacant land as well as existing overlay areas.

Land Use	Acres	Current Zoning / Density	Max. Residential Capacity
Westside Overlay districts from 2006-2019	515 acres	933 units (20 du/acre, includes 185 assisted living facility) (53 du/ year)	533 units
Residential Incentive Overlay District	12 acres	425 units (40 du/acre)	425 units
SoBECA	39.2 acres	450 units	450 units
Vacant Sites (under Development Agreements)	77 acres	Sakioka – 660 units Home Ranch – 0 units	660 units
Fairview Developmental Center	102 acres' total (10 acres for residential)	582 units; Under State control	582 units
Total	653.2 residential acres		2,200 units

**(2) Changed Circumstances – A significant and unforeseen change in circumstances has occurred that supports revisions to the information submitted pursuant to Government Code Section 65584.04(b).**

During the RHNA methodology development process, City of Costa Mesa submitted a total of four letters to SCAG providing general comments on the methodology as well as voicing the City’s concern with the factors included in the methodology. These letters are included as Attachment 2. Following the effects of the pandemic, City of Costa Mesa strongly believes that data adjustment is necessary to further the intent of the objectives in Government Code because a major component of the RHNA methodology is focused around job accessibility, which has drastically changed since the COVID-19 pandemic and has disproportionately affected Costa Mesa compared to other cities.

Jobs / Housing Balance and Reduced Travel Time

The COVID-19 pandemic has had a noticeable impact on Costa Mesa’s economy and the unforeseen circumstances that were not considered during the development of regional RHNA methodology and will have lasting impacts to the Orange County and City of Costa Mesa’s economy and housing market. Additionally, population and job growth trends in

California have recently been revised to reflect a substantially lower rate of growth in the region.

With the on-going restrictions imposed by the pandemic, there has been significant impact on all aspects of Costa Mesa's economy. With many job opportunities supportive to the tourist and hospitality industries now gone and with restaurants and retail shopping centers operating at a fraction of its pre-COVID-19 levels, it is estimated it will take years for the local economy to return to pre-COVID-19 levels. Because this was an unforeseen circumstance, the impacts to the economy of the City and consequently to the housing market are profound and should be a consideration when evaluating realistic development potential over the eight (8)-year RHNA planning period.

The City of Costa Mesa also believes that the "Change in Circumstance" provision could also be applied to two of the major factors included in the RHNA methodology which are assigning 50 percent of regional existing need based on a jurisdiction's share of region's population within the high quality transit areas and 50 percent of regional existing need based on a jurisdiction's share of the region's jobs that can be accessed within a 30-minute driving commute. The latest data on the increase vacancy in office use, the significant increase in the number of office workers working from home and the potential for continuation of this trend warrants a re-evaluation or adjustment in the factors related directly to 30-minute commute time.

### Transit Ridership

One of the main factors in the approved RHNA methodology is assigning 50 percent of regional existing need based on jurisdiction's share of region's population within the High Quality Transit Areas (HQTAs). The draft RHNA methodology uses the 2045 HQTAs, which are areas that are within a half-mile of transit stations and corridors that have at least fifteen (15) minute headway (time in between the next scheduled service) during peak hours for bus service. Other types of transit, such as commuter rail service that are typically more reliable, better funded and regularly scheduled are included under the same definition. As shown with the bus rider service data, bus service is not an efficient mode of transportation in Orange County. The bus service identified under HQTAs provide frequent service only during peak hours and off-hours and weekend service is very limited. However, this type of service is lumped in with other much more effective transit options available in other cities (like the Metrolink and Amtrak commuter train stations located in the cities of Santa Ana and Orange for example) and cities are subject to the same methodology in distribution of RHNA.

Furthermore, since the pandemic has affected transit use, the Orange County Transit Authority (OCTA) has worked with a market research firm to conduct a scientific survey during July 2020 (post COVID-19). Some of the key takeaways from the survey include:

- Unemployment increased from 4% to 18% between February and June;
- Working from home increased from 0.8 days per week to 2.6 days per week;
- Working exclusively from home increased from 12% to 47%;

- Once the pandemic is over, about half of employees prefer to maintain (or increase) the percentage of days they work remotely; and
- Reductions in transit, active transportation, rideshare, and driving are occurring for a mix of reasons.

Additional information on the OCTA research / survey can be found in the link below:  
<https://www.octa.net/About-OCTA/Publications/Market-Research/>

In addition, 2020 data from OCTA indicates that the ridership of bus lines starting and ending in Costa Mesa has decreased by approximately 50,000 riders per month. The significant drop in ridership indicates that individuals are working from home or using other modes of transportation such as private vehicles or bikes to get to the job centers in Costa Mesa. This information warrants re-evaluating some of the main factors that were included in the RHNA methodology that resulted in a disproportionate distribution of units to cities like Costa Mesa with strong job markets.

**(3) Methodology – SCAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d).**

The Methodology Fails to Consider Growth Projections Consistent with the SoCal Connect Plan. SCAG failed to adequately consider local household growth factors and utilized growth projections inconsistent with the Connect SoCal Plan.

Utilization of projected household growth consistent with the Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS) (Connect SoCal) is consistent with State law. However, the Draft RHNA Allocation would not be consistent with the development patterns projected in the Connect SoCal Plan. These forecasts are to be developed in conjunction with local input. As demonstrated in previous correspondence, the City of Costa Mesa believes the profound inconsistency in forecasting growth demonstrates the failure of the methodology to consider local factors and future growth projections.

According to SCAG's Connect SoCal Plan, Technical Reports - Demographics and Growth Forecast Table 14, the City of Costa Mesa's household growth is forecast to reach 44,200 in 2045. Comparatively, the 2018 American Community Survey 5-Year Estimates show that the City of Costa Mesa currently has 41,019 households.

As shown in the table below, forecasts for households through 2045 are expected to be 44,200 according to the Connect SoCal Plan. If this is amortized over the forecast period (2016-2045), it equates to approximately 127 households per year of growth.

The City of Costa Mesa’s Draft RHNA Allocation is 11,733 units for the period of 2021 to 2029. If this is amortized over the planning period (2021-2029), it equates to approximately 1,467 households per year growth.

This demonstrates the unrealistic assumption that the City of Costa Mesa would exceed its total 2045 forecast of household growth within 6.5 years of the 2021-2029 Housing Element planning period. More directly, the City of Costa Mesa would reach the household estimate for 2045 in approximately two years (23 years early).

Comparison of Household Growth Rates Connect SoCal vs RHNA					
Connect SoCal Forecast Growth	Connect SoCal Forecast Year	Growth Rate Per Year 2016 – 2045	RHNA Estimate Growth Need	RHNA Forecast Year	Growth Rate Per Year 2021 – 2029
3,181 units	2045	127 HH/yr	11,733 units	2016	1,467 HH/yr

Source: Connect SoCal Plan; 2021-2029 Final Draft RHNA Allocations

The City of Costa Mesa contends that the household formation defined in the Draft RHNA Allocation far exceeds any reasonable projection for growth during the 2021-2029 Housing Element planning period. SCAG’s own 2045 growth forecast, stated in the Connect SoCal Plan is inconsistent and directly undermines the validity of the assumptions in the Draft RHNA Allocation.

The discrepancy demonstrates the Draft RHNA Allocation undermines Government Code Section 65584(d)(1) by failing to provide the distribution of units in an equitable manner. This is demonstrated by the household growth rate increased by a factor of 1,055 percent above Connect SoCal forecasts. The City of Costa Mesa contends that a realistic estimate of future growth need should be directly tied to realistic projections of household formation, consistent with SCAG’s own projections in the Connect SoCal Plan.

In addition, the Methodology of redistributing units from residual need calculation fails to be equitably distributed at a regional level, undermining objectives listed in Government Code Section 65584(d).

On November 7, 2019, the Regional Council approved a substitute motion removing the household growth factor and significantly modifying the Draft RHNA Allocation methodology to shift approximately 44,000 units of residual RHNA Allocation from lower resourced jurisdictions (Anaheim, La Habra, Orange, Santa Ana and Stanton) to other higher-resourced jurisdictions in Orange County. As a result, Costa Mesa and other Orange County communities not designated as lower-resourced must accommodate the residual need. This effectively increases the City’s obligations not based on the City’s demonstrated local needs, but based upon the residual need left by these jurisdictions. This has artificially allocated 3,778 units of growth need to Costa Mesa, even when SCAG’s own growth forecasts do not support this growth.



Further, the County of Orange is burdened with the redistribution of this residual need, when numerous other factors support the redistribution of the residual needs to areas not necessarily in the County. These factors include:

- **Failure to consider regional employment factors** – The methodology to redistribute housing growth is absent of regional factors in determining future growth. The methodology arbitrarily defines the county line rather than the regional influence of jobs to determine redistribution of units. This does not consider the influence of Los Angeles, Riverside, San Bernardino and San Diego counties when considering the proper distribution of these reallocated units.
- **Arbitrary reassignment of all need to Orange County jurisdictions only** – Costa Mesa and other Orange County communities not designated as lower resourced must accommodate the residual need. This effectively increases the City’s obligations not based on the City’s demonstrated local needs, but based upon the residual need left by these jurisdictions. This has artificially allocated 3,778 units of growth need to Costa Mesa, even when SCAG’s own growth forecasts do not support this growth. Furthermore, the reassignment fails to consider adjacent communities not designated as lower-resourced that are located outside the boundaries of Orange County.

#### Freddie Mac’s Housing Supply Report

“The Housing Supply Shortage: State of the States” released on February 27, 2020 by Freddie Mac, indicated that California has a housing shortage of approximately 6% or approximately 820,000 units based on long-term vacancy rates, migration (out of the state) and housing growth (total state housing units is referred to as 14,366,336 units on July, 2019). This number is over 500,000 units fewer than the SCAG’s estimate of 1,341,827. The full report is available at this link:

<http://www.freddiemac.com/research/insight/20200227-the-housing-supply-shortage.page>

Using the housing shortage estimate of 820,000 units for the entire state of California (not just the SCAG region), and using that as the SCAG allocation, a conservative estimate for Costa Mesa’s allocation should not exceed 7,170 units (draft allocation is 0.8744% of the total SCAG region allocation). In addition, compared to the 4<sup>th</sup> cycle RHNA, which had a much higher range through SCAG region than the 5<sup>th</sup> cycle, the City’s RHNA allocation has been increased by 700 percent. In addition, SCAG has been allocated over 60% of the state’s housing need, and using the 820,000 units estimate as for the State, a conservative estimate for Costa Mesa’s allocation should not exceed 4,485 units (0.55% of the total State’s allocation).

#### Study by the Embarcadero Institute

A study dated September 2020 by the Embarcadero Institute indicates that the State Department of Housing and Community Development exaggerated the state’s housing

need by over 900,000 by using incorrect vacancy rates and double counting over-crowding and cost-burden. This study concludes that the six counties of southern California should have had a total of allocated 651,000 units instead of the 1,342,000 units which is more than one hundred percent increase. The full study is included at <https://embarcaderoinstitute.com/portfolio-items/double-counting-in-the-latest-housing-needs-assessment/>.

The study identifies substantial errors in the RHNA methodology, including:

- Incorrect use of a 5% benchmark vacancy rate for owner-occupied housing; for owner occupied housing, the study identifies 2.5% as the appropriate vacancy rate.
- Current vacancies were assumed to exist in household projections, which is an error in HCD’s methodology as vacancies are already accounted for elsewhere in the methodology.
- Over-crowding and cost burdening were double counted in the RHNA methodology.

Both of these studies warrant re-evaluation of SCAG’s methodology, particularly related to the vacancy data and the double-counting of over-crowding and cost burden, and the specific effects these errors have on Costa Mesa’s allocation.

**CONCLUSION**

Pursuant to Government Code Section 65584.05(b), the City of Costa Mesa states the noted revisions to the Final Draft RHNA Allocation are necessary to further the intent of the objectives stated in Government Code Section 65584(d). The City of Costa Mesa is committed to accommodating the existing and future needs of its residents. While the City is committed to contributing to the collective local, regional and State needs for housing, the City has demonstrated that the Draft RHNA Allocation is unrealistic, excessive and based on assumptions that are without a reasonable basis and can have significant consequences to the City and its residents. Therefore, the City, respectfully objects to the Final Draft RHNA Allocation and methodology used and requests the RHNA Allocation be revised so that it fulfils the objectives identified in the Government Code.

The City is recommending the following allocations in keeping with the City’s analysis of potential growth and availability of land that can feasibly be developed for housing.

Income Category	2008-2014 RHNA Cycle	2013-2021 RHNA Cycle	SCAG September 3, 2020 Final Draft RHNA Allocation	City of Costa Mesa Recommended RHNA Allocation
Very Low	353	1	2,912	1,456
Low	289	1	1,790	895
Moderate	330		2,084	1,042
Above Moderate	710		4,947	2,474
Total	1,682	2	11,733	5,867

Note: The City’s recommendations are based on staff analysis of sites that can be feasibly developed for housing. It is not an indication of housing that can be feasibly expected to develop during the 6<sup>th</sup> cycle, based on market trends.

The City is respectfully submitting this appeal request for consideration of SCAG's RHNA Sub-Committee. In summary, the appeal request is based on the following factors:

- SCAG failed to adequately consider the information previously submitted by the City of Costa Mesa, which noted limited land areas for housing development in terms of vacant land, underutilized land, land owned by the State, proximity to John Wayne Airport and open space preserved areas.
- SCAG failed to consider the changed circumstances caused by the pandemic, which have disproportionately affected Costa Mesa including specific factors in the methodology like transit ridership and job accessibility. The RHNA methodology must be re-evaluated based on effects of the pandemic on office use, working from home, commuter trends and the impacts on transit use.
- SCAG also failed to consider recent studies that call into question fundamental assumptions made in the SCAG methodology that have drastically overestimated Statewide housing need.

Sincerely,



LORI ANN FARRELL HARRISON  
City Manager  
City of Costa Mesa

Attachments

Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey

The RHNA process requires that SCAG survey its jurisdictions on local planning factors (formerly known as "AB 2158 factors") prior to the development of a proposed RHNA methodology, per Government Code 65584.04 (b). Information collected from this survey will be included as part of the proposed RHNA methodology.

Between October 2017 and October 2018, SCAG included these factors as part of the local input survey and surveyed a binary yes/no as to whether these factors impacted jurisdictions. If your jurisdiction answered this part of the survey, your reply has been pre-populated in the table. Please review each factor and provide any information that may be relevant to the RHNA methodology. You may attach additional information to the survey. Please keep in mind that recent housing-related legislation has updated some of the factors listed, which were not included in the prior survey.

Per Government Code Section 65584.04 (g), there are several criteria that **cannot** be used to determine or reduce a jurisdiction's RHNA allocation:

- (1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by the jurisdiction
- (2) Underproduction of housing units as measured by the last RHNA cycle allocation
- (3) Stable population numbers as measured by the last RHNA cycle allocation

The planning factors in the table below are abbreviated. For the full language used, please refer to Government Code Section 65584.04 (e) or the attached reference list.

Please review and submit the survey by 5 p.m. April 30, 2019 to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).

RHNA Methodology Local Planning Factor Survey

Jurisdiction	Costa Mesa
County	Orange

Planning Factor	Impact on Jurisdiction
Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing	<p>Yes. Housing is expected to grow by approximately 4.2% from 2016 to 2030. Likewise, job growth could grow by approximately 7% in the same time period. The growth of both housing and jobs will ensure that a healthy job to housing balance within the City exists. The City's jobs to housing balance exceeds 1.5 due to the educational cluster our community supports. Educational institutes like OCC, Vanguard University, UCI, and many others generate a space of artificially inflated job opportunities due to innovation and entrepreneurship near these institutions. To account for additional housing for such transient populations would be detrimental to the demand on the space within the City that these commercial or industrial uses need to grow and succeed.</p>
Lack of capacity for sewer or water service due to decisions made outside of the jurisdiction's control	<p>Yes. While aggressive regulations from the water districts which serve the City have been relaxed post-drought, water resources and allocation continue to be a concern throughout Southern California, an area historically subject to prolonged droughts.</p>
Availability of land suitable for urban development	<p>Yes. The City of Costa Mesa is 99% built out and, due to age of development within the City and the approximate life span of construction, the potential for redevelopment is limited. The two parcels most suitable for development are currently used for agricultural production and are already fully entitled including approved development agreements which dictate future development on the sites.</p>

<p>Lands protected from development under Federal or State programs</p>	<p>Yes. The City contains state-owned properties containing uses for schools, development centers, and a fairgrounds including the OC Fairgrounds, Orange Coast College, the Fairview Developmental Center, as well as the Santa Ana Army Air Base.</p> <p>In addition, the City contains a Federally-listed endangered species (Salt marsh bird's beak), as well as several Federal species of concern (Southern tarplant, Coulter's goldfields, Aphanisma, South coast saltscale, Parish's brittlescale and Los Angeles sunflower).</p>
<p>County policies to preserve agricultural land</p>	<p>No. While the City has two properties identified as agricultural resources, neither is identified as prime farmland.</p>
<p>Distribution of household growth assumed for regional transportation planning and opportunities to maximize use of public transportation</p>	<p>No.</p>
<p>Agreements between a county and cities to direct growth to incorporated areas of the county</p>	<p>No. We do not have an urban growth boundary.</p>

<p>Loss of low income units through contract expirations</p>	<p>Yes. The City has lost a total of 88 units over the past 5 years due to contract expirations.</p>
<p>[NEW] Percentage of households that pay more than 30% and more than 50% of their income on rent</p>	<p>Yes. However, specific data regarding the percentage of households which pay more than 30% and more than 50% of their income on rent is not readily available.</p>
<p>[NEW] Rate of overcrowding</p>	<p>Yes.</p>
<p>Farmworker housing needs</p>	<p>No. Only two operating farms are located in the City of Costa Mesa. They have been operating for decades, the City's assumption is that farm workers have sufficient access to housing.</p>

<p>Housing needs generated by the presence of a university campus within the jurisdiction</p>	<p>The City contains only one 4-year university (Vanguard University) and it provides dormitories for its students and is surrounded by a sufficient supply of multi-family housing. Other educational colleges/universities within the City are commuter-based or meant to serve the local population.</p>
<p>[NEW] Loss of units during a declared state of emergency that have yet to rebuilt at the time of this survey</p>	<p>No.</p>
<p>[NEW] The region's greenhouse gas emission targets provided by the California Air Resources Board</p>	<p>Meeting GHG standards in an area of the State with limited public transit continues to be a challenge for housing development throughout southern California.</p>
<p>Other factors</p>	





**CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

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September 12, 2019

Southern California Association of Governments  
Regional Housing Needs Assessment Subcommittee  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear RHNA Subcommittee,

The City of Costa Mesa appreciates the time and effort provided by the Southern California Association of Governments (SCAG) Board, the SCAG Committees and Subcommittees, and SCAG staff in its tireless efforts to address means to improve the supply of housing in California. The City of Costa Mesa remains committed to doing its part now and in the future related to addressing this important issue in compliance with housing element laws (Government Code Sections 6580-65598.8). The City of Costa Mesa thanks SCAG for encouraging cities to provide their feedback; and, as such, the City does want to highlight concerns about certain portions of the methodologies that are being proposed for the 6th Regional Housing Needs Assessment (RHNA) cycle that are above and beyond the projected growth in the current Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) and will greatly impact the City's ability to remain compliant with state housing laws. The City of Costa Mesa respectfully offers the following points for consideration related to the three proposed distinct RHNA methodologies.

- The City requests that SCAG proceed with a methodology option which includes the highest level of local input.
- The City requests that the HQTAs used for this evaluation only include those that are permanent, multi-modal, and provide frequent service (15 minute or less headway) 7 days per week.
- The City requests that overcrowding not be assessed. Should SCAG determine to use this highly questionable and misinterpreted variable, the City requests that SCAG utilize a more appropriate and fact-based ratio.
- The City requests that the vacancy adjustment use a total unrounded vacancy rate which includes all subtypes in the appropriate methodology options.
- The City requests that allotment be distributed to all income types for existing need in the appropriate methodology options.
- The City requests that the methodologies increase their social equity adjustment as long as the comparison is based on a municipality's comparison to the county average for each jurisdiction.

- The City requests that the ratio of building permits per population not be used for allocation purposes.
- City requests that density not be used as an input. However, should it be used, that SCAG thoughtfully remove properties which are not developable.

The implementation of these additional comments will assist SCAG in its regional engagement and transparency goals.

Local Input is Critical

It is important to address housing needs for the betterment of all communities; however, without proper participation and feedback from local governments, future housing growth numbers will become unattainable, meaningless or, worse yet, potentially unjust. Even for responsible jurisdictions like Costa Mesa, committed to housing growth, who initiate overlays, urban plans, and new ordinances like the City's small lot ordinance to encourage housing development throughout the City, an unattainable allotment will potentially handicap the review authority on housing projects by allowing any housing project to be streamlined whether it is good for the community or not. Any proposed methodology should include local input, which is the foundation for SCAG's Connect SoCal Plan. The inclusion of local input ensures that the RHNA allocation is consistent with the development pattern of the Sustainable Communities Strategy (SCS).

A regional determination by the Department of Housing and Community Development (HCD) should be no higher than the 429,926 units identified by SCAG. The City appreciates SCAG's appeal of the recent regional housing need determination of 1,344,740 total units from the HCD. If HCD's determination is not successfully appealed it should only be in coordination with a per unit increase in funding for jurisdictions to provide subsidies for developers to supply additional housing units for all income levels. Regardless, a higher number than estimated makes collaboration with local agencies even more important.

Otherwise, municipalities will have no way to achieve the units required by a higher allocation and streamlined residential projects could be built that displace residents, change the character or sense of place of the communities, and even undermine the expedited process and collaborative environment that SCAG has been attempting to foster since creation. **The City of Costa Mesa requests that that SCAG proceed with a methodology option which includes the highest level of local input.**

Definition of High-Quality Transit Corridors is too Broad

SCAG has stated that using High-Quality Transit Corridors (HQTAs) to concentrate a portion of RHNA-required housing will focus development disproportionately on lower-income neighborhoods. This was discussed in the Proposed Methodology report attached to the agenda for a public hearing on August 1, 2019. SCAG also

acknowledged that the application of a social equity ratio would not be able to sufficiently address all of the potential impacts of increased development. If the increase in housing development exacerbates social inequality in current low-income housing areas more than the benefits of transit-oriented development within that same area, then those areas within such an HQTAs should not be used; despite the HQTAs complying with the description of high-quality transit corridors from SB375. To ensure that social injustice problems like those listed below do not occur SCAG should be conservative and cautious in its approach to what qualifies as a major transit stop. Any location within an HQTAs should have a significant enough transit presence to ensure that the benefits of developing additional housing near its transit stops are sufficient to justify the potential negative social impacts on the community.

- Displacement of existing tenants
- Gentrification
- Degradation of cultural continuity
- Loss of social networks that families in low-income neighborhoods rely upon; and
- Measurable health impacts from increased construction

Therefore, the City of Costa Mesa recommends that SCAG take a serious look at which areas are identified as major transit stops per SB375 and apply a more conservative approach. Specifically, SCAG should limit the proportionate allotment only to major transit locations which are permanent, multi-modal, and provide a frequency of service interval of 15 minutes every day as opposed to just weekdays. This will help to ensure that qualifying HQTAs have a substantial amount of infrastructure already in place to account for the future growth and provide mobility to all socioeconomic levels throughout the region. SCAG should consider areas served by more permanent public transit infrastructure. Bus stops are currently included; however, in Orange County bus stops and routes can be and frequently are removed by OCTA due to lack of ridership. In such cases, the result would be higher density housing with no connectivity to public transit. The SCAG methodology should limit its consideration of qualifying HQTAs to those areas served by public transit infrastructure which allows for a variety of modes because this provides a greater ability to address the needs and preferences of the potential residents and adds to the potential longevity of the identified transit stop. SCAG should consider areas served by a more frequent service schedule because if the City supports building very low-income housing in an area with no consistent or frequent option of public transit on weekends, the result would be the further isolation of disadvantaged members of the community, thereby restricting their access to the benefits of the region and spoiling the very intent of transit-oriented development.

### ***Viable Alternatives***

Potential solutions could include:

- 1) Reducing the number of HQTAs to those areas that are within a half-mile of more permanent, multi-modal, transit stops that have a higher level of daily service.
- 2) Create a weighted ratio that assigns a higher share to HQTAs with substantial public transit which meets the description in the first option and a lower proportion to HQTAs which meet only the minimum definition of major transit stops under SB375; or alternatively, at a minimum, embrace the existing methodology completely by modifying the HQTA locations to include those areas anticipated to be included within the next 8 years and exclude those which have falling ridership numbers and therefore may be closed or removed.

**The City of Costa Mesa requests that the HQTA areas used for this evaluation only include those that are permanent, multi-modal, and provide frequent service.**

*Overcrowding Metric has Inherent Error*

While housing overcrowding can be associated with substandard living conditions, a planning target seeking to entirely eliminate cohabitation would remove a form of housing safety net. That is, the ability to occasionally have additional persons such as a family member or friend in a housing unit in order to guard against further housing insecurity, up to and including homelessness. There are also strong cultural and demographic drivers of living arrangements (such as multi-generational living). A region's foreign-born population share is amongst the strongest predictors of a region's household overcrowding measure, in part due to differing cultural norms regarding multi-generational housing. Also, multiple definitions of overcrowding exist, including a 1.5 persons/room standard ("severe overcrowding") and measures which use occupants per unit size. Despite this variety, however, state law defines overcrowding as a strict 1.0 person/room standard. Furthermore, definitions of a "room" may not be universally applied and may vary based on the housing design characteristics, the character of a region's housing stock, American Community Survey (ACS) guidelines, and ultimately the opinion of what constitutes a "room" by the sample of householders responding to the ACS. Lastly, municipalities which have a disproportionate amount of university students may have an artificially high overcrowding number but this has to do with college students choosing to live in group living arrangements which is a social choice and is, therefore, not a sign of overcrowded housing supply. As a City that hosts two colleges and universities (OCC & Vanguard University) and is in close proximity to UC Irvine, Costa Mesa would be disproportionately and incorrectly impacted by this metric. **The City of Costa Mesa requests that overcrowding not be assessed and be excluded. Should SCAG determine to use this somewhat subjective and misinterpreted variable, the City requests that SCAG utilize a more appropriate and fact-based ratio or adjust ratios based on communities proximity to ratio altering uses like educational institutions.**

*Vacancy Evaluation Should Include Total Vacancy Numbers*

The total number of vacant units within each jurisdiction should be used to calculate the vacancy adjustment. SCAG is only using the sum of two subtypes of vacancy to analyze the need for additional vacancy information (For Rent and For Sale Only) but this disregards a large portion of the vacant housing stock within the community and excludes them based on their static description at the time of the ACS survey, which frequently changes and would likely change when market demand incentivizes owners to provide them as more traditional vacant units. Consider using all, or more than two, of the seven categories of vacant units to calculate the tenured vacancy rates (For Rent; Rented, Not Occupied; For Sale Only; Sold, Not Occupied; For Seasonal, Recreational, or Occasional Use; For Migrant Workers; Other Vacant). Since the raw data is available, in order to use the most accurate data possible during the RHNA process, unrounded vacancy rates for each jurisdiction should be calculated by using both tables DP04 and B25004 for use in the healthy market vacancy rate adjustments. **The City of Costa Mesa requests that the vacancy adjustment use a total unrounded vacancy rate, which includes all seven subtypes of available housing in the appropriate methodology options for the most accurate assessment possible.**

*Distribution of Existing Need should be Over All Income Categories*

The proposed redistribution of the existing need solely to lower- and moderate-income categories is not consistent with past practice and will set up jurisdictions for failure when attempting to develop a compliant Housing Element. It also is not accurate in the proportionate needs that each community has for all housing types. **The City of Costa Mesa requests that the proportion allocated to cities to address the Existing Need identified in the associated methodologies be distributed to all income types (Very-Low, Low, Moderate, and Above Moderate income).**

*Costa Mesa Supports a Higher Social Equity if Measured Against the County Average*

To avoid perpetuating historical patterns of segregation in consideration of affirmatively furthering fair housing, the City supports a higher social equity adjustment (of 175 percent or 200 percent) in all options across all segments, so long as the basis of the adjustment is the county sub-region in which the jurisdiction is located. There are few cases in any of the proposed methodologies that cities get credit for existing conditions which are already exceeding the assigned thresholds. Credit should be considered for other variables that go into this methodology. For example, making sure that cities which have a disproportionately higher ratio of lower-income properties than other cities within their county should receive a credit for this existing condition and could be provided more flexibility on housing of all income types. This will result in a more equitable spatial distribution of the lower-income housing need and ensure that existing communities which have an above average amount of lower-income housing types are not beset with additional low-income allotments which would further exacerbate spatial

inequality. **The City of Costa Mesa requests that the methodologies increase their social equity adjustment as long as the comparison is based on a municipality's comparison to the county average for said jurisdiction.**

*Building Permits per Population should not be Used*

The use of building-permits-by-population ratio should not be included. This approach increases ambiguity because each City determines a slightly different threshold to count its "final" permit. The use of this ratio causes substantial measurement error because of the lack of accuracy since this dataset was never reviewed for a high level of accuracy by all cities within the SCAG region. This ratio is a questionable unit of analysis to measure supply provided by cities across the entire SCAG region because a single permit can, and frequently does, account for multiple dwelling units. The result being, total building permits are frequently not a one-to-one relationship with new dwelling units and therefore building permits have no practical relationship to the population, which would be served by new housing. This ratio does not pass a proportionate test since one would not say that two cities with the same number of permits and the same population are proportionate if one community is more urban, has less public transit, less land, newer developments, more valuable regional retail, etc. For one community the number of permits achieved maybe more significant than the other. This ratio provides a false unit of analysis that attempts to compare cities in a way which generates more uncertainty than assistance. **The City of Costa Mesa requests that the ratio of building permits per population not be used for allocation purposes and excluded from all methodologies.**

*Remove Land Areas Not Compatible with Residential Uses from Density Calculation*

Where density calculations are assessed for distribution of housing allocation, the total area of a jurisdictional boundary should not be used. Though density is not currently used as an input in any of the current methodologies and OCCOG is not supporting the use of density as an input, if SCAG ultimately incorporates density into the selected methodology, some land uses should be removed from the total area within the jurisdiction so the density calculation properly reflects population density in developable/usable areas. For example, areas and land uses that are permanently protected open space, military bases, flood channels, local parks, and active state property should not be counted. **The City of Costa Mesa requests that density not be used as an input. However, should it be used, the City requests that non-developable land be excluded from the calculation.**

*Administrative Comments to Assist with Regional Engagement*

One of SCAG's goals throughout the RHNA process has been transparency. To assist with this, the City of Costa Mesa agrees with several comments provided by the Center for Demographic Research at CSU Fullerton. First, we strongly agree that a track

changes document be provided that is based on the changes made since publication of the documents for the public comment period. Second, SCAG should provide the definition of "high resource areas" in the methodology document to help ensure transparency and accuracy. Third, please clarify whether the 2019 DOF population was developed at the SCAG TAZ level and is being used or if the RTP TAZ/local input data for year 2016 was used. Please republish the Proposed RHNA Allocation Methodology Technical Data Appendix and RHNA calculator after corrections are made. SCAG should always allow time for review of new factors or methodologies. The City also strongly encourages SCAG to outline the appeals and redistribution process. **The implementation of these additional comments will assist SCAG in its regional engagement and transparency goals.**

### Conclusion

The RHNA process is of utmost importance to the State of California, the Six County SCAG region, the County of Orange and each city in the County, including the City of Costa Mesa. To that end, the City of Costa Mesa want to ensure all stake holders can engage in the public outreach process to ensure concerns are heard and hopefully addressed. At this stage of the process, the City supports option number 3 due to its substantial local input, streamlined methodology, and practical allotment of dwelling units.

Senate Bill (SB) 166 requires local jurisdictions to continually update their housing elements and General Plans to ensure their housing elements always identify sufficient sites for potential development to meet the assigned goals to house families and individuals in the different income categories. This is a challenge since local jurisdictions rely on private housing developers to build housing mostly based on local market conditions. Accordingly, local jurisdictions cannot fully control how or when a property is developed. Local jurisdictions with limited land capacity and high RHNA allocations will find it nearly impossible to comply with State law unless developers always build at the maximum density allowed on the site, which is not always financially feasible.

With the dissolution of redevelopment agencies, the available funding for affordable housing subsidies has diminished and cities and counties are struggling to meet their RHNA targets. Hopefully, recently enacted funding measures will spur the development of more affordable housing throughout California and result in RHNA targets that are more attainable. Nevertheless, the City of Costa Mesa remains committed to doing its part to address means to improve the supply of housing in California in compliance with Housing Element laws and appreciates the opportunity to provide comments as part of the RHNA process. Thank you for your consideration of the City's comments related to the proposed RHNA determination and methodologies. We stand ready to be partners in the development of RHNA allocations to meet our collective goals.





Sincerely,



LORI ANN FARRELL HARRISON  
City Manager



# CITY OF COSTA MESA

P.O. BOX 1200, COSTA MESA, CALIFORNIA 92628-1200

FROM THE OFFICE OF THE CITY MANAGER

October 4, 2019

Southern California Association of Governments  
Regional Housing Needs Assessment Subcommittee  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear RHNA Subcommittee,

The City of Costa Mesa appreciates the time and effort provided by the Southern California Association of Governments (SCAG) Board, the SCAG Committees and Subcommittees, and SCAG staff in its tireless efforts to help improve the supply of housing in California. The City of Costa Mesa remains committed to doing its part in addressing this important issue in compliance with housing element laws (Government Code Sections 6580-65598.8). However, the City is concerned about the methodologies that SCAG is proposing for the 6th Regional Housing Needs Assessment (RHNA) cycle that are above and beyond the projected growth in the current Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) and will greatly impact the City's ability to remain compliant with state housing laws. As such, the City of Costa Mesa offers the following points for consideration related to the revised RHNA methodology proposed by SCAG staff.

- The City requests information of the datasets within the recently proposed fourth methodology including the data used to represent job accessibility and resource availability.
- The City requests clarification on the new steps within the methodology discussed at the September 23, 2019, RHNA Subcommittee workshop. Specifically, the City is requesting information and an explanation of the "residual" Adjustment Factor for Existing Need in Step 2d, and the Affirmatively Furthering Fair Housing (AFFH) Adjustment in Step 3.
- The City is concerned with the introduction of new datasets, new steps within the added methodology, and the lack of transparency, analysis and public review to accompany such modifications.
- The City requests that the High-Quality Transit Corridor (HQTA) areas used for this evaluation only include those stations/stops that are permanent, multi-modal, and provide frequent service (15 minute or less headway) 7 days per week for the reasons set forth in our September 12, 2019 letter commenting on the then-proposed methodologies.
- The City requests a high-level publicly available recap of the comments, questions, and concerns raised by over 100 agencies that responded to SCAG's request for comments.

Information on datasets used within any methodology should be available.

The addition of new datasets to be used to calculate the allotment of housing assigned to each city is a problem for SCAG's goals of transparency. Spending the entire public review period investigating three methodologies only to submit an additional methodology that not only changes the parameters of datasets previously used but incorporates additional datasets that were not discussed during the public review period is not providing a transparent process. The City requests that the data and its metadata be provided with a sufficient review period to allow the City to conduct a thorough assessment of the impacts of using this dataset. This data has not been used for this purpose in the past and therefore should be evaluated for this purpose.

**The City of Costa Mesa requests additional information on the two additional datasets and time to evaluate their impacts to the methodology.**

Additional steps within a new methodology should be supported by a detailed explanation.

While it is an expectation of any public review period that the agency overseeing a methodology would modify components of the process to address concerns received during outreach; it is not typical to have additional modules, never previously discussed, included into a process without a detailed explanation as to the value added by incorporation, what the impacts are to the overall outcome of the model, and a detailed explanation as to the exact implementation. For example, we do not know if the 30-minute car commute included into the job accessibility heat map is based on travel during peak hours, incorporating time lost to traffic, or based on a simple distance times speed-limit calculation. It is unclear at what spatial resolution the opportunity indices are being evaluated and at what resolution it is being compared to job accessibility and HQTAs for the residual distribution. It is unclear if the job accessibility data is creating a thirty-minute buffer from each TAZ or from each jurisdiction. It is unclear whether SCAG staff assessed the margin of error in aggregating job accessibility data to geopolitical boundaries when it is more closely associated with sub-market boundaries to ensure that the error does not exceed the potential benefit of using this dataset in this way.

**The City of Costa Mesa requests a detailed methodology that explains the process to the point that it could be duplicated by the City and the City would generate the same response.**

The public and jurisdictions should be provided with sufficient information and time to evaluate any newly proposed methodologies.

Since additional datasets have been incorporated into the proposed methodology and several steps have been modified or added, the City is hereby requesting the above information and additional time be included in the process to allow the City to evaluate incorporation of this new information to ensure that these additions increase the accuracy of this model representing housing need. If individual members that do not represent cities feel that

individual cities should be able to make a determination on the methodology without consideration to the outcome, then jurisdictions should definitely be able to expect explicit and exhaustive details on the proposed methodology regarding standards, proven parameters, dataset selections, and formulas. Any process devoid of a reasonable degree of transparency and public input calls into question the true integrity of the process, which we believe is not the desired intent.

**The City of Costa Mesa requests additional time equal to the previous public review period to evaluate the new methodology which is using new data and new steps and components.**

*Definition of High-Quality Transit Corridors is Too Broad*

SCAG has stated that using HQTAs to concentrate a portion of RHNA-required housing will focus development disproportionately on lower-income neighborhoods. This was discussed in the Proposed Methodology report attached to the agenda for a public hearing on August 1, 2019. SCAG also acknowledged that the application of a social equity ratio would not be able to sufficiently address all of the potential impacts of increased development. If the increase in housing development exacerbates social inequality in current low-income housing areas more than the benefits of transit-oriented development within that same area, then those areas within such an HQTA should not be used; despite the HQTA complying with the description of high-quality transit corridors from SB375. To ensure that social injustice problems like those listed below do not occur, SCAG should be conservative and cautious in its approach to what qualifies as a major transit stop. Any location within an HQTA should have a significant enough transit presence to ensure that the benefits of developing additional housing near its transit stops are sufficient to justify the potential negative social impacts on the community including:

- Displacement of existing tenants;
- Gentrification;
- Degradation of cultural continuity;
- Loss of social networks that families in low-income neighborhoods rely upon; and
- Measurable health impacts from increased construction.

Therefore, the City of Costa Mesa recommends that SCAG take a serious look at which areas are identified as major transit stops per SB375 and apply a more conservative approach. Specifically, SCAG should limit the proportionate allotment only to major transit locations which are permanent, multi-modal, and provide a frequency of service interval of 15 minutes every day as opposed to just weekdays. This will help to ensure that qualifying HQTAs have a substantial amount of infrastructure already in place to account for the future growth and provide mobility to all socioeconomic levels throughout the region. SCAG should consider areas served by more permanent public transit infrastructure. Bus stops are currently included; however, in Orange County bus stops and routes can be and frequently are removed by OCTA due to lack of ridership. In such cases, the result would be higher density housing with no connectivity to public transit. The SCAG methodology should limit its consideration of

qualifying HQTAs to those areas served by public transit infrastructure which allows for a variety of modes because this provides a greater ability to address the needs and preferences of the potential residents and adds to the potential longevity of the identified transit stop. SCAG should consider areas served by a more frequent service schedule because if the City supports building very low-income housing in an area with no consistent or frequent option of public transit on weekends, the result would be the further isolation of disadvantaged members of the community, thereby restricting their access to the benefits of the region and spoiling the very intent of transit-oriented development.

### ***Viabile Alternatives***

Potential solutions could include:

- 1) Reducing the number of HQTAs to those areas that are within a half-mile of more permanent, multi-modal, transit stops that have a higher level of daily service.
- 2) Create a weighted ratio that assigns a higher share to HQTAs with substantial public transit which meets the description in the first option and a lower proportion to HQTAs which meet only the minimum definition of major transit stops under SB375; or alternatively, at a minimum, embrace the existing methodology completely by modifying the HQTA locations to include those areas anticipated to be included within the next 8 years and exclude those which have falling ridership numbers and therefore may be closed or removed.

**The City of Costa Mesa requests that the HQTA areas used for this evaluation only include those that are permanent, multi-modal, and provide frequent service.**

### **Additional Items in previous comment letters which are still relevant.**

Furthermore, the City of Costa Mesa re-iterates the following points for consideration.

- The City requests that the vacancy adjustment use a total unrounded vacancy rate which includes all subtypes in the appropriate methodology options.
- City requests that density not be used as an input. However, should it be used, that SCAG thoughtfully remove properties which are not developable.
- The City requests that SCAG proceed with a methodology option which includes the highest level of local input.

### **Vacancy Evaluation Should Include Total Vacancy Numbers**

The total number of vacant units within each jurisdiction should be used to calculate the vacancy adjustment. SCAG is only using the sum of two subtypes of vacancy to analyze the need for additional vacancy information (For Rent and For Sale Only) but this disregards a large portion of the vacant housing stock within the community and excludes them based on their static description at the time of the ACS survey, which frequently changes and would likely change when market demand incentivizes owners to provide them as more traditional vacant units. Consider using all, or more than two, of the seven categories of vacant units to

calculate the tenured vacancy rates (For Rent; Rented, Not Occupied; For Sale Only; Sold, Not Occupied; For Seasonal, Recreational, or Occasional Use; For Migrant Workers; Other Vacant). Since the raw data is available, in order to use the most accurate data possible during the RHNA process, unrounded vacancy rates for each jurisdiction should be calculated by using both tables DP04 and B25004 for use in the healthy market vacancy rate adjustments. **The City of Costa Mesa requests that the vacancy adjustment use a total unrounded vacancy rate, which includes all seven subtypes of available housing in the appropriate methodology options for the most accurate assessment possible.**

Remove Land Areas Not Compatible with Residential Uses from Density Calculation

Where density calculations are assessed for distribution of housing allocation, the total area of a jurisdictional boundary should not be used. Though density is not currently used as an input in any of the current methodologies and OCCOG is not supporting the use of density as an input, if SCAG ultimately incorporates density into the selected methodology, some land uses should be removed from the total area within the jurisdiction so the density calculation properly reflects population density in developable/usable areas. For example, areas and land uses that are permanently protected including open space, military bases, flood channels, local parks, and active state property should not be counted. **The City of Costa Mesa requests that density not be used as an input. However, should it be used, the City requests that non-developable land be excluded from the calculation.**

Local Input is Critical

It is important to address housing needs for the betterment of all communities; however, without proper participation and feedback from local governments, future housing growth numbers will become unattainable, meaningless or, worse yet, potentially unjust. Even for responsible jurisdictions like Costa Mesa, that are committed to housing growth, who initiate overlays, urban plans, and new ordinances like the City's small lot ordinance to encourage housing development throughout the City, an unattainable allotment will potentially handicap the review authority on housing projects by allowing any housing project to be streamlined whether it is good for the community or not. Any proposed methodology should include local input, which is the foundation for SCAG's Connect SoCal Plan. The inclusion of local input ensures that the RHNA allocation is consistent with the development pattern of the Sustainable Communities Strategy (SCS).

A regional determination by the Department of Housing and Community Development (HCD) should be no higher than the 429,926 units identified by SCAG. The City appreciates SCAG's appeal of the recent regional housing need determination of 1,344,740 total units from the HCD. If HCD's determination is not successfully appealed it should only be in coordination with a per unit increase in funding for jurisdictions to provide subsidies for developers to supply additional housing units for all income levels. Regardless, a higher number than estimated makes collaboration with local agencies even more important.

Otherwise, municipalities will have no way to achieve the units required by a higher allocation and streamlined residential projects could be built that displace residents, change the character or sense of place of the communities, and even undermine the expedited process and collaborative environment that SCAG has been attempting to foster since creation.

**The City of Costa Mesa requests that that SCAG proceed with a methodology option which includes the highest level of transparency and local input.**

Administrative Comments to Assist with Regional Engagement

One of SCAG's goals throughout the RHNA process has been transparency. To assist with this, the City of Costa Mesa agrees with several comments provided by the Center for Demographic Research at CSU Fullerton. First, we strongly agree that a track changes document should be provided that is based on the changes made since publication of the documents for the public comment period. Second, please clarify whether the 2019 DOF population was developed at the SCAG TAZ level and is being used or if the RTP TAZ/local input data for year 2016 was used. Please republish the Proposed RHNA Allocation Methodology Technical Data Appendix and RHNA calculator after corrections are made. SCAG should always allow time for review of new factors or methodologies. The City also strongly encourages SCAG to outline the appeals and redistribution process. **The implementation of these additional comments will assist SCAG in its regional engagement and transparency goals.**

Conclusion

The RHNA process is of utmost importance to the State of California, the six county SCAG region, the County of Orange and the City of Costa Mesa, as well as all 34 Orange County cities. To that end, the City of Costa Mesa wishes to ensure all stakeholders can engage in the public outreach process to ensure concerns are heard and more importantly addressed.

Senate Bill (SB) 166 requires local jurisdictions to continually update their housing elements and General Plans to ensure their housing elements identify sufficient sites for potential development to meet the assigned goals to house families and individuals in the different income categories. This is a challenge since local jurisdictions rely on private housing developers to build housing mostly based on local market conditions. Accordingly, local jurisdictions cannot fully control how or when a property is developed. Local jurisdictions with limited land capacity and high RHNA allocations will find it nearly impossible to comply with State law unless developers always build at the maximum density allowed on the site, which is not always financially feasible.

With the dissolution of redevelopment agencies, the available funding for affordable housing subsidies has diminished and cities and counties are struggling to meet their RHNA targets. Hopefully, recently enacted funding measures will spur the development of more affordable housing throughout California and result in RHNA targets that are more attainable. Nevertheless, the City of Costa Mesa remains committed to doing its part to address means to improve the supply of housing in California in compliance with Housing

SGAG Regional Housing Needs Assessment Subcommittee  
October 4, 2019  
Page 7

Element laws and appreciates the opportunity to provide comments as part of the RHNA process. Thank you for your consideration of the City's comments related to the proposed RHNA determination and methodologies. We stand ready to be partners in the development of RHNA allocations to meet our collective goals. However, to be viable, this partnership will require transparency and the timely sharing of information for years to come. We hope that SCAG will improve the transparency associated with the newly proposed fourth methodology so that we can plan together for a better future for all citizens of this important region.

Sincerely,

*Justin Martin Acting Assistant City Manager*

*for:*

LORI ANN FARRELL HARRISON  
City Manager  
City of Costa Mesa





**CITY OF COSTA MESA**

P. O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

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November 06, 2019

Southern California Association of Governments  
Regional Council  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Regional Council,

The City of Costa Mesa appreciates the time and effort provided by the Southern California Association of Governments (SCAG) Board, the SCAG Committees and Subcommittees, and SCAG staff in its tireless efforts to address means to improve the supply of housing in California. The City of Costa Mesa remains committed to doing its part in addressing this important issue in compliance with housing element laws (Government Code Sections 6580-65598.8). The City understood and supported the methodology approved and proposed by the RHNA Subcommittee and the CEHD Committee. To see that participants are still attempting to provide alternative methodology's is concerning.

*Local Input is Critical*

It is important to address existing and future housing needs for the betterment of all communities; however, without proper participation, community expertise, and feedback from local governments, future housing growth numbers will become unattainable and meaningless or, worse yet, potentially unjust and counterproductive. Even for responsible jurisdictions like Costa Mesa, committed to housing growth, who initiate overlays, urban plans, and new ordinances like the City's residential incentive overlay or the updated small lot ordinance to encourage housing development throughout the City, an unattainable allotment could potentially handicap the review authority on housing projects by allowing any housing project to be streamlined whether it is good for the community or not. Any proposed methodology should include local input, which is the foundation for SCAG's Connect SoCal Plan. The inclusion of local input ensures that the RHNA allocation is consistent with the development pattern of the Sustainable Communities Strategy (SCS). Local input does not just treat communities like bitcoins with a single datum stored within, but each as a vibrant community which has for more indicators to consider than 45-minute commute time to a job center or proximity to bus stops with 15-minute headways. This is why the City of Costa Mesa supports the methodology approved and recommended by the RHNA Subcommittee and CEHD Committee. Please maintain our local input as Executive Director Ajise stated last month in the following quote:

*"There's been a lot of talk about local input, and I think (at least in my understanding of what I hear back from people), there's a gross misunderstanding of what that [local input] is. It's the basis of our regional conformity, in terms of Clean Air Act modeling. It's the basis for our regional transportation planning process. That is the basis for most of the general planning out there that we see. And a lot of CEQA analysis that is done is based on our regional model. We take that very seriously, because we are stewards of the region's modeling capacity and so this is not something that we do lightly. The process and the effort that goes into the local input process is something that took for this cycle for regional planning about two years to build with a lot of input across the region and from expert panels. So local input is not just this aggregation of local thoughts and needs and desires, as people might want to summarize it."* - Kome Ajise

*RHNA Subcommittee Meeting 10-7-2019*

*Residuals should be distributed Region Wide*

Keeping residuals within the county they came from does not make sense. What makes it more appropriate for a city within the same county to bear the burden of the delta between projected growth and the state's allotment for another city in a random geopolitical boundary as opposed to distributing that additional housing allotment across the entire region? It actually is more equitable to distribute the unanticipated burden across the entire region.

*Riverside Comment Letter*

This section is directly speaking to the November 1, 2019 comment letter SCAG received from Cities and County of Riverside. Riverside's "New Alternative" causes great concern for several reasons. First, it completely removes any local input from the Existing Need calculation. Second, it creates a dramatic measurement error because it overstates the importance of barely qualifying high quality transit corridor bus stops. Third, it creates an over-emphasis on job centers that may result in more job loss than proportionate housing gain. Fourth, keeping residuals within the county they come from disproportionately impacts counties with diverse intensities and densities. To provide a frame of reference this methodology would require the City of Costa Mesa, which currently has around 43,000 dwelling units, to increase their housing by 12,086 units. This is a 28% increase within one RHNA Cycle. This is an absurd expectation for a City which is 97% built out.

Thank you for your consideration of the City's comments related to the proposed draft RHNA methodology.

Sincerely,



Barry Curtis, AICP  
Director of Economic and Development Services



# CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

March 5, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

**RE: Request to the Southern California Association of Governments (SCAG) to Amend the Regional Housing Needs Assessment (RHNA) Methodology for the 6<sup>th</sup> Cycle**

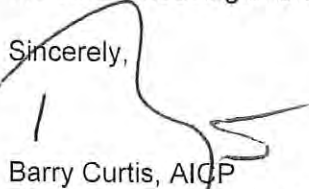
Dear Mr. Ajise:

The City of Costa Mesa requests that SCAG amend the RHNA methodology to reinstate local input as a factor in the existing need. The City of Cerritos recently submitted a proposal dated February 4, 2020, which recommends that household growth forecasts be reintroduced back into the calculations for the existing need as follows: household growth (33.3%), job accessibility (33.3%), and population within high quality transit areas (33.3%). These household growth projections are an important factor in that it takes into consideration the unique characteristics of each jurisdiction. Moreover, these growth projections more closely align the RHNA with the development pattern established within Connect SoCal as required by state statute. Finally, as stated in the staff-recommended RHNA methodology staff report for the November 7, 2019, Regional Council meeting, the reintroduction of household growth into the existing need would further the five objectives of state housing law.

Furthermore, we are also requesting that SCAG object again to the Department of Housing and Community Development (HCD) in that they did not follow state law with the regional determination [see Government Code Section 65584.01(a)]. Even the Department of Finance recently updated its population projections and show a significant decrease since their previous forecast. Governor Newsom has also stated that his commitment to building 3.5 million homes by 2025 was a "stretch goal" and that the state would soon be releasing a more pragmatic estimate of the housing needs by region. The regional determination of 1.34 million housing units combined with an inequitable RHNA methodology are setting up local jurisdictions for failure to comply with state housing law.

We request that the RHNA Subcommittee, CEHD Policy Committee, and Regional Council consider these two recommendations prior to the adoption of the RHNA methodology. We recognize that there are time constraints established by state law; however, the 6th Cycle RHNA will have significant impacts on jurisdictions over the next decade and longer. Therefore, it is imperative that the RHNA be finalized in a way that is equitable and attainable in responding to the state's housing shortfall.

Sincerely,

  
Barry Curtis, AICP  
Director of Economic and Development Services

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
916) 263-2911 FAX: (916) 263-7453  
www.hcd.ca.gov



December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File



**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach's position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach's input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

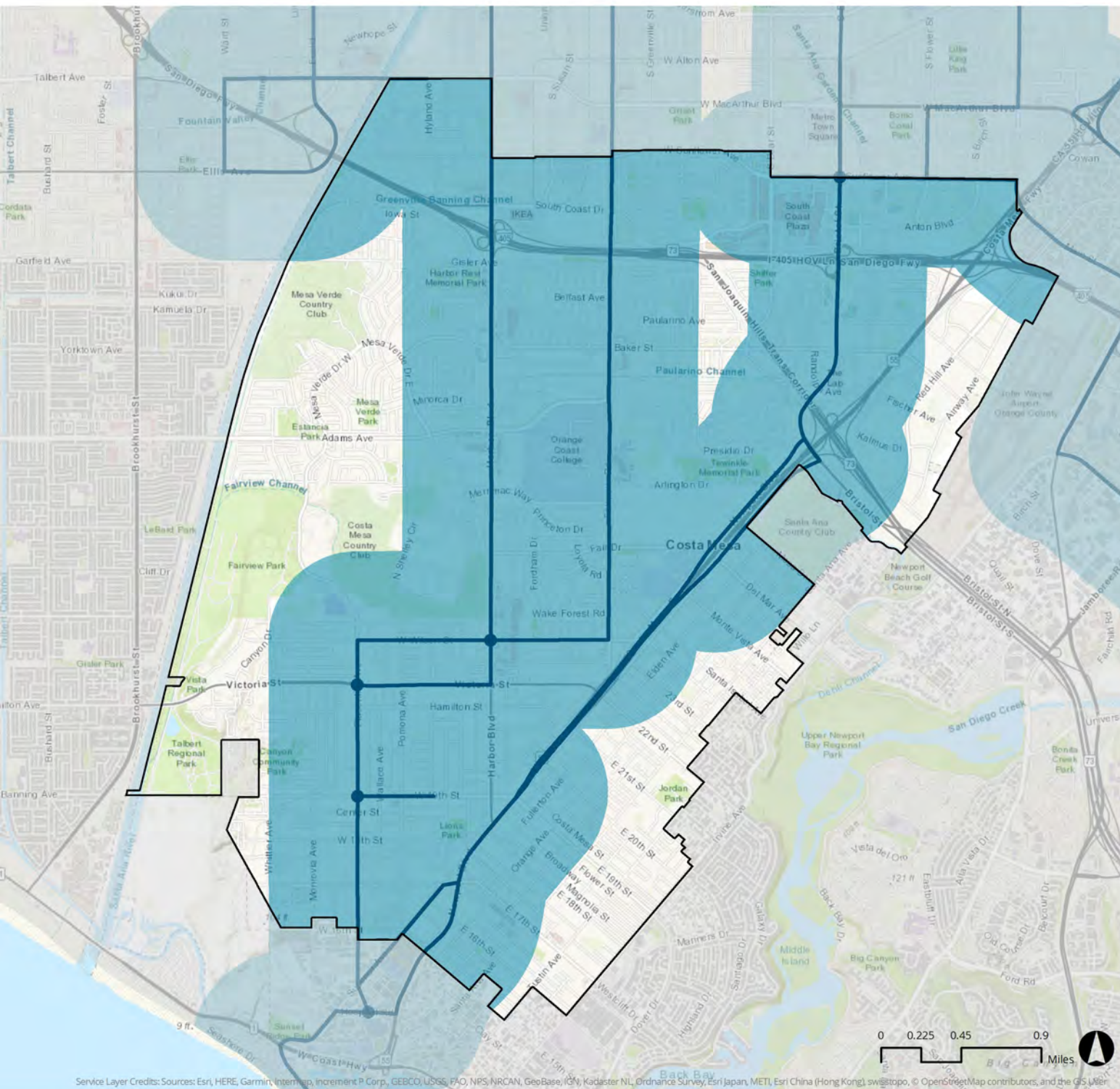
The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068





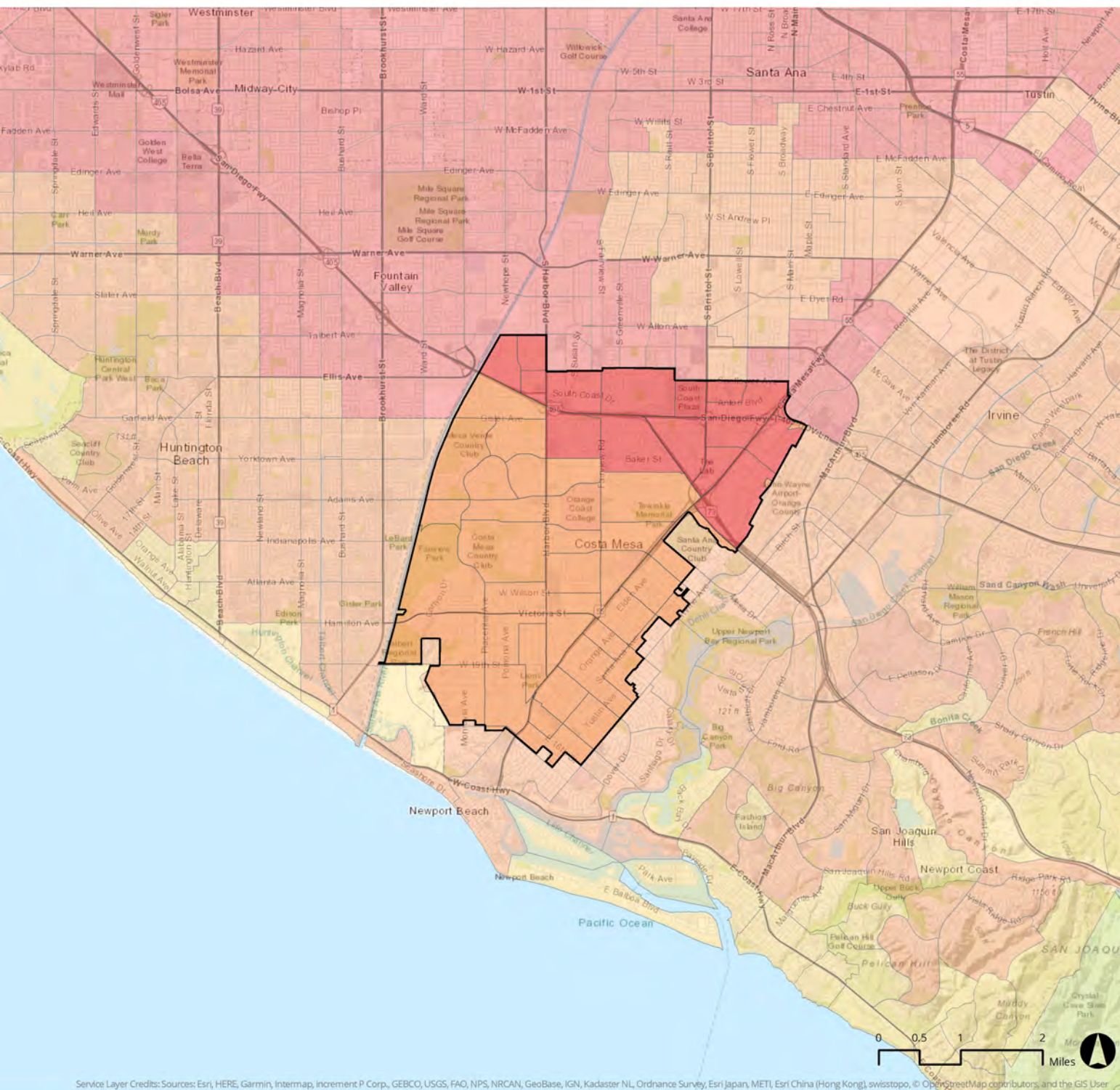
## Major Transit Stops and High Quality Transit Areas in City of Costa Mesa [Year 2045]

- Major Transit Stops
- ⚡ High Quality Transit Corridors (HQTCs)
- High Quality Transit Areas (HQTAs)

Note: SCAG identifies Major Transit Stops and High Quality Transit Corridors (HQTCs), and their surrounding areas in one-half mile radius distance as specified in Section 21155.(b)(3). Major transit stops and HQTCs are extracted from 2045 plan year data of Connect SoCal. SCAG's High Quality Transit Area (HQTA) is within one-half mile from Major Transit Stops and HQTCs and developed based on the language in SB375; however, freeway transit corridors with no bus stops on the freeway alignment do not have a directly associated HQTA. The RHNA process, per Section 65584 et seq., specifies that SCAG's housing needs allocation plan shall further several objectives including those related to infill development and jobs-housing balance. To that end, SCAG's Regional Council-adopted 6th Cycle Final RHNA Methodology relies on a jurisdiction's forecasted 2045 population within HQTAs to allocate housing need.

Data Source: SCAG, County Transportation Commissions, 2020 | Map Created: 10/22/2020

Disclaimer: The information shown on this map reflect jurisdiction's input submitted during the Local Input and Envisioning Process for the City of Costa Mesa. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodologies and data please refer to the SCAG Data/Map Book at [connectsoocal.org/Pages/Local-Input-Process.aspx](https://connectsoocal.org/Pages/Local-Input-Process.aspx) or contact [RTPLocalInput@scag.ca.gov](mailto:RTPLocalInput@scag.ca.gov).



## TAZ-level job accessibility in and around: City of Costa Mesa [Year 2045]

0% - 2.3%    2.4% - 7.8%    7.9% - 11.7%    11.8% - 15.5%    15.6% - 19.6%    19.7% - 32.3

Note: These data represent the share of jobs in the SCAG region accessible by automobile commute in 30 minutes in 2045 during the peak AM commute (6-9am). Further detail on the job accessibility measure can be found in SCAG's Final RHNA Methodology. Note that since the SCAG region's total employment forecast for 2045 is 10,049,000 jobs, the number of jobs available can be measured by multiplying the percentage found on the map by this number. For example, a TAZ-level job accessibility measure of 10.0% means that 1,049,000 future jobs could be reached in 30 minutes.

Data Source: SCAG, 2020 | Map Created: 10/22/2020

Disclaimer: The data underlying the information shown on this map reflect jurisdiction's input submitted during the Local Input and Envision Connect SoCal. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodology of this map, please refer to the SCAG Data/Map Book at <https://www.connectsocial.org/Pages/Local-Input-Process.aspx> or contact [RTPLocalIn](mailto:RTPLocalIn)



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist,  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Laguna Beach

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Laguna Beach to reduce the draft RHNA allocation for the City of Laguna Beach by 278 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Laguna Beach requests a reduction of its RHNA allocation for 278 units (from 393 units to 115 units) based on the following issues:

1. Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)
2. Availability of land suitable for urban development or for conversion to residential use
3. Lands protected from urban development under existing federal or state programs
4. High housing cost burdens
5. Changed circumstances

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal(s) and recommend no change to the City of Laguna Beach's RHNA allocation. Regarding issue 1, no evidence was provided to support an incorrect application of the adopted RHNA methodology and while the City requests it, SCAG cannot use the 5th RHNA cycle methodology for the current cycle. Regarding Issue 2, the availability of land was not demonstrated to be an impediment to meeting the City's RHNA allocation since it does not provide evidence that it cannot accommodate housing on other areas in the jurisdiction. Regarding Issue 3, the City has not provided evidence that there is insufficient land to accommodate its RHNA allocation. In regard

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

to Issue 5, change in circumstance impacts as a result of increased risk of wildfire, the City provides no evidence that this is an unforeseen change that would significantly change the recent survey input.

**BACKGROUND:**

**Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Laguna Beach: 393 units  
Very Low Income: 117 units  
Low Income: 80 units  
Moderate Income: 79 units  
Above Moderate Income: 117 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

**Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Laguna Beach. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

**ANALYSIS:*****Issue 1: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(2)].***

*The City indicates that it is appealing its draft RHNA allocation based on their assertion that “certain cities with disadvantaged communities in the SCAG region have underreported their existing housing needs as established in their general plans.” The City argues that this has led to a lower RHNA allocation for those cities while disproportionately increasing the RHNA allocation for other cities. They assert that there is a need for reassessment of the existing housing needs for “certain disadvantaged communities” since “they have the capacity and need to absorb units that were redistributed to other cities as net residual factor.”*

*Additionally, the City argues that HCD overestimated the regional determination given to SCAG and refer to a report published by Freddie Mac. Based on this overestimation, the City argues that a reduction of 153 units should be granted.*

**SCAG Staff Response:** As described above and in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally-reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the RHNA methodology was found by HCD to further the five statutory objectives<sup>1</sup> in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another. The basis for an appeal for this factor is the *application* of the RHNA methodology and not the RHNA methodology itself, which was a separate but extensive process that involved multiple steps and public involvement leading up to final adoption. Once adopted, the RHNA methodology was applied consistently to all SCAG jurisdictions and no evidence has been provided that there was an exception to determine the draft RHNA allocation for the City of Laguna Beach.

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)

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With respect to the HCD's regional determination, SCAG's final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The City suggests that HCD overestimated this regional determination based on a recent report by Freddie Mac. In February 2020 national home lending agency Freddie Mac's Economic & Housing Research group prepared a national analysis of housing supply shortages titled "The Housing Supply Shortage: State of the States" (the Freddie Mac report). This information cannot now be considered for adjusting HCD's regional housing needs determination. Furthermore, the RHNA Appeals Board has no authority to change the regional determination. The RHNA statute outlines a very specific process for arriving at a regional housing needs determination for RHNA. It also prescribes a specific timeline which necessitated the completion of the regional determination step by fall 2019 in order to allow enough time for the development of a methodology, appeals, and local housing element updates.

The defined timeframes are guided by the deadline for the housing element revisions for HCD's RHNA determination and SCAG's Final RHNA Allocation Plan. HCD, in consultation with each council of governments (COG), shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. Govt. Code § 65584(b). This "determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." Govt. Code § 65584.01(b). HCD begins the process 26 months prior to the scheduled revision so the data HCD relies on is the available provided by the COGs at that time. Similarly, the COG issues its survey for information to develop the RHNA allocation methodology up to 30 months prior to the scheduled revision. By necessity, the data used for these processes is data available at that time.

Without assessing the merits of the report, because the Freddie Mac report was not available during at the time HCD was determining regional housing need, it could not be considered then; and it cannot be considered now that the regional housing need has been determined. Furthermore, the Freddie Mac report is regional in nature and does not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was applied incorrectly to determine the jurisdiction's share of regional housing need. Because a regional study does not meet this criterion, these studies cannot be used to justify a particular jurisdiction's appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

It would be untenable to reopen the process anytime new data or materials become available, particularly when there is a codified process. If so, there would be no finality to the process and local government could not meet the deadlines for their housing element updates. Procedurally, SCAG cannot consider a regional study outside of the regional determination process nor should it apply a regional study to reduce an individual jurisdiction's draft RHNA allocation.

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For these reasons, SCAG staff does not recommend a reduction to the City's draft RHNA allocation based on the application of the adopted RHNA methodology.

**Issue 2: Availability of land suitable for urban development or for conversion to residential use [Government Code Section 65584.04(e)(2)(B)].**

*The City of Laguna Beach indicates in its appeal that it has a number of planning constraints that would impact its ability to accommodate its draft RHNA allocation. The constraints listed include steep hillside terrain, narrow vehicle/emergency access roads, fire hazard designations for most of the City, and limitations to development based on dedicated open space land protected by federal and State programs. It also indicates that many of the City's vacant parcels cannot be provided safe access. The appeal argues that only half of the City's land area is buildable, "most of which is already developed."*

**SCAG Staff Response:** Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality" (which includes the land use policies in its General Plan). "Available land suitable for urban development or conversion to residential use," as expressed in 65584.04(e)(2)(B), is not restricted to vacant sites; rather, it specifically indicates that underutilized land, opportunities for infill development, and increased residential densities are a component of "available" land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

"In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land." (HCD Letter at p. 2).

Furthermore, on June 10, 2020, HCD released extensive guidelines for housing element site inventories.<sup>2</sup> A wide range of adequate sites are detailed including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).<sup>3</sup> Specifically, the guidelines indicate that (page 32):

"In consultation with HCD, other alternatives may be considered such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance."

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<sup>2</sup> See [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf)

<sup>3</sup> See also Accessory Dwelling Unit Handbook, HCD, September 2020 at <https://www.hcd.ca.gov/policy-research/docs/adu-ta-handbook-final.pdf>



As such, the City can and must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City's projected growth.

While the City indicates that only half of its land is buildable, it does not provide evidence that it is unable to consider underutilization of these buildable sites, increased densities, and other planning tools to accommodate its assigned need. Again, SCAG is prohibited from limiting the consideration of suitable sites due to the City's land use restrictions and is required to review alternative methods to meet housing need, neither of which is provided in the appeal application. For this reason, SCAG staff does not recommend a reduction to the City of Laguna Beach's draft RHNA allocation based on this factor.

***Issue 3: Lands Protected from Urban Development under Existing Federal or State Programs***  
***[Government Code Section 65584.04(2)(C).***

*In its appeal, the City indicates that it has limitations to development based on significant dedicated open space land that is protected by federal and State programs. No documentation or other evidence is provided to support this assertion.*

**SCAG Staff Response:** It is presumed that planning factors such as lands protected by federal and state programs have already been accounted for prior to the local input submitted to SCAG since such factors are required to be considered at the local level. No evidence was provided in the City's appeal that the status of these areas has changed since the most recent local input was provided in October 2018.

In addition, while the City has indicated that it is unable to accommodate residential development in these specific areas, no evidence has been provided to demonstrate that Laguna Beach is not able to accommodate its RHNA allocation in other areas or through the use of other land use strategies or policies. The presence of protected open space alone does not reduce housing need nor does it preclude a jurisdiction from accommodating its housing need elsewhere.

While SCAG staff acknowledges that the City has dedicated open space land that is protected by federal and State programs, it is unclear how the presence of these protected lands precludes the City from accommodating its housing need. To preserve its dedicated open space, SCAG encourages the jurisdiction to consider available land, increased densities, and other alternative zoning tools in non-open space areas to accommodate its RHNA allocation (see also Response to Issue 2 above). For these reasons, SCAG staff does not recommend a reduction to its draft RHNA allocation based on this factor.

***Issue 4: High Housing Cost Burdens [Government Code 65584.04].***

*The City states in its appeal that its high land values make the construction of affordable housing less feasible than in other jurisdictions. Moreover, it argues its topographical and geographical conditions, along with additional fire protection costs, contributes to the high cost of construction.*

***SCAG staff response:***

Construction costs cannot be considered by SCAG as a justification for a reduction since the purpose of a RHNA allocation is to ensure that there is adequate zoning to accommodate housing need. This full text of this section: “The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent” refers to the proportion of renter households who are considered cost-burdened for housing. It does not refer to the cost of construction. For this reason, SCAG staff does not recommend a reduction to the City’s draft RHNA allocation based on this factor.

***Issue 5: Changed Circumstances [Government Code 65584.05(b)]***

*The City indicates in its appeal that since the RHNA allocation was initially established, there is evidence of an increased risk of wildfire due to climate change. It argues that this increased risk is a change in circumstance that warrants a reduction to its draft RHNA allocation.*

***SCAG Staff Response:*** State law requires that a change in circumstance be significant and unforeseen and that it would merit a change to local planning factors and conditions since jurisdictions were last surveyed on these factors (approximately Spring 2019). Section 65584.05(b) requires that:

“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”

In its appeal, while the City asserts it has fire hazards, it does not provide evidence that this is an unforeseen circumstance. In fact, as part of its submitted appeal evidence the City includes an impaired road access map from its Safety Element of its General Plan, which was adopted in 1995. The City’s published Safety Element has extensive information regarding fire threats and hazards in certain areas of the City, including 257 instances of the word “fire.” Because this factor would not appear to be unforeseen and no evidence has been provided that it is significant enough to change recent survey input from the City, a reduction to the City’s draft RHNA allocation is not recommended.



**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Laguna Beach)
2. Appeal Form and Supporting Documentation (City of Laguna Beach)
3. Comments Received During the Comment Period (General)

## Attachment 1: Local Input and Development of the Draft RHNA Allocation

This attachment sets forth the nature and timing of the opportunities which the City of Laguna Beach had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Laguna Beach's Draft RHNA Allocation.

### 1. Local input

#### *a. Bottom-Up Local Input and Envisioning Process*

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Laguna Beach, the anticipated number of households in 2020 was 10,949 and in 2030 was 10,970 (growth of 21 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Laguna Beach to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>

### **b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Laguna Beach submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### **c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://scag.ca.gov/sites/main/files/file-attachments/growth-vision-methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spm dm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG received additional technical corrections from the City of Laguna Beach and incorporated them into

the Growth Vision in December 2019. The City of Laguna Beach's TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d)).*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTa) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### 3. Draft RHNA Allocation for the City of Laguna Beach

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Laguna Beach received its draft RHNA allocation on September 11, 2020. Application of the RHNA

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

methodology yields the draft RHNA allocation for the City of Laguna Beach as summarized in the data and calculations in the tables below.

<b>Laguna Beach city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	17
Percent of households who are renting:	38%
Housing unit loss from demolition (2009-18):	-
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	55
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	6.92%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	695,000
Share of region's job accessibility (population weighted):	0.06%
Jurisdiction's HQTAs population (2045):	-
Share of region's HQTAs population (2045):	0.00%
Share of population in low/very low-resource tracts:	0.00%
Share of population in very high-resource tracts:	87.16%
Social equity adjustment:	170%



Calculation of Draft RHNA Allocation for Laguna Beach city	
Forecasted household (HH) growth, RHNA period:	17
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	0
Replacement Need	-
<b>TOTAL PROJECTED NEED:</b>	<b>18</b>
Existing need due to job accessibility (50%)	250
Existing need due to HQTAs pop. share (50%)	0
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	125
<b>TOTAL EXISTING NEED</b>	<b>375</b>
<b>TOTAL RHNA FOR LAGUNA BEACH CITY</b>	<b>393</b>
Very-low income (<50% of AMI)	117
Low income (50-80% of AMI)	80
Moderate income (80-120% of AMI)	79
Above moderate income (>120% of AMI)	117

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 0 living within HQTAs, the City of Laguna Beach represents none of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute

automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Laguna Beach's median TAZ, it will be possible to reach 6.92% of the region's jobs in 2045 within a 30-minute automobile commute (695,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 125 units assigned to the City of Laguna Beach.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: \_\_\_\_\_ Jurisdiction Subject to This Appeal Filing: \_\_\_\_\_  
 \_\_\_\_\_  
 (to file another appeal, please use another form)

Filing Party (Jurisdiction or HCD)  
 \_\_\_\_\_

Filing Party Contact Name \_\_\_\_\_ Filing Party Email: \_\_\_\_\_  
 \_\_\_\_\_

**APPEAL AUTHORIZED BY:**

Name: \_\_\_\_\_

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

**Brief Description of Appeal Request and Desired Outcome:**

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced \_\_\_\_\_ Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**  
**(Numbers may be continued to accommodate additional supporting documentation):**

- 1.
- 2.
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_



October 21, 2020

Southern California Association of Governments  
RHNA Appeals Board  
900 Wilshire Blvd., Ste. 1700  
Los Angeles, CA 90017

**SUBJECT: APPEAL OF DRAFT RHNA ALLOCATION FOR CITY OF LAGUNA BEACH**

Dear Honorable Board Members:

The City of Laguna Beach submits this appeal of the City's allocated share of the draft Regional Housing Needs Assessment (RHNA). The appeal is based upon the RHNA's methodology, local planning factors, and changed circumstances. Details of the appeal reasons are provided below.

Appeal Criteria No.1 – Methodology

- **HCD's apparent underestimation of the SCAG region's allocated housing units for disadvantaged communities** – Certain cities with disadvantaged communities in the SCAG region have underreported their existing housing needs as established in their general plans, which has led to a lower RHNA allocation for these cities while disproportionately increasing the RHNA allocation for other cities, such as Laguna Beach. Reassessment of the existing housing needs for certain disadvantaged communities is necessary as they have the capacity and need to absorb units that were redistributed to other cities as net residual factor.
- **HCD's apparent overestimation of the State's 1.34 million housing unit need** - Freddie Mac has recently published a report on the State's housing shortage. The report concludes that the State's actual housing shortage is 820,000 units. The SCAG region (not including California's remaining regions) exceeds this projected housing need by 520,000 units; and, therefore, this discrepancy needs further consideration. If Freddie Mac is correct, the necessary reduction in the RHNA allocation for Laguna Beach is estimated to be as much as 153 housing units. In September of this year, the Mayors of 34 Orange County cities (including Laguna Beach Mayor Bob Whalen) signed a letter in support of reconvening the SCAG President's RHNA Litigation Study Team to reassess HCD's RHNA allocation of 1.34 million housing units in the SCAG region. (A copy of the letter is enclosed.)

Appeal Criteria No. 2 - Local Planning Factors

- **Environmental and topographical constraints** - The City of Laguna Beach is impacted by a significant number of local planning constraints to providing 393 additional housing units. These constraints include, but are not limited to the following: steep hillside terrain; narrow vehicle/emergency access roads; limitations to development based on significant dedicated open space land that is protected by federal and State programs; many of the City's vacant parcels are unbuildable and/or land-locked; and safe access cannot be provided to many of the City's vacant parcels. Based on these constraints, only about half the City's land area is buildable, most of which is already developed. Of these areas, approximately one-third of the existing accessways are

identified as impaired roads based on topography and dimensions. (A copy of the City's Impaired Road Access Map is enclosed.) Further, most of the City is designated by CalFire as a High Fire Hazard Severity Zone, with a history of a devastating fire events (over 400 lost to wildfire in 1993) and for which emergency evacuation of the City's existing population is encumbered.

- **High Housing Cost Burden** – The City of Laguna Beach has some of the highest land values in the state, making the construction of affordable housing less feasible than other jurisdictions within the SCAG region. Additionally, the cost of construction in Laguna Beach is much higher than average due to unique geotechnical and topographical conditions that frequently result in a doubling or tripling of foundation costs and the time necessary to complete a project. The City's High Fire Hazard Severity Zone designation also adds substantial fire protection costs, such as structure sprinkling and hardening of the building.

#### Appeal Criteria No. 3 – Changed Circumstances

- **Increased risk of wildfire** - At the end of 2019, SCAG established a RHNA allocation for the City of Laguna Beach of 393 housing units. This year there have been over 8,300 wildfires burning well over 4 million acres in California. The City of Laguna Beach is especially vulnerable due its topography, narrow access roads, and limited ingress/egress as well as CalFire's designation of the City as a High Fire Hazard Severity Zone. Since the RHNA allocation was initially established, there is evidence of an increased risk of wildfire due to climate change. This increased risk is clearly a change in circumstances that warrants a reduction of the City's RHNA allocation.

Pursuant to Government Code Section 65585.05, the following statements explain why a downward revision to the RHNA allocation for the City of Laguna Beach is necessary to further the intent of the objectives listed in Section 65584.

- **Section 65584(1): Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households** – The RHNA allocation is not distributed in an equitable manner because it fails to consider financial viability and lack of availability of vacant land in the City of Laguna Beach in comparison to other jurisdictions within the SCAG region. Furthermore, the high land values and costs of construction make affordable housing projects less feasible, undermining the ability to increase local housing supply. Additionally, the proposed allocation represents a substantial increase from the previous RHNA allocation, which is disproportionately higher than other cities in the region.
- **Section 65584(2): Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board** – The City of Laguna Beach is nearly built out and is constrained by various environmental and topographical factors, which will not result in efficient development patterns. In addition, the City receives approximately six million visitors per year and is congested during the summer months. The population increase associated with the added dwelling units will result in greater greenhouse gas emissions as vehicles idle along congested roadways.

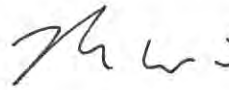
The City of Laguna Beach respectfully requests that the RHNA Appeals Board reduce the City's share of RHNA allocation by 278 units, resulting in an adjusted total of 115 units. The reduction of 153 units is based on Freddie Mac's recent report on the State's housing shortage of 820,000 units, and the reduction of the remaining 125 units is based on the removal of the net residual value that stems from underreported existing housing needs of disadvantaged communities.

Thank you for your consideration of this appeal on behalf of the City of Laguna Beach. Please do not hesitate to contact me if you have any questions or need further information.

Respectfully submitted,



John Pietig,  
City Manager



Marc Wiener, AICP  
Director of Community Development

Enclosures: Orange County Mayors Letter dated September 18, 2020  
Impaired Road Access Map dated February 1995



# City of Mission Viejo

## Memorandum

**Date:** September 18, 2020  
**To:** OC Mayors  
**From:** Dennis Wilberg, City Manager  
**Subject:** OC Mayors Letter: Convene SCAG RHNA Litigation Study Team

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As discussed briefly at last week's OC Mayors' conference call, a group of City Managers from Yorba Linda, Irvine, Garden Grove, Newport Beach, Laguna Hills, and Mission Viejo, met to discuss additional steps that could be taken to continue to challenge the State's excessively high RHNA allocation to the SCAG region.

The most immediate recommendation is to have the OC Mayors sign on to a letter in support of Yorba Linda Councilmember Peggy Huang, who has requested that SCAG President Rex Richardson (City of Long Beach) reconvene the SCAG's President's RHNA Litigation Study Team, for the purpose of evaluating a possible challenge to the State HCD allocation of 1.34 million additional housing units to the SCAG region. A copy of the draft letter is attached for your review and consideration.

Councilmember Huang has cited a February 2020 Freddie Mac study that pegs the STATEWIDE housing need at 880,000 units. Clearly if the Fannie Mae study number is used, the allocation to the six-county SCAG region would be considerably less than the 1.34 million units.

The OC Mayors letter would help support Councilmember Huang in her efforts to have the SCAG President reconvene the RHNA Litigation Study Team promptly, so that they could review this new information and determine appropriate courses of action. Mayor Pro Tem Michael Carroll, City of Irvine, is the Orange County representative to the RHNA Litigation Study Team. With SCAG's RHNA appeals process already under way and local jurisdictions needing to file any appeals of RHNA allocations by October 26, 2020, any courses of action need to be undertaken immediately.

In addition, the OC Mayors letter requests that the RHNA Litigation Study Team re-visit an issue raised by SCAG to State HCD back in September 2019. Specifically, the letter urges SCAG to revisit the critical, legal issue that State HCD did not follow housing statute, when assigning the 1.34 million housing units to the SCAG region. The OC Mayors letter supports Councilmember Huang's efforts to have SCAG's RHNA Litigation Study Team reassess and discuss potential courses of action for State HCD's failure to follow housing statute. Orange County technical staff have identified that had State HCD followed housing statute, SCAG's regional housing need could be reduced by approximately 133,000 units.





September 18, 2020

The Honorable Rex Richardson,  
President  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear President Richardson:

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

On behalf of the thirty-four cities in Orange County, we, the mayors of each Orange County city, unanimously and respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States.")

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:

- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.

Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,

- Mayor Mike Munzing, City of Aliso Viejo
- Mayor Harry Sidhu, City of Anaheim
- Mayor Marty Simonoff, City of Brea
- Mayor Fred Smith, City of Buena Park
- Mayor Katrina Foley, City of Costa Mesa
- Mayor Rob Johnson, City of Cypress
- Mayor Richard A. Viczorek, City of Dana Point
- Mayor Cheryl Brothers, City of Fountain Valley
- Mayor Jennifer Fitzgerald, City of Fullerton
- Mayor Steven R. Jones, City of Garden Grove
- Mayor Lyn Semeta, City of Huntington Beach
- Mayor Christina Shea, City of Irvine
- Mayor Tom Beamish, City of La Habra
- Mayor Peter Kim, City of La Palma
- Mayor Bob Whalen, City of Laguna Beach
- Mayor Janine Heft, City of Laguna Hills
- Mayor Laurie Davies, City of Laguna Niguel
- Mayor Noel Hatch, City of Laguna Woods
- Mayor Neeki Moatazedi, City of Lake Forest
- Mayor Richard D. Murphy, City of Los Alamitos
- Mayor Brian Goodell, City of Mission Viejo
- Mayor Will O'Neill, City of Newport Beach
- Mayor Mark A. Murphy, City of Orange
- Mayor Ward Smith, City of Placentia
- Mayor Bradley J. McGirr, City of Rancho Santa Margarita
- Mayor Pro Tem Laura Ferguson, City of San Clemente
- Mayor Troy Bourne, City of San Juan Capistrano

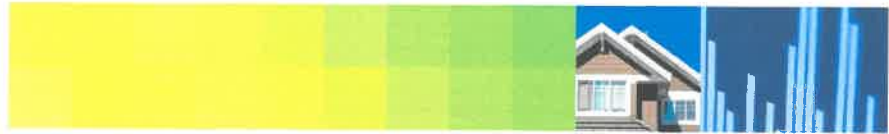
The Honorable Rex Richardson,  
RE: Reconvene the SCAG President's RHNA Litigation Study Team  
September 18, 2020  
Page 3 of 3

- Mayor Miguel A. Pulido, City of Santa Ana
- Mayor Schelly Sustarsic, City of Seal Beach
- Mayor David J. Shawver, City of Stanton
- Mayor Allan Bernstein, City of Tustin
- Mayor Robbie Pitts, City of Villa Park
- Mayor Tri Ta, City of Westminster
- Mayor Beth Haney, City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair  
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors  
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors  
Orange County Representatives on SCAG Policy Committees and Regional Council  
Kome Ajise, SCAG Executive Director  
Orange County City Managers Association  
Orange County Mayors  
Marnie O'Brien Primmer, OCCOG Executive Director  
Nate Farnsworth, OCCOG TAC Chair

Economic & Housing Research **Insight**

FEBRUARY 2020

## The Housing Supply Shortage: State of the States

The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



### Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates ( $v^*$ ). Second, we need an estimate of the target number of households ( $h^*$ ).<sup>1</sup> The estimates of  $v^*$  and  $h^*$  give an estimate of housing demand ( $k^*$ ) using the formula:

$$k^* = \frac{h^*}{1 - v^*} Eq(1)$$

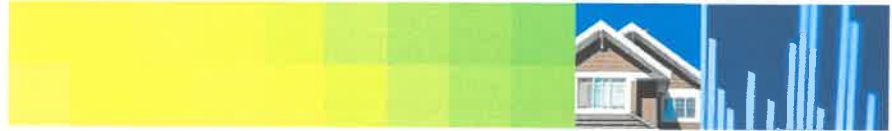
### Vacancy rates

As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates ( $v^*$ ), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for  $v^*$  because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

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<sup>1</sup> The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.

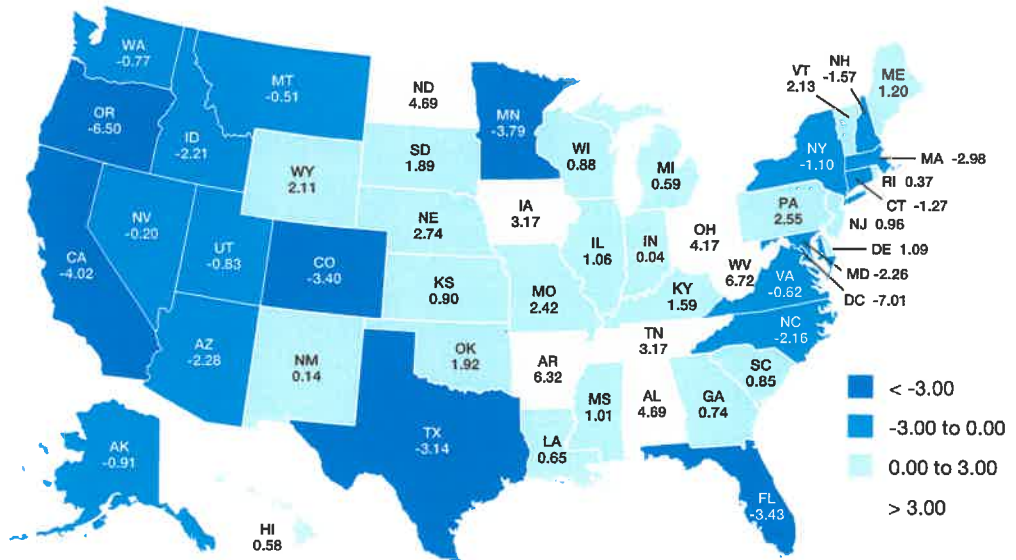


It is interesting to compare each state's long-term vacancy rate ( $v^*$ ) to recent estimates ( $v$ ). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

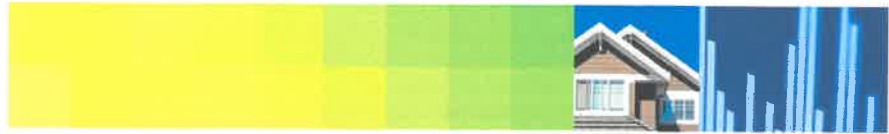
**Exhibit 1**

**Difference between 2018 vacancy rate and historical vacancy rate**

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



**Target households**

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

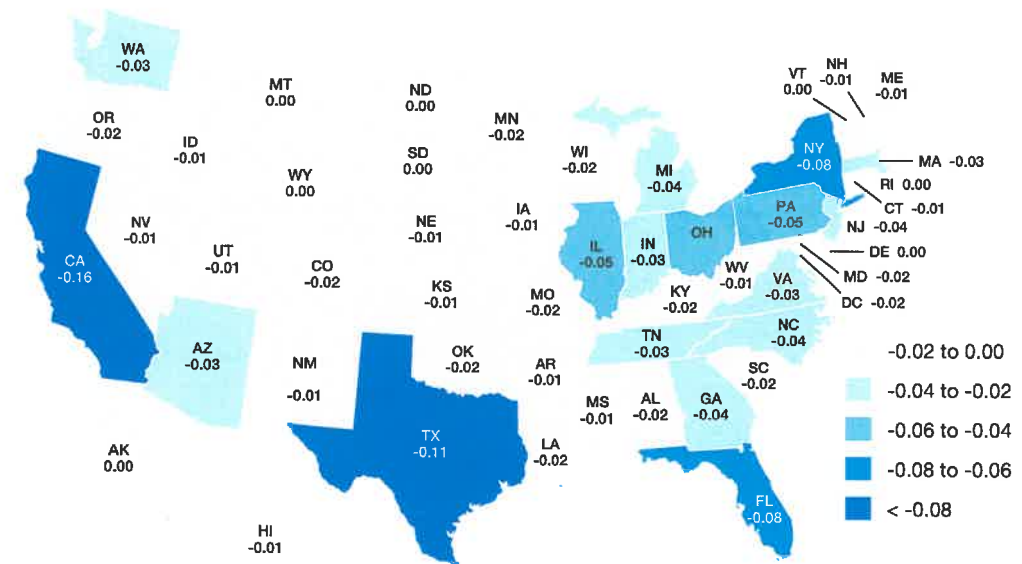
While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

Due to different age profiles, the share of missing households varies by state. **Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

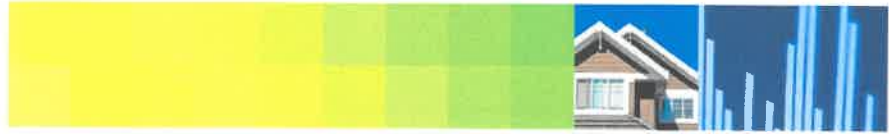
**Exhibit 2**

**Missing households due to high housing costs (millions)**

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.



### Static estimate of housing deficit

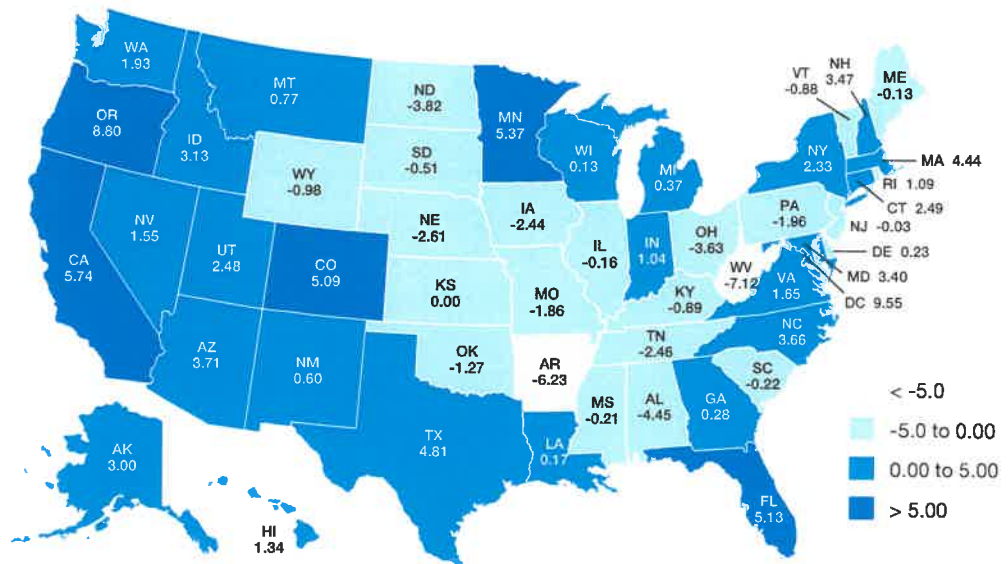
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).<sup>2</sup> Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

**Exhibit 3**

### Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

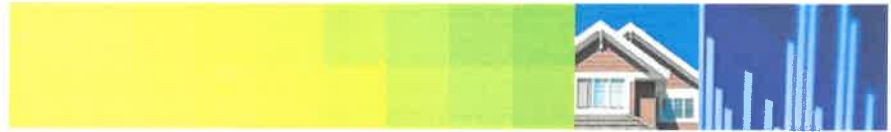
A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

<sup>2</sup> The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.





### Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

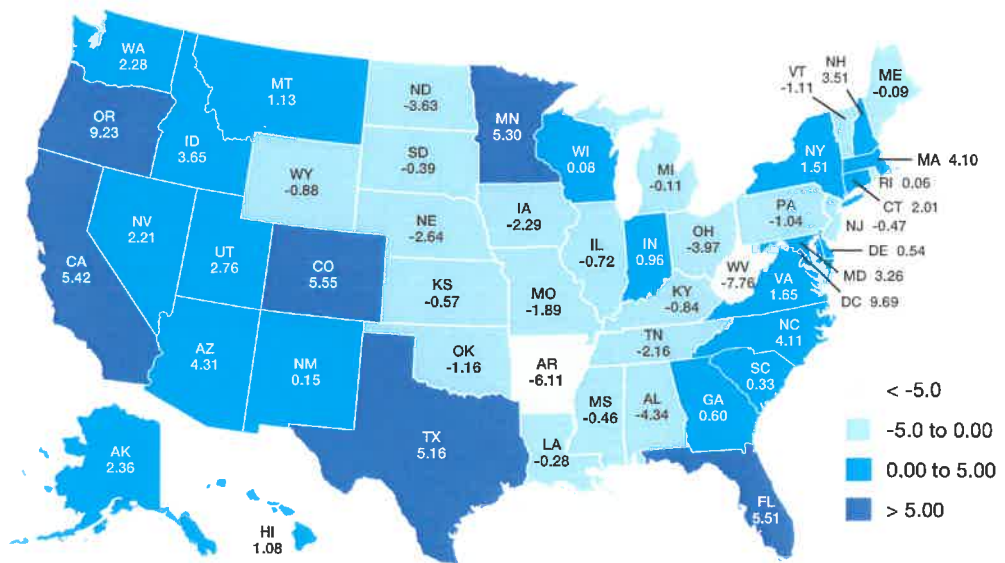
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (Exhibit 4).<sup>3</sup>

Exhibit 4

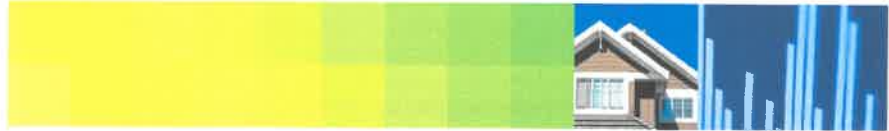
### Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

<sup>3</sup> We used the average net migration flows between states from 2001 to 2017 for the past flows.



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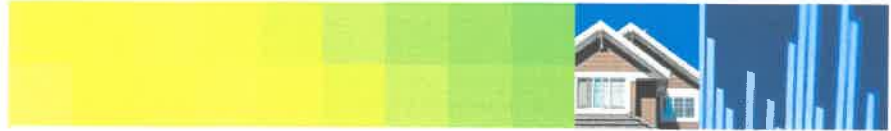
For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

**Conclusion**

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.



## Appendix

### 1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody's analytics for the period from 1970 to 2000<sup>4</sup> and estimate the average vacancy rate for this period for each state.

$$VR_i = \text{average}(VR_i) \text{ for } 1970\text{--}2000,$$

where  $i$  is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership—Table 8—Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state's weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

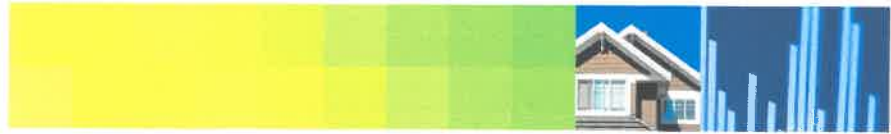
### 1.2 Estimating target households

We obtain the headship rates<sup>5</sup> for the year 2018 by state and by age for all the 50 states and District of Columbia.<sup>6</sup> We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey—Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where  $i$  is the state and  $j$  is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.<sup>7</sup>

### 1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

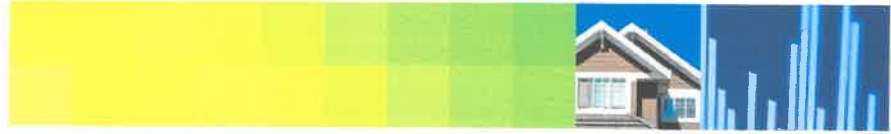
where  $i$  is the state,  $j$  is the five-year age buckets,  $I$  is the in-migrants, and  $O$  is the outmigrants.

To estimate the net outmigrants from states that have a  $NM < 0$ , we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,i}$$

where  $P_{i,j,out}^*$  is the total change in population (net out-migrants) for states that have net outmigration,

<sup>7</sup> These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$  is the net out-migrants by age group and state,

$\sum NM_{i,j}$  is the sum of the total out-migrants for the state, and

$P_{m,j}$  is the historical net domestic migration data from Moody.

The ratio of  $NM / \sum NM$  gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ( $P_{i,j,out}^*$ ) is then divided among the in-migrating states, given that the net flows for the country are 0.

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where  $\Delta P_{i,j,in}^*$  is the in-migrants to the state i from the outmigrants pool,

$SI$  is the share of the state in total in-migrants,

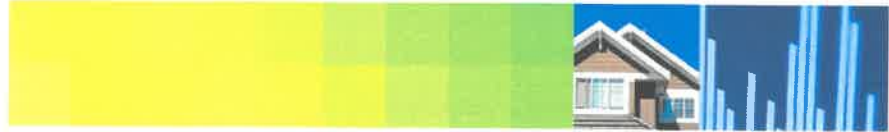
$SA$  is the share of the five-year age bucket in the total in-migrants, and

$\Delta P_{i,j,out}^*$  is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).



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**Prepared by the Economic & Housing Research group**

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### Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.

Exhibit A

OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)				
1	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
2	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
3	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
	<b>Household Formation Groups</b>	<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
		20,397,998		6,668,498
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
4	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
5	+ Vacancy Adjustment (2.63%)			178,896
6	+ Overcrowding (6.76%)			459,917
7	+ Replacement Adjustment (0.50%)			34,010
8	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
9	+ Cost-burden Adjustment ((Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
	<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>			<b>1,208,565</b>





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EXHIBIT B

September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Subject: SCAG’s Objection to HCD’s Regional Housing Need  
Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)’s formal objection to HCD’s Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

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- First Vice President  
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- Energy & Environment  
**Linda Parks, Ventura County**
- Transportation  
**Cheryl Viegas-Walker, El Centro**

Attachment: Appeal Form and Supporting Documentation (City of Laguna Beach) (Appeal of the Draft RHNA Allocation for the City of Laguna

*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*

SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### **Improved Vacancy Rate Comparison**

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

4. From our review, HCD's data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region's future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG's originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD's current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise  
Executive Director

Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1  
SCAG Alternative Determination**

<b>1</b>	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>				
<b>2</b>	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>				<b>20,725,878</b>
<b>3</b>	<b>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</b>				<b>-327,879</b>
<b>4</b>	<b>Household (HH) Population, Oct 1, 2029</b>				<b>20,397,998</b>
	<b>Household Formation Groups</b>	<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>	
		<b>20,397,998</b>		<b>6,668,498</b>	
	<b>under 15 years</b>	3,812,391		n/a	
	<b>15 - 24 years</b>	2,642,548		147,005	
	<b>25 - 34 years</b>	2,847,526		864,349	
	<b>35 - 44 years</b>	2,821,442		1,304,658	
	<b>45 - 54 years</b>	2,450,776		1,243,288	
	<b>55 - 64 years</b>	2,182,421		1,116,479	
	<b>65 -74 years</b>	1,883,181		1,015,576	
	<b>75 - 84 years</b>	1,167,232		637,415	
	<b>85+</b>	590,480		339,727	
<b>5</b>	<b>Projected Households (Occupied Unit Stock)</b>				<b>6,668,498</b>
<b>6</b>	<b>+ Vacancy</b>	<b>Owner</b>	<b>Renter</b>		
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%		
	Households by Tenure	3,496,058	3,172,440		
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>		
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%		
	Difference	0.37%	1.70%		
	Vacancy Adjustment	12,953	53,815		66,768
<b>7</b>	<b>+ Overcrowding (Comparison Point vs. Region ACS %)</b>	5.20%	9.82%	4.62%	308,264
<b>8</b>	<b>+ Replacement Adj (Actual DOF Demolitions)</b>		<b>0.14%</b>		9,335
	<b>- Household Growth on Tribal Land (SCAG Estimate)</b>				<b>-2,766</b>
<b>9</b>	<b>- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</b>				<b>-6,250,261</b>
<b>10</b>	<b>+ Cost-burden Adjustment (Comparison Point vs. Region)</b>				<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>				<b>823,808</b>

1	OPTION B: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)				
2	Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)				20,725,878
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)				-327,879
4	Household (HH) Population, Oct 1, 2029				20,397,998
	Household Formation Groups	SCAG Projected HH Population	Headship rate - see Table 2	Projected Households	
		20,397,998		6,668,498	
	under 15 years	3,812,391		n/a	
	15 - 24 years	2,642,548		147,005	
	25 - 34 years	2,847,526		864,349	
	35 - 44 years	2,821,442		1,304,658	
	45 - 54 years	2,450,776		1,243,288	
	55 - 64 years	2,182,421		1,116,479	
	65 - 74 years	1,883,181		1,015,576	
	75 - 84 years	1,167,232		637,415	
	85+	590,480		339,727	
5	Projected Households (Occupied Unit Stock)				6,668,498
6	+ Vacancy	Owner	Renter		
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%		
	Households by Tenure	3,496,058	3,172,440		
	Healthy Market Vacancy Standard	2.00%	6.00%		
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%		
	Difference	0.87%	2.70%		
	Vacancy Adjustment	30,433	85,540		115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%	308,264
8	+ Replacement Adj (HCD minimum standard)		0.50%		33,340
	- Household Growth on Tribal Land (SCAG Estimate)				-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)				-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)				47,724
	6th Cycle Regional Housing Need Assessment (RHNA)				920,772



1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for for-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>

**Option A: Regional Housing Need Allocation (RHNA) Determination**  
**SCAG Region**  
**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	212,284
Low	15.1%	124,375
Moderate	17.1%	140,601
Above-Moderate	42.1%	346,547
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>

\* Extremely-Low 14.6% included in Very-Low Category

**Option B: Regional Housing Need Allocation (RHNA) Determination**  
**SCAG Region**  
**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	231,084
Low	15.1%	135,390
Moderate	17.1%	159,982
Above-Moderate	42.1%	394,316
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>

\* Extremely-Low 14.6% included in Very-Low Category

*Income Distribution: Income categories are prescribed by California Health and Safety Code (Section 50093, et seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

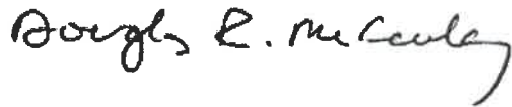
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Douglas R. McCauley  
Acting Director

Enclosures

**ATTACHMENT 1**

**HCD REGIONAL HOUSING NEED DETERMINATION**

**SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

*Notes:*

*Income Distribution:*

*Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

<b>SCAG: June 30, 2021-October 15, 2029 (8.3 Years)</b>				
<b>HCD Determined Population, Households, &amp; Housing Need</b>				
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>			20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029			-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>			<b>20,079,930</b>
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>
		20,079,930		6,801,760
	under 15 years	3,292,955	n/a	n/a
	15 – 24 years	2,735,490	6.45%	176,500
	25 – 34 years	2,526,620	32.54%	822,045
	35 – 44 years	2,460,805	44.23%	1,088,305
	45 – 54 years	2,502,190	47.16%	1,180,075
	55 – 64 years	2,399,180	50.82%	1,219,180
	65 – 74 years	2,238,605	52.54%	1,176,130
	75 – 84 years	1,379,335	57.96%	799,455
	85+	544,750	62.43%	340,070
4.	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,801,760</b>
5.	+ Vacancy Adjustment (2.63%)			178,896
6.	+ Overcrowding Adjustment (6.76%)			459,917
7.	+ Replacement Adjustment (.50%)			34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)			-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
<b>6<sup>th</sup></b>	<b>Cycle Regional Housing Need Assessment (RHNA)</b>			<b>1,341,827</b>

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local







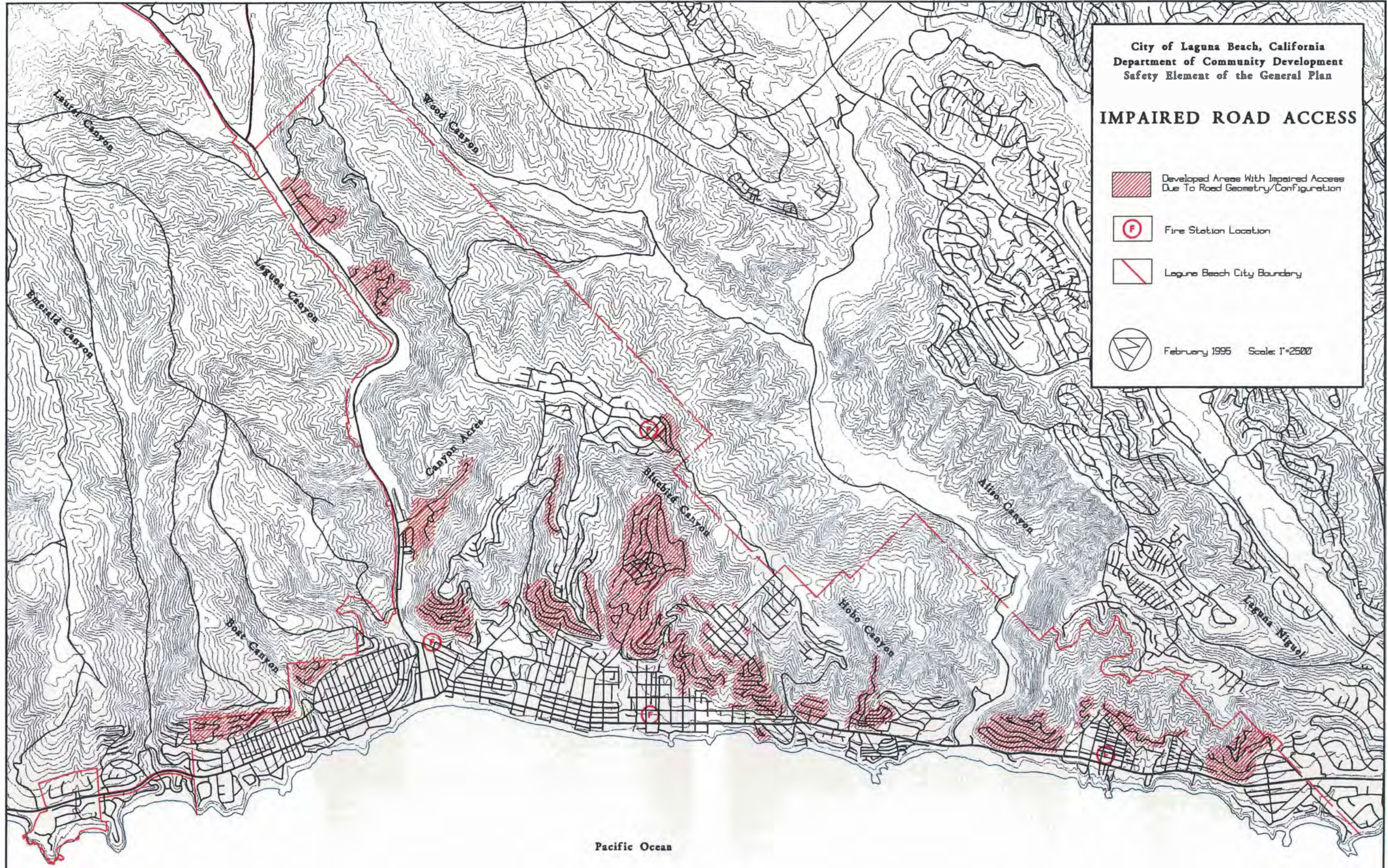
government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).

City of Laguna Beach, California  
Department of Community Development  
Safety Element of the General Plan

### IMPAIRED ROAD ACCESS

-  Developed Areas With Impaired Access Due To Road Geometry/Configuration
-  Fire Station Location
-  Laguna Beach City Boundary
-  February 1995 Scale: 1"=2500'



Pacific Ocean

Attachment: Appeal Form and Supporting Documentation (City of Laguna Beach) (Appeal of the Draft RHNA Allocation for the City of

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068







Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist,  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Los  
Alamitos

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Los Alamitos to reduce the draft RHNA allocation for the City of Los Alamitos by 500 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Los Alamitos requests a reduction of its RHNA allocation by 500 units (from 767 units to 267 units) based on the following issues:

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)
- 2) Availability of land suitable for urban development or for conversion to residential use
- 3) Sewer or water infrastructure constraints for urban development
- 4) Lands protected from urban development under existing federal or state programs
- 5) Changed circumstances

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal(s) and recommend no change to the City of Los Alamitos's RHNA allocation. Regarding Issue 1, no evidence was provided to support an incorrect application of the adopted RHNA methodology, and while the City requests it, SCAG cannot use the 5th RHNA cycle methodology for the current cycle. Regarding Issue 2, the availability of land was not demonstrated to be an impediment to meeting the City's RHNA allocation since it does not provide evidence that it cannot accommodate housing on other areas in the jurisdiction. Regarding Issue 3, based on sewer and water capacity constraints, no evidence was provided from the service providers that precludes the jurisdiction from accommodating its draft RHNA allocation. Regarding Issue 4, the

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

City does not provide evidence that there is insufficient land available for accommodating its draft RHNA allocation. Regarding Issue 5, change in circumstance impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the appeal that indicates that housing need within jurisdiction is disproportionately impacted in comparison to the rest of the SCAG region.

## **BACKGROUND:**

### **Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Los Alamitos: 967 units  
    Very Low Income: 193 units  
    Low Income: 118 units  
    Moderate Income: 145 units  
    Above Moderate Income: 311 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

### **Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Los Alamitos. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and

their opposition to any action which would result in a transfer of additional units to Long Beach.

**ANALYSIS:**

***Issue 1: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)***  
***[Government Code section 65584.05 (b)(2)].***

*The City indicates that it is appealing its draft RHNA allocation based on an incorrect application of the adopted Final RHNA Methodology. It states that the adopted 6<sup>th</sup> cycle RHNA methodology failed to further the objectives of State housing law in Government Code Section 65584(d). The appeal argues that the methodology's distribution of housing need based on a community's designation as a disadvantaged community (DAC), which the City of Los Alamitos is not, disregards local planning constraints and forces the City to accommodate the residual need from disadvantaged communities.*

*Additionally, the City requests a reduction of its draft RHNA allocation based on the 5<sup>th</sup> RHNA cycle adopted methodology. It argues that the 5<sup>th</sup> cycle allocation also addresses the goals of State housing law in Government Code section 65584(d).*

**SCAG Staff Response:** As described above and in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally-reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the RHNA methodology was found by HCD to further the five statutory objectives<sup>1</sup> in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another. The basis for an appeal for this factor is the *application* of the RHNA methodology and not the RHNA methodology itself, which was a separate but extensive process that involved multiple steps and public involvement leading up to final adoption.

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)

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An example of an improper application of the adopted Methodology that may be eligible for appeal might be a data error identified by a local jurisdiction. The regional determination establishing the total number of housing units to be allocated to the SCAG region for the 6th RHNA cycle was set by HCD and is not subject to appeal by SCAG or its constituent jurisdictions.

Additionally, it is important to note that the objectives of State housing law have been updated since the 5<sup>th</sup> RHNA cycle, which concluded in October 2012. Notably is the addition of the fifth objective of RHNA – Affirmatively Furthering Fair Housing (AFFH). This addition for the 6<sup>th</sup> RHNA cycle is one of the reasons for the inclusion of the consideration of DACs and promoting fair access to housing for disadvantaged groups in higher resource areas. For these reasons, SCAG staff does not recommend a reduction to the City’s draft RHNA allocation based on this factor.

***Issue 2: Availability of land suitable for urban development or for conversion to residential use [Government Code section 65584.04(e)(2)(B)].***

*The City of Los Alamitos indicates in its appeal that 89% of land within the City is unavailable for additional development. Listed as unavailable are multifamily residential, commercial offices, parks, the Joint Forces Training Base (JFTB), and public easements. The City also claims that only 0.01% of the City, or 3 acres, is available space.*

**SCAG Staff Response:** Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG “may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality” (which includes the land use policies in its General Plan). “Available land suitable for urban development or conversion to residential use,” as expressed in 65584.04(e)(2)(B), is not restricted to vacant sites; rather, it specifically indicates that underutilized land, opportunities for infill development, and increased residential densities are a component of “available” land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

“In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.” (HCD Letter at p. 2).

Furthermore, on June 10, 2020, HCD released extensive guidelines for housing element site inventories.<sup>2</sup> A wide range of adequate sites are detailed including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).<sup>3</sup> Specifically, the guidelines indicate that (page 32):

<sup>2</sup> See [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf)

<sup>3</sup> See also Accessory Dwelling Unit Handbook, HCD, September 2020 at <https://www.hcd.ca.gov/policy-research/docs/adu-ta-handbook-final.pdf>

“In consultation with HCD, other alternatives may be considered such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.”

As such, the City can and must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City’s projected growth.

While the City indicates that only 3 acres is available for development and lists the acreage of already zoned and “built out” existing land uses, it does not provide evidence that it is unable to consider underutilization of these sites, increased densities, and other planning tools to accommodate its assigned need. Again, SCAG is prohibited from limiting the consideration of suitable sites due to the City’s land use restrictions and is required to review alternative methods to meet housing need, neither of which is provided in the appeal application. For this reason, SCAG staff does not recommend a reduction to the City of Los Alamitos’s draft RHNA allocation based on this factor.

***Issue 3: Sewer or water infrastructure constraints for additional development [Government Code section 65584.04(e)(2)(A)].***

*The City of Los Alamitos indicates in its appeal that water and sewage infrastructure is a growth constraint. According to the appeal, considerable growth population “will put a strain on current infrastructure as Los Alamitos does not own and maintain the water/sewer infrastructure for the City.”*

**SCAG Staff Response:** The full text of this factor is from Government Code Section 65584(e)(2)(A):

“Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period).”

For this factor to apply, the jurisdiction must be precluded from providing necessary infrastructure for additional development due to supply and distribution decisions made by a sewer or water provider other than the local jurisdiction. For the sewer and water constraints mentioned by the jurisdiction, it is not evident that any State or federal laws, regulations, or supply and distribution decisions made by an external provider would prevent the jurisdiction from providing necessary

infrastructure. For this reason, SCAG staff does not recommend a housing need reduction based upon this planning factor.

***Issue 4: Lands protected from urban development under existing Federal or State programs [Government Code section 65584.04(2)(C)].***

*In its appeal, the City indicates that the Joint Forces Training Base (JFTB) occupies approximately 50% of its 2,619 acres. The military installation contains an operational airfield, two runways, and related aircraft facilities. The City argues that residential development outside of the airfield area is restricted due to noise impact, height limitations, and other building restrictions.*

**SCAG Staff Response:** It is presumed that planning factors such as lands protected by federal and state programs have already been accounted for prior to the local input submitted to SCAG since such factors are required to be considered at the local level. No evidence was submitted that these areas have changed since the most current input provided in September 2018.

SCAG staff acknowledges that the City does not have land use decision making authority on JFTB land, but the City is required to consider availability of land and other planning tools to accommodate its need in areas where it does have land use authority (see also Response to Issue 2 above). However, the City does not provide evidence that it is unable to consider underutilization of other sites, increased densities, and other planning tools to accommodate its assigned need. There is also no evidence provided that all other sites within the City are unsuitable for any development, nor is there any supporting evidence that the rezoning of non-residential sites is impossible. For these reasons, SCAG staff does not recommend a reduction to the City's draft RHNA allocation based on this factor.

***Issue 5: Changed circumstances [Government Code section 65584.05(b)].***

*The City argues that the COVID-19 pandemic has had a considerable impact on its economy as well as the State. In its appeal, the City states that population growth trends reflect a lower rate of population growth in the region and that it will take years for the City's economy and housing market to return to pre-COVID levels.*

**SCAG Staff Response:** SCAG recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment. However, these facts, as presented by the City, do not "merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04." (Govt. Code § 65584.05(b)(3)). Furthermore, Section 65584.05(b) requires that:

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“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”

SCAG’s Regional Council delayed the adoption of its 2020-2045 RTP/SCS by 120 days in order to assess the extent to which long-range forecasts of population, households, and employment may be impacted by COVID-19; however, the document’s long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report<sup>4</sup> outlines the process for forecasting long-range employment growth which involves understanding national growth trends and regional competitiveness, i.e., the SCAG’s region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts generally do not provide a basis for changes in the region’s long-term competitiveness or the region’s employment outlook for 2023-2045. As such, SCAG’s assessment is that comparable data would not suggest long-range regional employment declines.

The COVID-19 pandemic has had various impacts throughout Southern California; however, it has not resulted in a slowdown in major construction nor has it resulted in a decrease in a demand for housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties. Demand for housing as quantified by the RHNA allocation is a need that covers an 8-year period, not simply for impacts that are in the immediate near-term. Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the appeal that indicates that housing need within jurisdiction is disproportionately impacted in comparison to the rest of the SCAG region. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction’s draft RHNA allocation.

**Other:** Outreach.

*The City writes in its appeal that in comment letters to SCAG in September 2019, it requested that SCAG “keep the City informed through the process” adding that “those requests have not been met to a satisfactory level.”*

While SCAG staff acknowledges that challenges of participating as one jurisdiction among 197 jurisdictions during the RHNA process, SCAG has committed to undertaking extensive effort to reach out to not only every individual jurisdiction, but to elected officials, stakeholders, and the general public as well. At each milestone during the RHNA process, emails were distributed to individual planning directors and city managers/county chief executive officers for all jurisdictions, along with new information posted on the SCAG RHNA webpage. Planning directors were also

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<sup>4</sup> See [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Demographics-And-Growth-Forecast.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Demographics-And-Growth-Forecast.pdf)

invited to participate in numerous public hearings, meetings, and workshops to hear information on the RHNA process and methodology, and to provide input. While SCAG staff acknowledges the frustration held by some stakeholders with the complexity of the RHNA process, SCAG staff has made significant effort to conduct a transparent and inclusive RHNA outreach process over the past two years.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Los Alamitos)
2. Appeal Form and Supporting Documentation (City of Los Alamitos)
3. Comments Received During the Comment Period (General)



Southern California Association of Governments  
Remote Participation Only  
**City of Los Alamitos RHNA Appeal**  
**January 22, 2021**

**Attachment 1: Local Input and Development of the Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Los Alamitos had to provide information and local input on SCAG’s growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Los Alamitos’ Draft RHNA Allocation.

**1. Local input**

***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG’s growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG’s Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Los Alamitos, the anticipated number of households in 2020 was 4,150 and in 2030 was 4,335 (growth of 185 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Los Alamitos to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction’s Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>.

### **b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Los Alamitos submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### **c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://scag.ca.gov/sites/main/files/file-attachments/growth-vision-methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spm dm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG received additional technical corrections from the City of Los Alamitos and incorporated them into

the Growth Vision in December 2019. The City of Los Alamitos' TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTa) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### 3. Draft RHNA Allocation for the City of Los Alamitos

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Los Alamitos received its draft RHNA allocation on September 11, 2020. Application of the RHNA

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

methodology yields the draft RHNA allocation for the City of Los Alamitos as summarized in the data and calculations in the tables below.

<b>Los Alamitos city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	153
Percent of households who are renting:	56%
Housing unit loss from demolition (2009-18):	-
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	268
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	21.55%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	2,166,000
Share of region's job accessibility (population weighted):	0.10%
Jurisdiction's HQTAs population (2045):	-
Share of region's HQTAs population (2045):	0.00%
Share of population in low/very low-resource tracts:	0.00%
Share of population in very high-resource tracts:	6.82%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Los Alamitos city	
Forecasted household (HH) growth, RHNA period:	153
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	5
Replacement Need	-
<b>TOTAL PROJECTED NEED:</b>	<b>158</b>
Existing need due to job accessibility (50%)	406
Existing need due to HQTAs pop. share (50%)	0
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	203
<b>TOTAL EXISTING NEED</b>	<b>609</b>
<b>TOTAL RHNA FOR LOS ALAMITOS CITY</b>	<b>767</b>
Very-low income (<50% of AMI)	193
Low income (50-80% of AMI)	118
Moderate income (80-120% of AMI)	145
Above moderate income (>120% of AMI)	311

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With no forecasted 2045 population living within HQTAs, the City of Los Alamitos represents none of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute

automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Los Alamitos' median TAZ, it will be possible to reach 21.55% of the region's jobs in 2045 within a 30-minute automobile commute (2,166,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 203 units assigned to the City of Los Alamitos.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).*  
*Late submissions will not be accepted.*

Date: 10/26/20 Jurisdiction Subject to This Appeal Filing: City of Los Alamitos  
*(to file another appeal, please use another form)*

Filing Party (Jurisdiction or HCD)  
Jurisdiction

Filing Party Contact Name: Ron Noda Filing Party Email: rnode@cityoflosalamitos.org

**APPEAL AUTHORIZED BY:**

Name: Chet Simmons

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_



**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

The City of Los Alamitos believes it is necessary to revise the Draft RHNA Allocation to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable Sustainable Communities Strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following areas of concern which are discussed in the next section in accord with Government Code Section 65584(d):

1. Local Planning Factors
2. Water/sewage services based on decisions by provider other than the jurisdiction
3. Methodology
4. Changed circumstances

**Brief Description of Appeal Request and Desired Outcome:**

The City requests that due to the previously-mentioned conditions above and in the supporting documentation, to include the changed circumstances experienced by Los Alamitos as a result of COVID-19, that its 6th cycle RHNA allocation be adjusted to 267 housing units.

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced 500                      Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**

**(Numbers may be continued to accommodate additional supporting documentation):**

1. RHNA Appeal Narrative
2. City Council Resolution of Intent
3. Comment letter to SCAG dated September 5, 2019

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_



CITY OF  
**Los Alamitos**  
*California*

3191 Katella Avenue  
Los Alamitos, CA 90720-5600  
Telephone: (562) 431-3538  
FAX: (562) 493-1255  
www.cityoflosalamitos.org

October 26, 2020

Mr. Kome Ajise, Executive Director  
Southern California Association of Government (SCAG)  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: CITY OF LOS ALAMITOS APPEAL OF THE SIXTH CYCLE DRAFT  
REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) ALLOCATION**

Dear Mr. Ajise:

The City of Los Alamitos (“City”) hereby submits this appeal to the Southern California Association of Government (SCAG) of the Draft Regional Housing Needs Assessment (RHNA) Allocation (“Draft RHNA Allocation”) received September 11, 2020, for the Sixth Housing Element Cycle (2021-2029).

A revision to the Draft RHNA Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable Sustainable Communities Strategy (SCAG’s Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following grounds:

1. Local Planning Factors
  - a. SCAG failed to adequately consider the information submitted by the City describing a variety of factors that influence housing production.
    - i. The City is a built-out community with minimal land available for urban development. The 6<sup>th</sup> cycle number of 767 units given to Los Alamitos is excessive.
    - ii. The City contains the Joint Forces Training Base (JFTB), which comprises approximately 2.25 square miles of the 4.25 square miles

of the City. The JFTB installation includes an airport, military training grounds, and houses military equipment and vehicles.

2. Water/sewer services based on decisions by provider other than the jurisdiction
  - a. The City does not provide water and sewer services to its residents and businesses. Water is provided by Golden State Water and sewer services are provided by the Rossmoor/Los Alamitos Area Sewer District (RLAASD) in conjunction with the Orange County Sanitation District (OCSD).
3. Methodology
  - a. SCAG failed to determine the City's share of regional housing needs in accordance with the information described in the Final RHNA Methodology established and approved by SCAG, and in a manner that furthers, and does not undermine the five objectives listed in Government Code Section 65584(d).
4. Changed Circumstances
  - a. A significant and unforeseen change in circumstances has occurred that supports revisions to the information submitted pursuant to Government Code Section 65584.04(b). The COVID-19 Pandemic and its spillover effects on the local economy, including the housing market are profound. The City of Los Alamitos recommends that SCAG reevaluate the RHNA number with the new information/studies in hand.

*(The balance of this page left intentionally blank)*



## Grounds for the City of Los Alamitos Appeal

### Local Planning Factors

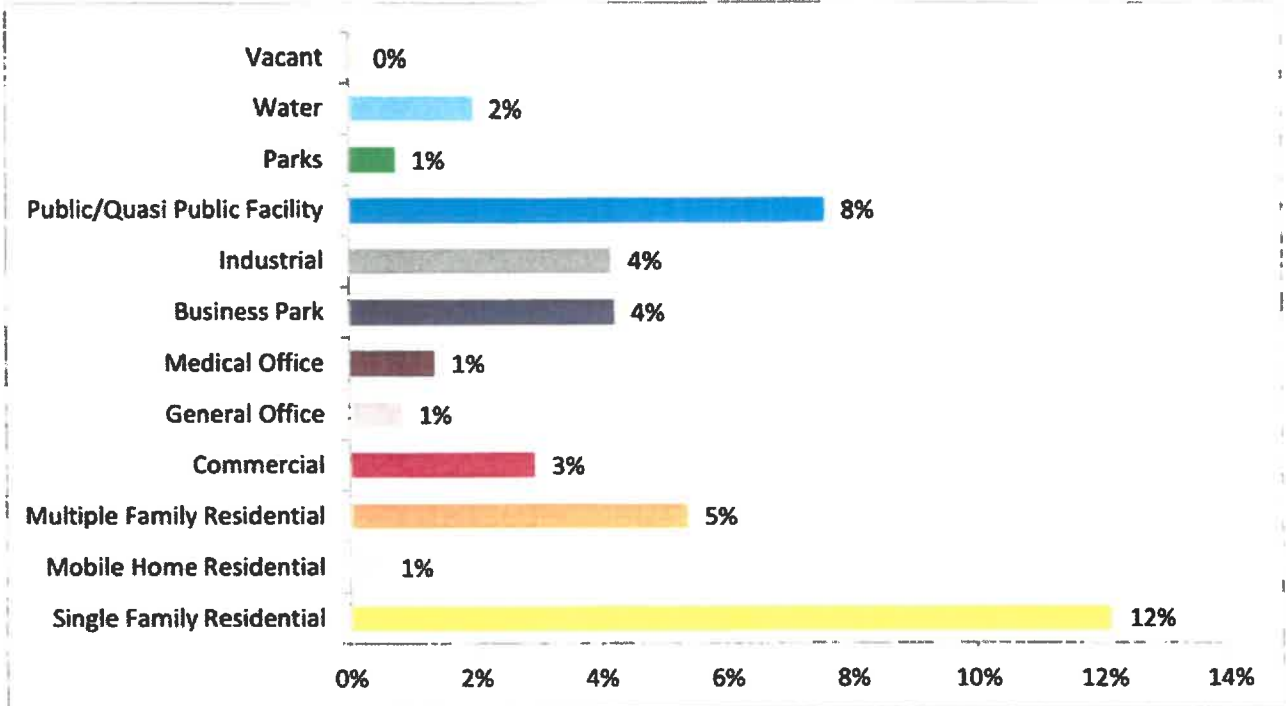
The City's 5<sup>th</sup> Cycle housing unit number was 61 and the 6<sup>th</sup> Cycle number is 767. This is an increase of approximately 1,150%.

The following sections describe the significant constraints to development of additional housing and/or conversion to residential use, which were not adequately considered by SCAG, including:

- 89% of the land within the City is not available for additional development. This includes existing and built-out multifamily residential, commercial, general office, medical office, business park, industrial, public/quasi-public facilities, parks, the Joint Forces Training Base, right of way/easement and water.
- Of the City's 2,619 acres of area, approximately 3 acres (0.01%) are available space, approximately 1,317 acres (50%) are occupied by the Joint Forces Training Base, and approximately 394 acres (15%) are dedicated right of way/easement and water and therefore not suitable for development due to these existing uses.

Existing Land Use	Acres	Units	Population	Employment
<b>Residential</b>				
Single Family	275	1,680	4,322	-
Mobile Home	12	112	288	-
Multiple Family	122	2,629	6,764	
<b>Commercial &amp; Employment</b>				
Commercial	67	-	-	2,896
General Office	19	-	-	1,788
Medical Office	31	-	-	3,065
Business Park	96	-	-	2,912
Industrial	95	3	10	2,149
<b>Public/Other</b>				
Public/Quasi Public Facility	172	-	-	680
Parks	17	-	-	-
Joint Forces Training Base	1,317	-	-	775
• Base Facility	1,063	-	-	675
• General Office	12	-	-	100
• Golf Course	220	-	-	-
• Parks	22	-	-	-
Water	45	-	-	-
Vacant	3	-	-	-
Subtotal of Parcelized Land	2,270	-	-	-
Right of Way/Easement	349	-	-	-
All Land within City Boundaries	2,619	4,424	11,384	14,265

**Chart 1. Los Alamitos, Detailed Existing Land Use Breakdown by Acreage (without JFTB)**



Note: These figures consider only parcelized land and exclude right-of-way. Source: PlaceWorks, 2013.

The City has scarce vacant land and will have tremendous difficulty in meeting the Draft RHNA that was assigned to the City without regard to whether or not there exists feasible locations for increased residential use. It is suggested that SCAG include a more comprehensive level of analysis and establish interaction with the City prior to assigning its final RHNA allotment.

The Joint Forces Training Base (JFTB) contains an operational airfield, storage, and a repair facility for military aircraft. The JFTB has two runways, a 5,900 ft. PEM nonskid surface and an 8,000 ft. concrete and asphalt runway. The airfield is one of the most active Department of Defense aviation operations in the Continental United States and is located in one of the most congested air space in the world.

Residential development outside of the airfield area is restricted due to noise impact. Additionally there are building restrictions and height limitations that restrict multi-story development of multi-family residential units.



JFTB Airfield

### Water Services

Golden State Water (GSW) Company delivers quality, reliable water to more than 1.0 million people including the City of Los Alamitos since 1929.

### Sewer Services

Sewer services are provided to the City by the Rossmoor/Los Alamitos Area Sewer District (RLAASD) in conjunction with the Orange County Sanitation District (OCSD), which are a public agency that provides wastewater collection, treatment, and disposal services for approximately 2.6 million people to include Los Alamitos.



Development of housing in the City of Los Alamitos has a number of growth constraints. One of the constraints is water and sewage infrastructure. Considerable growth population will place a strain on current infrastructure as Los Alamitos does not own and maintain the water/sewer infrastructure for the City. Sizeable housing growth needs to include the utility companies in the discussion.

**Methodology**

The methodology of redistributing units from the residual need calculation fails to provide an equitable distribution at a regional level, undermining objectives listed in Government Code Section 65584(d). SCAG has not yet determined each jurisdiction’s Regional Housing Need in a manner that furthers, and does not undermine, State Housing Goals.

SCAG failed to determine each jurisdiction’s regional housing need in a manner that furthers, and does not undermine, the intent and objectives of state housing laws as required by Government Code Section 65584(d). Specifically, SCAG granted an exception to jurisdictions with more than 50% of their population located in high poverty/segregation areas, otherwise known as Disadvantage Communities (DAC), rather than proportionately distributing those residential need units based upon percentage or each jurisdiction’s total population that lives in a high DAC area.

In November, 2019, the Regional Council approved a substitute motion removing the household growth factor and significantly modifying the Draft RHNA Allocation methodology to shift approximately 44,000 units of residential RHNA Allocation from five jurisdictions in Orange County that qualify for the DAC protection of the 2020-2045 household growth to non-DAC jurisdictions in Orange County. The redistribution at the County level was not vetted at the RHNA subcommittee of the Community, Economic and Human Development (CEHD) committee and was introduced merely days before the vote at the Regional Council. As a result, the vast majority of non-DAC cities (approximately 30 cities) not deemed, including Los Alamitos, were forced to accommodate the residual need. This effectively increased the City’s Draft RHNA Allocation not based on local needs, but based upon the residual need left by these other jurisdictions. In a comment letter from the City to SCAG, dated September 5, 2019, the City of Los Alamitos requested the involvement of local jurisdictions since each entity has its own needs. The City also requested that SCAG to keep the City informed through the process. Those requests have not been met to a satisfactory level.

SCAG failed to consider information submitted to it as a result of the survey required by Government Code section 65584.04(b) and information that was readily available to SCAG during development of its regional housing need allocation methodology. Specifically, SCAG failed to hold DAC Jurisdictions accountable for their fair share of the housing burden by recognizing planned and approved housing projects by DAC



Jurisdictions, which in turn, caused the units that were redistributed to non-DAC cities to be double-counted.

The City requests that Los Alamitos’s RHNA Allocation be reduced to 267, through utilizing the methodology employed during the 5<sup>th</sup> Cycle (January 2014 to October 2021).

*5<sup>th</sup> Cycle RHNA Allocation Methodology*

1. Existing and projected jobs and housing relationship
2. The opportunities and constraints to develop additional housing in each member jurisdiction, including all of the following:
  - a. (i) Lack of capacity for sewer or water service
  - b. (ii) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities
  - c. (iii) Lands preserved or protected from urban development
  - d. (iv) County policies to preserve prime agricultural land
3. The distribution of household growth assumed for purposes of a comparable period of RTP and opportunities to maximize the use of public transportation and existing transportation infrastructure
4. The market demand for housing
5. Agreements between a county and cities in the county to direct growth toward incorporated areas of the county
6. The loss of units contained in assisted housing developments
7. High housing costs burdens
8. The housing needs of farmworkers
9. The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction
10. Any other factors adopted by the Council of Governments

The 5<sup>th</sup> Cycle RHNA Allocation Methodology also addressed the goals of state housing law in Government Code Section 65584 (d), including:

1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner
2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns
3. Promoting an improved intraregional relationship between jobs and housing

4. Allocating a lower proportion of housing needs to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census

### **Changed Circumstances**

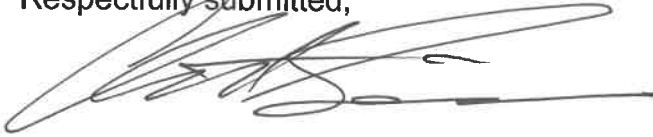
The COVID-19 Pandemic has had a considerable impact on Los Alamitos's economy as well as the state. The pandemic was unforeseen and unaddressed during the development of the regional Draft RHNA methodology for the 6<sup>th</sup> Cycle. The latest RHNA requirements will have lasting impact upon the City's economy and housing market. Additionally, population growth trends in California have recently been revised to reflect a substantially lower rate of population growth in the region.

Prior to COVID-19, the restrictions imposed, and ongoing, have significantly impacted all aspects of the City of Los Alamitos's economy. It is estimated that it will take years to return Los Alamitos to pre-COVID levels. Due to the unforeseen circumstances, the impacts to the economy, and consequently to the housing market, are profound and should be considered when evaluating realistic development potential over the eight year cycle.

### **Conclusion**

Los Alamitos is one of the smallest cities in Orange County, and prides itself on its "small town charm," even while it exists as a built out environment. Land available for residential development is scarce as vacant land accounts for 0.01%. The military air field, known as the Joint Forces Training Base with its constraints, as well as the City's reliance on outside vendors to provide water and sewage service to its constituents are significant local factors influencing residential development. Los Alamitos respectfully requests that SCAG revise the Draft RHNA allocation utilizing the 5<sup>th</sup> Cycle methodology. Doing so would further state housing objectives of Government Code section 65584(d) by "increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner," and further "promoting an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction." In summary, the City requests that due to the previously-mentioned conditions, to include the changed circumstances experienced by Los Alamitos as a result of COVID-19, that its 6<sup>th</sup> cycle RHNA allocation be adjusted to 267 housing units.

Respectfully submitted,



Chet Simmons, City Manager

cc: Michael Daudt, City Attorney  
Ron Noda, Acting Deputy City Manager

*Attachment 1. Resolution 2020-33  
2. Comment letter dated September 5, 2019*

**RESOLUTION No. 2020-33****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, OPPOSING THE MODIFIED REGIONAL HOUSING NEEDS ALLOCATION METHODOLOGY AND ASSESMENT**

**WHEREAS**, California State housing law requires each city and county plan for existing and future housing needs in accordance with the outcome of the Regional Housing Needs Assessment (RHNA) process; and,

**WHEREAS**, the Southern California Association of Governments (SCAG) is responsible for developing a uniform methodology for the distribution of the RHNA allocations among member cities and counties; and,

**WHEREAS**, the SCAG process to develop the allocation methodology for the 6<sup>th</sup> cycle RHNA, covering the planning period from October 2021 through October 2029, included opportunities for stakeholder engagement throughout, including detailed discussion of three draft allocation methodology options during a series of public meetings and hearings intended to ensure robust participation by the public and affected agencies; and,

**WHEREAS**, based on input from the City of Los Alamitos and other area stakeholders, SCAG staff developed and recommended for adoption a single recommended RHNA allocation methodology that would effectively distribute the 6<sup>th</sup> cycle RHNA allocation throughout the region; and,

**WHEREAS**, during the SCAG Regional Council meeting, a substitute motion was made by the City of Riverside that modified the staff recommended methodology and shifted a significant portion of the 6<sup>th</sup> cycle RNHA allocation away from Riverside and San Bernardino Counties toward already built-out Orange County; and,

**WHEREAS**, this modified RHNA allocation methodology was approved by the SCAG Regional Council by a contested vote of 43-19 (opposed by all Orange County SCAG representatives) despite a lack of detail regarding the associated impacts of the proposed methodology changes, supporting documentation as to the merit of the proposed changes, and any opportunity for informed stakeholder input; and,

**WHEREAS**, this modified RHNA allocation methodology does not take into account the development realities of cities in Orange County and requires the addition of 1,341,827 housing units to the development plans for the region; and,

**WHEREAS**, Los Alamitos' allocation of 767 units is a significant amount of housing for a largely built-out city to absorb and will undermine the City's specific land use planning efforts, which have been aimed at responsibly managing growth, traffic, and economic concerns; and,

**WHEREAS**, recent housing shortage studies have shown significant mistakes in the California Department of Housing and Community Development’s determination of the overall housing shortage calculation, resulting in a double counting of the need for units; and,

**WHEREAS**, these studies suggest that the total number of new residential units needed for all of California is only 820,000, significantly lower than the 1,3341,827 that were designated for the Southern California region alone; and,

**WHEREAS**, these mistakes significantly impact Los Alamitos’ ability to effectively plan and manage growth in our jurisdiction and represent a further erosion of cities’ ability to determine their own development standards and futures.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS DOES RESOLVE AS FOLLOWS:**

SECTION 1. The City Council of the City of Los Alamitos, California, finds that the above recitals are true and correct.

SECTION 2. The City Council strongly disagrees with the determinations and mythology used by California Department of Housing and Community Development in determining the 6<sup>th</sup> cycle RHNA allocations. The modified RHNA allocation, as well as the manner in which it was approved by the SCAG Regional Council, undermine the integrity of what is mandated to be a collaborative process and present a significant challenge to local development efforts and standards.

SECTION 3. The City Council publicly states its opposition to the modified RHNA allocation methodology and request that the SCAG President’s RHNA Litigation Study Team be convened to review these new studies and to pursue all available avenues to revise the 6<sup>th</sup> cycle RHNA allocations.

SECTION 5. The City Clerk shall certify as to the adoption of this Resolution.

**PASSED, APPROVED, AND ADOPTED** this 19<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
Richard D. Murphy, Mayor

ATTEST:

\_\_\_\_\_  
Windmera Quintanar, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael S. Daudt, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF LOS ALAMITOS )

I, Windmera Quintanar, MMC, City Clerk, of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 19<sup>th</sup> day of October, 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

\_\_\_\_\_  
Windmera Quintanar, MMC, City Clerk



September 5, 2019

Peggy Huang, Chair  
Regional Housing Needs Assessment Subcommittee  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017

**SUBJECT: REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) METHODOLOGY**

Dear Chair Huang and Members of the RHNA Subcommittee:

Thank you for the opportunity to make comments concerning the current conversation surrounding the methodology for the next round of the Regional Housing Needs Assessment (RHNA). We appreciate the hard work of your Committee and the Staff at SCAG.

We have reviewed the three options for the methodology and has these comments:

- **Local input should be employed in the RHNA methodology.** Each jurisdiction has its own needs, and on the ground condition of its open space, and a one-size-fits-all approach would have a negative result on the character of individual cities. The last two large parcels in the City of Los Alamitos are currently under development. One of these parcels, now under construction, will have a 50-unit townhome style condominium development, and the other, soon to be started, will have a 107-unit apartment project. If the residents of our City were engaged in a conversation, they would assume that with these two projects, our City is "built out." However, the City does have scattered properties that could potentially have more units built on them as well as a handful of small empty parcels. We are doing all that we can to encourage infill housing in these areas. The City understands the need for more housing in this and other Cities in the region, but the large numbers that appear in some of the current options, such as option one and two, would require a great deal of removal of current structures in the City to make way for these large numbers. The impact of lack of individual input could be devastating to the character of neighborhoods and cities.
- **Appeals processes should be clarified.** Our City agrees with others that SCAG should consider the methodology for redistributing housing units that are successfully appealed. Will jurisdictions that successfully file an appeal to their RHNA be exempt from receiving additional housing units successfully appealed by other jurisdictions in the region?

Once again, we appreciate the effort that the RHNA subcommittee and SCAG Staff are taking to keep our City informed through this complicated process.

Sincerely,

**CITY OF LOS ALAMITOS**

Warren Kusumoto  
Mayor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and



land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068





Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Ma'Ayn Johnson, Regional Planner Specialist, Compliance &  
(213) 236-1975, johnson@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Mission Viejo

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Mission Viejo to reduce the draft RHNA allocation for the City of Mission Viejo.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California's policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Mission Viejo requests a reduction of its draft RHNA allocation of 2,211 housing units (without identifying a specific numeric reduction) based on:

- 1) Application of the adopted Final RHNA Methodology for the 6h Cycle RHNA (2021 – 2029) – relationship to regional need determination.
- 2) Changed circumstances -- the COVID-19 pandemic and resultant economic disruptions constitute changed circumstances meriting review of the regional determination.

Other: Mission Viejo indicates that HCD failed to follow state law in issuing the regional housing need determination of 1.34 million housing units and that a regional number of 651,000 or 1.21 million housing units is more appropriate. Mission Viejo does not contest any data elements or policy components of SCAG's RHNA methodology. Mission Viejo explicitly states that their appeal does not constitute a challenge to SCAG's formula or method of allocating of housing units to any local jurisdiction.

**RATIONALE FOR STAFF RECOMMENDATION:**

While the City separates their appeal in to Appeal 1 and appeal 2 and identifies two bases of appeal (application of the Final RHNA Methodology and changed circumstances), their arguments all center

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California's Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

on the regional determination. Staff have reviewed the City's appeal documentation and recommend no change to their draft RHNA allocation. The regional determination is not a basis for an appeal and is not within the authority of SCAG's RHNA Appeals Board or Regional Council to modify. While the COVID-19 pandemic and its economic fallout could result in planning or financial challenges, the City neither demonstrates how Mission Viejo is uniquely impacted nor how long-range trends are affected such that housing need is reduced in the SCAG region.

## **BACKGROUND:**

### **Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Mission Viejo: 2,211 units  
Very Low Income: 672 units  
Low Income: 400 units  
Moderate Income: 396 units  
Above Moderate Income: 743 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

### **Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Mission Viejo. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- 
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- 
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and

their opposition to any action which would result in a transfer of additional units to Long Beach.

#### ANALYSIS:

**Issue 1: Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(2)]:**

*The City of Mission Viejo appeals on the basis that the methodology was not properly applied, pursuant to Government Code section 65584.05(a)(2):*

*“The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.”*

*Mission Viejo contends that since HCD’s regional determination is flawed, over-inflated, likely defective, and is at least double the appropriate amount (as argued in what is labeled Appeal 1), SCAG’s distribution of this number through the RHNA methodology is therefore contaminated. The City reasons that a decrease in starting point would cut each individual jurisdiction’s draft RHNA allocation, even without changes to the existing Final RHNA Methodology.*

*The City cites portions of SCAG’s Final RHNA Methodology which reference the regional determination in order to establish their linkage between the regional determination and application of the Final RHNA Methodology. The City indicates in its appeal that the issue raised is not a challenge to SCAG’s approach for allocating housing units to local jurisdictions.*

**SCAG Staff Response:** SCAG’s final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make any changes to HCD’s regional housing needs assessment. Only improper application of the methodology is grounds for an appeal. An example of an improper application of the adopted methodology might be a data error which was identified by a local jurisdiction.

With respect to the statutory objectives<sup>1</sup>, SCAG used objective measures to advance certain principles, but since local and regional conditions vary tremendously across the state and over time,

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an



there are few consistent quantitative standards which can be used to evaluate all aspects of the methodology. Ultimately, however, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met.

As described in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the Final RHNA Methodology was found by HCD to further the five statutory objectives in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another.

See also response to “other” issues below regarding more information on the RNHA process.

The City states that it is not contesting SCAG’s approach for allocating the region’s housing need, however, they indicate that errors in the regional housing need determination are inextricably part of SCAG’s allocation methodology and constitute an appeal basis. While a housing needs allocation methodology necessarily needs a number of units to allocate, HCD’s regional housing need determination was part of a separate process that is not currently a basis for appeal. The regional determination was contested by SCAG as part of the determination process. There are no provisions in Government Code section 65584.05(b) for a local jurisdiction to appeal a regional determination.

It is important to have regionally standardized approaches in all parts of the RHNA methodology in order to ensure that housing units are allocated fairly and consistently, and this approach is part of the adopted Final RHNA Methodology. Mission Viejo has not provided evidence to suggest that the process underlying the adopted Final RHNA Methodology is in any way flawed or incorrectly applied. As noted above and discussed under “other” below the regional need determination itself is not a basis for appeal. As such, SCAG staff does not recommend a reduction in the City’s draft RHNA allocation based on this issue.

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improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)

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***Issue: Changed circumstances [Government Code section 65584.05(b)(3)].***

*Government Code section 65584.05(b)(3) indicates that to the extent that sufficient data is available the following factor shall be included in developing the methodology that allocates regional housing needs:*

*“A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.”*

*Mission Viejo indicates that unemployment has dramatically increased during 2020 as a result of COVID-19 which was after the 2018-2019 local input and data development process for RHNA. This change has impacted the ability of local governments to finance the infrastructure needed for more housing. Specifically, Mission Viejo cites the UCLA Anderson Forecast with respect to current high unemployment numbers against a backdrop of strong growth in building permits anticipated through at least 2022. The City notes that the projected statewide housing production figures exceed the regional determination.*

***SCAG Staff Response:*** See the response to “other” issues below for a full discussion of the reasons why the regional determination cannot be considered a basis for appeal, and why new studies or information cannot now be considered given the necessary timelines.

While SCAG staff recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment, these facts, as presented by the City, do not merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04” (Government Code section 65584.05(b)(3)). Furthermore, section 65584.05(b) requires that,

*“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”*

SCAG’s Regional Council delayed the adoption of the 2020 RTP/SCS by 120 days in order to assess the impact of COVID-19; however, the document’s long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report outlines the process for forecasting long-range employment growth which involves understanding national growth trends and regional competitiveness, i.e., the SCAG’s region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts

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generally do not provide a basis for changes in the region's long-term competitiveness or the region's employment outlook for 2023-2045. While the UCLA Anderson Forecast cited in Mission Viejo's appeal indicates that unemployment rose during 2020, it does not comment on long-range employment. As such, SCAG's assessment is that comparable data would not suggest long-range regional employment declines.

Furthermore, the UCLA data is regional in nature and does not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was applied incorrectly to determine the jurisdiction's share of regional housing need. Because a regional study does not meet this criterion, these studies cannot be used to justify a particular jurisdiction's appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

The COVID-19 pandemic has had various impacts throughout Southern California; however, it has not resulted in a slowdown in major construction nor has it resulted in a decrease in a demand for housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties. Demand for housing as quantified by the RHNA allocation is a need that covers an 8-year period, not simply for impacts that are in the immediate near-term. In fact, the UCLA Anderson Forecast referenced by the City predicts a rapid rebound in residential building permits through 2020 and a continued increase through 2022.

Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the City's appeal that indicates that housing need within the City of Mission Viejo is disproportionately impacted in comparison to the rest of the SCAG region by these potential changes.

Market conditions and the cost to develop and construct the allocated new housing units within a jurisdiction cannot be considered by SCAG as a justification for a RHNA reduction since the RHNA Allocation does not provide a building quota or mandate. The City is not responsible for obtaining land or developing housing, it is only required to plan and zone for its determined housing need. Notwithstanding the UCLA Anderson Forecast's projection of statewide permits issued by 2022, HCD has assessed the region's housing *need* as being greater than short-term anticipated permitting. As such, Mission Viejo does not establish how its share of regional housing needs should be lower as a result of the changed circumstances indicated.

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**Other:** Regional need determination.

*In what is labeled as Appeal 1, the City cites studies which were made available in 2020 indicating that the regional determination should be 651,000 units. The City claims that one such study indicates an appropriate statewide figure is 820,000 units and that another study notes errors in HCD's calculations surrounding vacancy rate assumptions and double-counting.*

*In what is labeled as Appeal 2, Mission Viejo indicates that HCD violated statute by relying on the state Department of Finance's (DOF) population forecasts rather than SCAG's in the regional housing needs determination, and that this change would result in a regional determination of 1.21 million housing units.*

*Mission Viejo indicates that by not further pursuing a reduced regional housing needs determination, SCAG punishes minorities and the working poor.*

*The City suggests that since other state agencies such as the DMV and EDD have experienced gross failures during the COVID-19 pandemic that it is likely that HCD miscounted or misunderstood the region's housing need total.*

*As previously noted above and as reiterated by the City in its appeal, the issue raised is not a challenge to SCAG's approach for allocating housing units to local jurisdictions.*

**SCAG Staff Response:** With regards to the timeline and SCAG's role in the regional determination, SCAG developed a consultation package to HCD regarding the regional housing needs determination during the first half of 2019. During this time SCAG extensively reviewed a wide range of reports which commented on housing needs in the state and region, including studies from USC, UCLA, UC-Berkeley, the California Legislative Analyst's Office, Beacon Economics, McKinsey, the Center for the Continuing Study of the California Economy, and others. These studies covered a wide range of approaches and methodologies for understanding housing need in the region and state. On March 27, 2019 SCAG convened a panel of fifteen experts in demographics, economics, and housing planning to assess and review the region's housing needs in the context of SCAG's regional determination.

Notwithstanding the merits of the various approaches toward estimating regional housing need, the RHNA statute outlines a very specific process for arriving at a regional housing needs determination for RHNA. It also prescribes a specific timeline which necessitated the completion of the regional determination step by fall 2019 in order to allow enough time for the development of a methodology, appeals, and local housing element updates.

The defined timeframes are guided by the deadline for the housing element revisions for HCD's RHNA determination and SCAG's Final RHNA Allocation Plan. HCD, in consultation with each council of governments (COG), shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. Govt. Code § 65584(b). This "determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." Govt. Code § 65584.01(b). HCD begins the process 26 months prior to the scheduled revision so the data HCD relies on is the available provided by the COGs at that time. Similarly, the COG issues its survey for information to develop the RHNA allocation methodology up to 30 months prior to the scheduled revision. By necessity, the data used for these processes is data available at that time.

A report by Freddie Mac's Economic & Housing Research Group titled "The housing supply shortage: State of the states" was released in February 2020, and a slide deck titled "Double counting in the latest housing needs assessment" was placed on the Embarcadero Institute's website during 2020 (last update September 2020). Notwithstanding the merits (or lack thereof) of these studies, in order for such materials to have been considered by HCD, they would have had to have been submitted by prior to the regional determination from HCD in fall 2019. Furthermore, as discussed above, SCAG's consultation package to HCD regarding the regional determination contained an extensive quantitative assessment of overcrowding, vacancy, and cost burden factors and a discussion of the issue of double-counting.

Additionally, the studies referenced are regional in nature and do not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was incorrectly applied to determine the jurisdiction's share of regional housing need. Because state or regional studies does not meet this criterion, these studies cannot be used to justify a particular jurisdiction's appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

Mission Viejo also contends that SCAG's failure to further pursue a reduced regional housing needs determination harms minority and the working poor. However, as discussed in the response to Issue 1, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met and on January 13, 2020, HCD found SCAG's 6<sup>th</sup> cycle methodology to advance all five statutory objectives of RHNA, including affirmatively furthering fair housing.

In sum, it would be untenable to reopen the process anytime new data or materials become available, particularly when there is a codified process. If so, there would be no finality to the process and local government could not meet the deadlines for their housing element updates.

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Procedurally, SCAG cannot consider a regional study outside of the regional determination process nor should it apply a regional study to reduce an individual jurisdiction's draft RHNA allocation.

Since Mission Viejo does not provide any evidence to demonstrate that their share of the regional housing need is inconsistent with SCAG's Final RHNA Methodology, staff cannot recommend a reduction on this basis.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Mission Viejo)
2. Appeal Form and Supporting Documentation (City of Mission Viejo)
3. Comments Received During the Comment Period (General)
4. MissionViejo\_hqta
5. MissionViejo\_jobaccess

## **Attachment 1: Local Input and Development of the Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Mission Viejo had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Mission Viejo's Draft RHNA Allocation.

### **1. Local input**

#### ***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Mission Viejo, the anticipated number of households in 2020 was 34,038 and in 2030 was 34,087 (growth of 49 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Mission Viejo to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>

### ***b. RHNA Methodology Surveys***

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Mission Viejo submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### ***c. Connect SoCal Growth Vision and Additional Refinements***

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://www.connectsocial.org/Documents/DataMapBooks/Growth-Vision-Methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spmdm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG



received additional technical corrections from the City of Mission Viejo and incorporated them into the Growth Vision in December 2019.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d)).*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*"This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes.*

*In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTA) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### **3. Draft RHNA Allocation for the City of Mission Viejo**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Mission Viejo received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the City of Mission Viejo as summarized in the data and calculations in the tables below.

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<b>Mission Viejo city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	40
Percent of households who are renting:	22%
Housing unit loss from demolition (2009-18):	-
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	193
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	9.12%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	916,000
Share of region's job accessibility (population weighted):	0.33%
Jurisdiction's HQTAs population (2045):	1,617
Share of region's HQTAs population (2045):	0.02%
Share of population in low/very low-resource tracts:	0.01%
Share of population in very high-resource tracts:	23.34%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Mission Viejo city	
Forecasted household (HH) growth, RHNA period:	40
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	1
Replacement Need	-
<b>TOTAL PROJECTED NEED:</b>	<b>41</b>
Existing need due to job accessibility (50%)	1380
Existing need due to HQTAs pop. share (50%)	66
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	724
<b>TOTAL EXISTING NEED</b>	<b>2170</b>
<b>TOTAL RHNA FOR MISSION VIEJO CITY</b>	<b>2211</b>
Very-low income (<50% of AMI)	672
Low income (50-80% of AMI)	400
Moderate income (80-120% of AMI)	396
Above moderate income (>120% of AMI)	743

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 1,617 living within HQTAs, the City of Mission Viejo represents 0.02% of the SCAG region’s HQTA population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute

automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Mission Viejo's median TAZ, it will be possible to reach 9.12% of the region's jobs in 2045 within a 30-minute automobile commute (916,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 724 units assigned to the City of Mission Viejo.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: \_\_\_\_\_ Jurisdiction Subject to This Appeal Filing: \_\_\_\_\_  
 (to file another appeal, please use another form)

Filing Party (Jurisdiction or HCD)  
 \_\_\_\_\_

Filing Party Contact Name  
 \_\_\_\_\_

Filing Party Email:  
 \_\_\_\_\_

**APPEAL AUTHORIZED BY:**

Name: \_\_\_\_\_

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region’s greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

**Brief Description of Appeal Request and Desired Outcome:**

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced \_\_\_\_\_ Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**  
**(Numbers may be continued to accommodate additional supporting documentation):**

- 1.
- 2.
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_

**PREFACE**

As is fitting in these unprecedented times, we, the City of Mission Viejo, appeal an unprecedented issue within the legal, moral, ethical and professional structure of the Southern California Association of Governments (SCAG), the State Department of Housing and Community Development (State HCD), and the Regional Housing Needs Assessment (RHNA) process. We are not challenging any individual allocation to any jurisdiction on its unique merits; we are not appealing SCAG’s formula or application of the number of regional units the State HCD determined SCAG must equitably allocate, and we are not seeking to challenge the context discussed in the 2009 lawsuit titled “City of Irvine v SCAG.”

The provision of very low, low, moderate and above-moderate housing is difficult, economically challenging, presents land use issues in local jurisdictions, and is a process guided by the Housing Element law, in toto, as set forth in the California Government Code. Conformance to law at all times is so important, but is especially critical when the quality of life of California residents, regardless of ethnicity, income, race, place of origin or any and all characteristics, is imperiled. Careful, correct and rational implementation of the Housing Element laws ensures the greater likelihood that everyone, including the “working poor,” minority residents, middle class residents and everyone, can enjoy safe and sanitary housing at reasonable income-based rates.

This brings us to our unprecedented appeal. SCAG, using its fiduciary and adjudicative powers, is appealed to recognize, based on the credible evidence in this appeal, that the State HCD has not followed the law by double counting, or more, the State’s housing needs. This means SCAG was provided a defective regional allocation. SCAG, in good faith, sought to fairly allocate that State number but, in doing so, doubled each jurisdiction’s shares and halved each jurisdiction’s chance of success. SCAG functions as a “super-judge” as, in some cases, perhaps not in this unprecedented case, as the final adjudicative body as to RHNA allocations. SCAG must honor its regional fiduciary and adjudicative roles and itself test the State HCD calculations and challenge the State as necessary. SCAG has the legislative authority to do so, has established a RHNA Litigation Study Team to address this, and must carefully complete its analysis to ensure the State, and thereby SCAG, is properly implementing the Housing Element laws.

Not sending a confirmation request to the State of the defective State HCD numbers allocation (i) is a failure by SCAG to fulfill its fiduciary and legal adjudicatives, (ii) punishes minorities, the working poor and all Californians facing housing needs, and, (iii) perhaps most incredibly, citing to the Court of Appeals decision in the City of Irvine v SCAG case, allows State HCD, the source of the initial, foundational error, the argument that it has now proven its own number correct and any further judicial review is prohibited: “Finally, noting HCD’s of defendant’s final RHNA allocation defendant claimed it now ‘has no authority to implement the relief’ sought by the plaintiff.”

This meant the City of Irvine, once SCAG’s allocation was accepted by State HCD, was without any judicial remedy. This case may well be different, but SCAG cannot reasonably submit a “double allocation” to State HCD and then allow State HCD to approve its own error, to the



damage of every city and county. We have seen the stresses of the political directions given to State agencies, the stress of the COVID-19 pandemic, and the stress of administration leadership issues, all serve to illustrate gross failures of State offices. The State Department of Motor Vehicles (DMV) was repeatedly criticized by the State Legislature for poor management and performance. Recently the State Employment Development Department (EDD) showed a complete inability to handle unemployment claims and literally ceased processing claims until it fixed its systems. This backdrop makes it equally likely that State HCD miscounted, or misunderstood, the State Department of Finance (State DOF) numbers, or misunderstood Housing Law, or had to deviate from past RHNA cycles to achieve a politically demanded 3.5 million units, when proper analysis, from multiple sources, shows that is grossly wrong.

We implore SCAG to do the right, moral and legal duty and grant our appeal and challenge State HCD's very suspect (as later evidence suggests) regional housing allocation.

**CITY OF MISSION VIEJO APPEAL #1:**

**The Starting Point of SCAG’s RHNA Allocation Methodology – State HCD’s Baseline of 1.34 Million Housing Units of Regional Need – is Incorrect and Defective, Based on New 2020 Reports Released by Freddie Mac and the Embarcadero Institute**

**Bases for Appeal #1:**

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029); and,
- 2) Changed Circumstances (Per Government Code Section 65584.05(b); appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred).
- 3) Failure of State HCD to follow the Housing Law (Exhibit A-6 incorporated herein) and the current failure of SCAG to ensure those same housing laws are being correctly applied by the State HCD so as to allocate a lawful RHNA allocation to the City of Mission Viejo and all cities and counties.

**Summary:**

On September 4, 2020, the City of Mission Viejo received a draft 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) allocation of 2,211 housing units from the Southern California Association of Governments (SCAG) for the RHNA planning period of October 2021 to October 2029. The City’s draft allocation is based upon an October 15, 2019 State Department of Housing and Community Development (State HCD) determination that the regional housing need for the six-county SCAG region is 1,341,827 units. The 2,211 housing units assigned to the City of Mission Viejo represents the City’s fair share of the 1.34 million units of regional housing need, based upon SCAG’s adopted RHNA allocation methodology, utilizing defective State HCD baseline numbers.

The City of Mission Viejo files an appeal of its 6<sup>th</sup> cycle RHNA allocation challenging the starting point of SCAG’s adopted RHNA allocation methodology – the likely defective 1.34 million housing units of regional housing need as determined by State HCD. The City of Mission Viejo finds that the input and application of the 1.34 million housing units into SCAG’s RHNA allocation methodology is a flawed mathematical data point of housing need that overinflates the region’s housing need by at least double. Every city and county area are subject to arbitrary, capricious and very suspect requirements which are a clear abuse of discretion by State HCD and any body that acts in reliance upon that number.

SCAG’s use of State HCD’s flawed and over-inflated 1.34 million housing units contaminates the resulting distribution of individual RHNA numbers to each of the 197 jurisdictions in the SCAG region. By using a flawed starting point in SCAG’s adopted RHNA allocation methodology, the output of each jurisdiction’s fair share of the regional need is, by computation, flawed and overstated. This impairs, if not crushes, each city’s ability to achieve the distribution, hurting minorities, low-income and all residents. This is a current and actual controversy, requiring administrative correction and adherence to the Housing Law, which has not been done. The City of Mission Viejo seeks SCAG’s declaration that the RHNA allocation provided by the State

HCD does not comport with Housing Law, and further, that SCAG and State HCD are lawfully required to ensure correct compliance with Housing Law to achieve, statewide and regionally (respectively) compliance with Housing Law.

Specific peer level or better analyses conducted by outside entities confirm the over-inflation of State HCD's regional housing need number to SCAG, which is presented in this appeal request. Outside agency analyses conclude that SCAG's fair-share of the State of California housing need for the 6<sup>th</sup> RHNA cycle should be in the order of 651,000 housing units or less, in contrast to the 1,341,827 units as determined by State HCD on October 15, 2019. This represents an over-count of 691,000 units or more that has been assigned to the SCAG region. The cited causes for the over-count is State HCD errors in calculating SCAG's regional housing need, as discussed in this appeal request.

By generally halving the starting point number, the City of Mission Viejo reasons that each jurisdiction's individual RHNA allocation will be less, since this appeal proposes no additional changes to the further application of the allocation methodology, after the data input of the 1.34 million units is first corrected in the allocation methodology. A properly calculated State HCD base housing need calculation must be demanded from State HCD, and then used by SCAG in its RHNA Allocation methodology to allocate jurisdiction-specific housing needs.

The exact calculation of each jurisdiction's revised RHNA allocation – should this appeal be granted – requires SCAG to generate honest and lawfully sound numbers, to be able to update its RHNA estimator tool. SCAG's update to its RHNA estimator tool is necessary, to enable each of the 197 jurisdictions in the SCAG region, including the City of Mission Viejo, to be informed of its revised, reduced draft RHNA calculation, after the starting point of the RHNA allocation methodology is corrected from 1.34 million housing units to a clearly provable 651,000 housing units or less. The demonstrable failure of State HCD to properly and lawfully calculate statewide housing (and jobs) needs has forced SCAG to improperly allocate that number to the cities and counties. This unfair burden on SCAG presents a failure of SCAG to follow Housing Law, because State HCD did not follow Housing Law in establishing the Statewide and SCAG regional housing needs. Exhibit A-6 clearly shows the State HCD has the power and duty to follow the law and assist others in doing so, but to date, has failed to do so. SCAG must now compel itself and State HCD to properly implement Housing Law and recalculate the regional allocation, using a correct housing need baseline.

For those critics that may question why these arguments about bad data were not raised during SCAG's RHNA consultation with State HCD and during SCAG's development and adoption of its RHNA Allocation methodology, the City of Mission Viejo makes clear that the two reports cited in our arguments, are reports that were released after State HCD's 10/15/2019 determination of SCAG's regional need. Both reports were released in 2020 and brought to the attention of SCAG's Regional Council in 2020, after the RHNA methodology was adopted and the Draft RHNA allocations released to local jurisdictions. The State's failure to test its numbers or do any professional due diligence, meant the cities were put in a delayed position to challenge State HCD's numbers.

From a public policy perspective, the City of Mission Viejo maintains that bad data should not be used to dictate and command housing policy. If the data is flawed, it should be recognized and corrected.

**Desired Outcome:**

The City of Mission Viejo’s two-fold request to the SCAG RHNA Appeals Board is as follows:

- 1) to revise the calculation of the draft 6<sup>th</sup> cycle RHNA allocation for the City of Mission Viejo and for all SCAG jurisdictions, based on new information released in 2020 that conclude that State HCD incorrectly calculated the SCAG region’s 6<sup>th</sup> cycle RHNA determination and at minimum, doubled SCAG’s housing need; and,
- 2) to revise SCAG’s 6<sup>th</sup> cycle RHNA Allocation Methodology and RHNA Allocation Calculator to:
  - a) remove the 1,341,827 housing units data point that represents State HCD’s SCAG’s regional housing need, and replace it with an adjusted and corrected 651,000 units or less; and,
  - b) revise the SCAG RHNA Allocation Calculator formulas such that the re-calculation of the RHNA calculations for the City of Mission Viejo and for all the jurisdictions in the SCAG region, is based on a corrected regional number of 651,000 housing units or less.

This appeal is thus filed to elevate errors in State HCD’s calculation of the region’s regional housing need number, and halt any issuance of final RHNA allocations to any SCAG jurisdiction, until the errors are corrected by State HCD and a corresponding and accurate regional need number is calculated for the SCAG region and incorporated into SCAG’s RHNA allocation methodology. We want it clear that we do not challenge the allocation protocol but only that which is being allocated as presented to, and acted upon, by SCAG.

Procedurally, the City of Mission Viejo’s appeal is filed on the basis of two grounds, as stipulated in SCAG’s adopted appeals procedures and housing statute:

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029); and,
- 2) Changed Circumstances (Per Government Code Section 65584.05(b); appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred).

The bases for these two grounds for appeal are analyzed in the **Bases for Filing Appeal #1** section of this appeal request.

**Background for Appeal #1:**

On October 15, 2019, State HCD issued a regional determination of 1,341,827 housing units for the SCAG region.<sup>1</sup> The 1.34 million housing units is the State's determination of how many housing units the SCAG region must provide for in the 6<sup>th</sup> cycle RHNA, which covers the RHNA planning period of October 2021 to October 2029.

As detailed in the **Bases for Filing Appeal #1** section of this report, SCAG's adopted RHNA methodology utilizes State HCD's 1.34 million housing units as a starting point to determine how to allocate a fair share of the 1.34 million housing units to each of the six counties and 191 cities in the SCAG region. This is known as a jurisdiction's RHNA allocation. Based upon State HCD's 1.34 million units of regional need and SCAG's adopted methodology to distribute the regional need to each of the SCAG jurisdictions, the City of Mission Viejo's draft RHNA allocation is 2,211 housing units.

But as credible sources assert, State HCD's starting point is incorrect. If State HCD's starting point is incorrect in SCAG's RHNA Allocation Methodology, then SCAG's calculations of each jurisdiction's draft RHNA allocation is also incorrect, and overestimates the true housing need because of State HCD's overestimated determination of SCAG's regional housing need.

As presented in the City of Mission Viejo's Appeal #1 request, new credible studies have been released in 2020, which indicate that State HCD's starting point of the 1.34 million housing units for the SCAG region is flawed, and the region's housing need for the 6<sup>th</sup> cycle should be 651,000 units or less. SCAG cannot desire to impose inaccurate and defective housing requirements on the people in its region.

**Analysis For Appeal #1:**

Two reports released in 2020 provide information and analyses that question the accuracy of the 1.34 million housing unit need that State HCD issued to the SCAG region.

A February 2020 Freddie Mac report (Exhibit A-1) identifies that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units.<sup>2</sup> If the SCAG region comprises approximately one-half of the State's population, at 19 million people, the question that must be asked is why would a housing shortage estimate for the entire State of California by a national, government-sponsored financial company for mortgages and mortgage-backed securities, be less than the 1.34 million housing need for the six-county SCAG region? The City of Mission Viejo appeal asks the SCAG RHNA Appeals Board and SCAG staff to analyze this discrepancy.

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<sup>1</sup> State Department of Housing and Community Development: October 15, 2019 letter to Mr. Kome Ajise, SCAG Executive Director: *RE: Final Regional Housing Assessment*.

<sup>2</sup> Freddie Mac, *The Housing Supply Shortage: State of the States* (February 2020), 6.

The Embarcadero Institute, a California non-profit public policy organization, released a September 2020 report that analyzes the State HCD methodology that was used for the 6<sup>th</sup> cycle regional RHNA determinations for four Metropolitan Planning Organizations (MPOs) in California that account for more than 80% of California’s existing housing stock: SCAG, the San Diego Association of Governments (SANDAG), the Association of Bay Area Governments (ABAG) and the Sacramento Area Council of Governments (SACOG).<sup>3</sup> (Exhibit A-2). The Embarcadero Institute concludes that double counting and over-counting of housing need has occurred for all four of these regional planning agencies in their 6<sup>th</sup> cycle RHNA determinations from State HCD, resulting in an over-count of 941,000 units cumulatively for the four regions.<sup>4</sup> Of the 941,000 housing unit over-count calculated for the four major MPOs, 73%, or approximately 691,000 units, applies just to the SCAG region.

For the SCAG region specifically, the Embarcadero Institute concludes that State HCD’s use of an incorrect vacancy rate for owner-occupied housing units, and a double counting of “overcrowding” and “cost-burden” factors, have more than doubled the housing need for SCAG’s 6<sup>th</sup> RHNA cycle. While State HCD issued a regional housing need for the SCAG region of 1.34 million housing units, the Embarcadero Institute methodically researched and re-calculated each factor for SCAG’s regional housing need, and concludes SCAG’s housing need should be approximately 651,000 housing units.<sup>5</sup> An October 2020 Embarcadero Institute Excel spreadsheet (Exhibit A-3) compares its calculation of SCAG’s regional housing need against State HCD’s calculation of SCAG’s regional housing need, and identifies the differences in SCAG’s regional housing need is included as an attachment.<sup>6</sup> The SCAG region’s RHNA, according to the Embarcadero Institute report, is over-counted by approximately 691,000 housing units.

According to the Embarcadero Institute report, the State HCD errors in calculating SCAG’s 6<sup>th</sup> cycle RHNA determination are as follows:<sup>7</sup>

- 1) incorrect use of a 5% healthy vacancy rate benchmark for owner-occupied units (versus a 1.5% healthy vacancy rate for owner-occupied units and a state-mandated 5% healthy vacancy rate for rental housing). When applied to the SCAG region, use of the incorrect 5% healthy vacancy rate benchmark for owner-occupied units over-counts 126,000 housing units to SCAG’s regional housing need;
- 2) double counting for an “overcrowded”<sup>8</sup> factor that the State Department of Finance (State DOF) already incorporates into its household projections data to State HCD, which

<sup>3</sup> Gabrielle Layton, Embarcadero Institute, *Double Counting in the Latest Housing Needs Assessment* (Palo Alto, September 2020).

<sup>4</sup> Ibid., Appendix, A-2.

<sup>5</sup> Ibid., Appendix.

<sup>6</sup> Gabrielle Layton, Embarcadero Institute, *Excel Spreadsheet: Embarcadero Institute\_Housing-Needs-Assessment-Models-Californias-Four-Major-Planning-Regions-October 2020-Update* (October 2020), Six SoCal Counties SCAG RHNA 6<sup>th</sup> Tab.

<sup>7</sup> Layton, *Double Counting in the Latest Housing Needs Assessment*.

results in approximately 460,000 more housing units added to SCAG’s regional housing need;

- 3) double counting for a “cost-burden”<sup>9</sup> factor that State DOF already incorporates into its household projections data to State HCD, which results in approximately 118,000 more housing units added to SCAG’s regional housing need; and,
- 4) an accounting error which did not include a healthy vacancy rate adjustment for future renter households, which should have added 13,000 more housing units to SCAG’s regional housing need.

The four factors listed above, according to the Embarcadero Report, result in a SCAG regional housing need that is over-counted by 691,000 units for the 6<sup>th</sup> RHNA cycle, resulting in SCAG’s RHNA to be more than doubled (1.34 million versus 651,000 housing units). These demonstrate a failure to follow the requirements in the California Government Code regarding housing, housing elements and common law. Being an active agent in perpetuating incorrect and hence unlawful implementation of State law must be avoided.

### **Bases for Filing Appeal #1:**

#### **Appeal Basis #1: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029):**

The City of Mission Viejo argues that if the State HCD regional housing need determination is incorrect, due to the factors identified earlier in the Appeal request, then the application of SCAG’s adopted RHNA methodology to calculate each SCAG jurisdiction’s individual RHNA allocation is flawed, and the output: the local jurisdiction’s individual RHNA allocation, is also incorrect.

A review of SCAG’s adopted RHNA Allocation Methodology (Exhibit A-4) clearly identifies that the fundamental starting point of SCAG’s adopted RHNA Allocation Methodology is explicitly based on State HCD’s regional housing need number of 1,341,827 housing units, as presented below.

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<sup>8</sup> Overcrowding is a new factor that was introduced in the 6<sup>th</sup> cycle RHNA, per SB 828 (Weiner). The State seeks to add more housing need to correct conditions where more people live in housing units than rooms available. The U.S. Census defines overcrowding as a household having more than one person of any age per room in a dwelling unit. The types of rooms counted in a housing unit for the purposes of overcrowding are living rooms, dining rooms, bedrooms, kitchens, family rooms and finished recreation rooms. Rooms not counted for the purposes of overcrowding include bathrooms, kitchenettes, utility rooms and unfinished attics, basements or other unfinished space used for storage.

<sup>9</sup> Cost-burden is a new factor that was introduced in the 6<sup>th</sup> cycle RHNA, per SB 828 (Weiner). The state seeks to add more housing need to correct conditions where households pay at least 30 percent of their household income on housing costs.

Any necessary correction to SCAG’s regional housing need number would, in turn, adjust how much of the regional need number would be assigned to Projected Housing Need and Existing Housing Need, and would further directly impact the subsequent RHNA methodology’s sequential calculations of local jurisdiction shares of Existing Need that feed into a jurisdiction’s RHNA number.

Thus, if the regional need number is indeed lower than 1.34 million housing units, and the Embarcadero Institute believes the 1.34 number is more than double what SCAG’s regional housing unit number should be, based on State HCD over-counting and double counting errors, then any application of a corrected regional need number would directly affect and change (lower) each SCAG jurisdiction’s draft RHNA allocation. Every jurisdiction would have a more realistic, achievable housing goal and better structure its resources to assist in achieving housing for minorities, low-income people and all people.

The direct relationship between State HCD’s flawed regional need number of 1.34 million housing units and the application of that flawed regional number upon the calculations of each local jurisdiction’s RHNA, is indisputable. SCAG’s adopted RHNA methodology<sup>10</sup> makes numerous and specific references to the direct tie of the RHNA Allocation Methodology to State HCD’s total regional need number of 1.34 million housing units.

These direct references include, as follows:

- 1) Page 4 of the adopted RHNA Allocation Methodology introduces the allocation methodology by stating “The next section describes the final RHNA methodology mechanism to distribute the *1,341,827 housing units determined by HCD* to all SCAG jurisdictions.” (emphasis added).
- 2) Page 4 of the adopted RHNA Allocation Methodology states, “SCAG’s final RHNA methodology starts with *the total regional determination provided by HCD* and separates existing need from projected need.” (emphasis added).
- 3) Page 4 of the adopted RHNA Allocation Methodology states that 504,970 units of State HCD’s regional need of 1.34 million housing units is allocated to regional Projected Need, and 836,857 units of State HCD’s regional need of 1.34 million housing units is assigned to regional Existing Need. The Methodology further defines Existing Need to be “... the remainder of the *regional determination* after projected need is subtracted.” (emphasis added).

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<sup>10</sup> Southern California Association of Governments, *Final RHNA Methodology and Final RHNA Methodology Data Appendix* (March 5, 2020 Update).



- 4) Pages 5 and 6 of the adopted RHNA Allocation Methodology include tables that detail how much of State HCD’s 1.34 million units is assigned to each RHNA methodology component, as follows:

Methodology Component	Assigned Units
Projected Need: Household Growth	466,958
Projected Need: Future Vacancy Need	14,467
Projected Need: Replacement Need	23,545
Projected Need Subtotal	504,970

	Percentage of Existing Need	Assigned Units
Existing Need: Transit Accessibility	50%	418,429
Existing Need: Job Accessibility	50%	418,428
Existing Need Subtotal		836,857

Total Regional Need	1,341,827
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Source: SCAG Final RHNA Allocation Methodology: Updated 3/5/2020, pages 5 and 6.

- 5) Page 6 of the adopted RHNA Allocation Methodology states, “The first step of the RHNA methodology is to determine a jurisdiction’s projected need. From the *regional determination*, projected need is considered to be regional household growth, regional future vacancy need, and regional replacement need.” (emphasis added).
- 6) Page 9 of the adopted RHNA Allocation Methodology states, “After determining a jurisdiction’s projected need, the next step is to determine a jurisdiction’s existing need. Following the above discussions and *based on HCD’s determination of total regional need*, existing need is defined as the *total need* minus the projected need – approximately 62 percent of the entire regional determination.” (emphasis added).

Thus, as illustrated in the SCAG RHNA Allocation Methodology table above, the sum total of Projected Need (504,970 units) and Existing Need (836,857 units) equals State HCD’s total housing need for the SCAG region: 1,341,827 housing units.

**Conclusion for Appeal Basis #1:**

The City of Mission Viejo argues that the starting point of State HCD's 1.34 million housing units is a flawed, mathematical data point of housing need that overinflates the region's housing need by 651,000 housing units or less, based on 2020 reports released by Freddie Mac and the Embarcadero Institute. We implore the entirety of SCAG, the cities and counties, and everyone in the State to demand re-analyses. We have seen the State Department of Motor Vehicles (DMV) make errors and the State Employment Development Department (EDD) struggle with unemployment help. State HCD is not immune from errors.

State HCD's 1.34 million housing units number is inextricably integrated into SCAG's RHNA Allocation methodology. It is the starting point of SCAG's RHNA Allocation Methodology. Further, the 1.34 million housing unit number is a data point in the RHNA Allocation methodology that is used to calculate how much of the regional need housing number would be assigned to the region's Projected Housing Need and Existing Housing Need totals. This, in turn, directly affects the subsequent RHNA methodology's sequential calculations of each local jurisdiction's share of Existing Need that ultimately feed into a jurisdiction's RHNA number.

If the regional need number is indeed lower than 1.34 million housing units, and the Embarcadero Institute believes the 1.34 number is more than double what SCAG's regional housing unit number should be, due to State HCD over-counting and double counting errors, then any application of a corrected regional housing need number would directly affect and change (lower) each SCAG jurisdiction's draft RHNA allocation, specifically its Existing Need RHNA number. Such a correction is necessary; defective data should not be used to dictate and command housing policy.

Appeal Basis #2: Changed Circumstances (Per Government Code Section 65584.05(b): That a significant and unforeseen change in circumstance has occurred in local jurisdiction or jurisdictions after April 30, 2019 and merits a revision of the information previously submitted by the local jurisdiction pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

When local jurisdictions worked with SCAG to develop and submit their local input growth forecast data to SCAG in 2018 and 2019, the national economy was at its peak, the national unemployment rate was 3.5%, and the national jobless rate fell to its lowest level since 1969, 3.9%.<sup>11</sup>

In California, the State Employment Development Department identified that the unemployment rate in California was at a record low 4.0 percent in 2019, and the State of California had a \$21.5 billion surplus. California recovered from the Great Recession of 2008.

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<sup>11</sup> U.S Bureau of Labor Statistics, April 2020 Monthly Labor Review.

It was against this backdrop of economic growth that the region's 2020 Regional Transportation Plan/Sustainable Communities Strategy and its associated growth forecast was under development, with the growth forecasts from the SCAG region's local jurisdictions helping to inform the 2020 Regional Transportation Plan/Sustainable Communities Strategy, and the growth forecasts also helping to inform the housing need for the SCAG region for its 6<sup>th</sup> cycle RHNA.

As a state and as a region, there was confidence in a robust economy that would continue to move the region towards an economic recovery out of the Great Recession and move forward with aggressive plans to grow in jobs and in housing, with sustainability as a core of this growth. HCD's aggressive RHNA allocation of 1.34 million units was developed and imposed upon the SCAG region by October 2019, six months before the global COVID pandemic

On March 11, 2020 the World Health Organization declared the novel coronavirus (COVID-19) outbreak a global pandemic, and the ripple effect of the pandemic upon jobs, revenues, and where people want to now live, must be recognized as a backdrop against State HCD's determination that the SCAG region must deliver 1.34 million housing units, or 168,000 units a year over the eight-year period of the 6<sup>th</sup> RHNA cycle.

With no revenue stream available to local government to subsidize affordable units, estimated at \$350,000 per unit, with significantly reduced revenues that local governments are suffering due to the impacts of the pandemic (and with new and added costs to contain COVID-19 within their jurisdictions), and the questionable ability of local government and the building community to finance and support the infrastructure needed to deliver an unprecedented dictate of housing units, State HCD's number of housing need for the SCAG region must be even more carefully scrutinized as to its accuracy.

As posited in the City's RHNA appeals request, new and credible reports released in 2020 – after the development of the growth forecasts and after the determination by State HCD of the SCAG region needing to plan for 1.34 million housing units – conclude that the State HCD's regional need is more than two times higher than determined sound, due to errors that State HCD conducted in developing the regional need.

In its September 2020 forecast for California, the UCLA Anderson Forecast identified that the unemployment rate jumped from a record low 4.0% in 2019 to a peak of 14.7% in April 2020. They report that employment subsequently dropped to 13.3% in May, 11.1% in June, 10.2% in July and 8.4% in August, as compared to the record low 4% unemployment rate in 2019.<sup>12</sup>

Against all this, the Anderson Forecast identifies a projection of "strong growth" in residential building permits. According to the Anderson Forecast, "residential building permits are

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<sup>12</sup> UCLA Anderson School of Management, "UCLA Anderson Forecast Cautiously Projects 'Better than Expected Outcome,'" September 30, 2020.

predicted to be back almost to their 2020 first-quarter level by year's end, at 117,000 per year, and will reach approximately 130,000 units by the end of 2022.”<sup>13</sup>

It is the interface of this information, against the backdrop of State HCD's regional determination of 1.34 million housing units for the 8-year RHNA planning period of October 2021 to October 2029 that is troubling, and raises the question of the credibility of State HCD's number.

The UCLA forecast identifies that for the entire State of California, residential building permits are at the level of 117,000 per year, and forecasts that the entire State of California will reach approximately 130,000 units per year by end of 2022, which is the after one full year of the 6<sup>th</sup> cycle RHNA planning period.<sup>14</sup> If the SCAG region represents approximately one-half of the State's population, and one compares the actual statewide production rate of 117,000 units per year against the State HCD regional determination of 1,341,827 million over the 8-year RHNA planning period, this would mean that the 6-county SCAG region would be tasked to plan for approximately 168,000 housing units per year, more than the entire State of California than the Anderson Forecast projects during the current economic downturn through to 2022.

It is against this backdrop of economic changed circumstances that the City of Mission Viejo questions the credibility of a regional need of 1.34 million housing units for the SCAG region. If credible sources identify the SCAG's regional need should be 651,000 units or less over the 8-year RHNA planning period, this 651,000 units would equate to 81,000 units per year. This number is still significantly higher but more in line with the UCLA forecast of 130,000 units per year for the entire State of California by end of 2022.

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

**CITY OF MISSION VIEJO APPEAL #2:**

**The Starting Point of SCAG’s RHNA Allocation Methodology – State HCD’s Baseline of 1.34 Million Housing Units of Regional Need – is Incorrect and Defective, Based on State HCD’s Failure to Use SCAG’s Population Estimates in Determining SCAG’s Regional Housing Need**

**Basis for Appeal:**

Application of the Adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)

**Summary:**

On September 4, 2020, the City of Mission Viejo received a draft 6<sup>th</sup> cycle RHNA allocation of 2,211 housing units from SCAG for the RHNA planning period of October 2021 to October 2029. The City’s draft allocation is based upon an October 15, 2019 State HCD determination that the regional housing need for the six-county SCAG region is 1,341,827 units. The 2,211 housing units assigned to the City of Mission Viejo represents the City’s fair share of the 1.34 million units of regional housing need, based upon SCAG’s adopted RHNA allocation methodology, but utilizing defective State HCD baseline numbers.

The City of Mission Viejo files Appeal #2 of its 6<sup>th</sup> cycle RHNA allocation, again challenging the starting point of SCAG’s adopted RHNA allocation methodology – the defective 1.34 million housing units of regional housing need as determined by State HCD, but on a separate and distinct foundation.

We assert that the input and application of the 1.34 million housing units into SCAG’s RHNA allocation methodology is a flawed mathematical data point of housing need that overinflates the region’s housing need by 133,262 housing units, due to State HCD not following housing law and refusing to use SCAG’s population estimates in calculating the region’s housing need.

SCAG’s use of State HCD’s over-inflated 1.34 million housing units contaminates the resulting distribution of individual RHNA numbers to each of the 197 jurisdictions in the SCAG region. By using a flawed starting point in SCAG’s adopted RHNA allocation methodology, the output of each jurisdiction’s fair share of the regional need is, by computation, flawed and overstated.

**Desired Outcome:**

The City of Mission Viejo’s two-fold request to the SCAG RHNA Appeals Board is as follows:

- 1) to revise the calculation of the draft 6<sup>th</sup> cycle RHNA allocation for the City of Mission Viejo and for all SCAG jurisdictions, by using a regional housing need number that is based on the use of SCAG’s Regional Transportation Plan population forecasts, as required by Government Code 65584.01(a), which, if used, would reduce State HCD’s regional determination by 133,262 housing units; and,
- 2) to revise SCAG’s 6<sup>th</sup> cycle RHNA Allocation Methodology and RHNA Allocation Calculator to:
  - a) remove the 1,341,827 housing units data point that represents State HCD’s SCAG’s regional housing need number, and replace it with an adjusted and corrected

- 1,208,565 housing units data point, derived from the statutorily allowed use of SCAG’s population forecast; and,
- b) revise the SCAG RHNA Allocation Calculator formulas such that the re-calculation of the RHNA calculations for the City of Mission Viejo and for all the jurisdictions in the SCAG region, is based on a corrected regional number of 1,208,565 housing units.

This appeal is thus filed to elevate State HCD’s failure to calculate SCAG’s regional housing need number using SCAG’s regional population forecast, as required by Government Code Section 65584.01(a), and halt any issuance of final RHNA allocations to any SCAG jurisdiction, until this error is corrected by State HCD and a corresponding and accurate regional need number is calculated for the SCAG region and incorporated into SCAG’s RHNA allocation methodology. We want it clear that we do not challenge the allocation protocol but only that which is being allocated as presented to, and acted upon, by SCAG.

Procedurally, the City of Mission Viejo’s appeal is filed on the basis of “Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029).”

The basis for this ground for appeal is analyzed in the **Basis for Filing Appeal #2** section of this appeal request.

**Analysis For Appeal #2:**

State housing law is clear on how to calculate the regional determination. State HCD, however, did not follow housing law in determining SCAG’s regional housing number.

Specifically, California Government Code Section 65584.01 and 65584.01(a) states:

“For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each councils of government, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(a) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. *If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.* If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology

used for population projections and seek agreement on a population projection for the region, to be used as a basis for determining the existing and projected housing need for the region. If agreement is not reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.” (emphasis added).

SCAG’s regional population forecast for its 2020 Regional Transportation Plan (RTP) differs from the State Department of Finance’s (State DOF) projection by **1.32%**, which falls *within* the statutory range of 1.5% outlined in state law. Based upon housing statute, State HCD was thus required to use SCAG’s population projections as a basis for determining SCAG’s regional housing need. State HCD did not.

SCAG’s September 18, 2019 letter to State HCD (Exhibit A-5) states “SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG’s projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD’s determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG’s projection by 1.32%. As SCAG’s total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG’s population forecast.”<sup>15</sup>

State HCD, in its October 15, 2019 issuance of a final Regional Housing Needs Assessment to SCAG (Exhibit A-6) cites two reasons for not using SCAG’s total regional population forecast:<sup>16</sup>

- 1) The total *household* projection from SCAG is 1.96% lower than DOF’s household projection (emphasis added); and,
- 2) The age cohort of under 15-year old persons from SCAG’s population projections differs from DOF’s projections by 15.8%.

State HCD’s interpretation and application of Government Code 65584.01(a) is flawed for the following two reasons:

- 1) Government Code 65584.01(a) clearly states that the 1.5% range is based on the total regional **population** forecast, not the regional **household** projection forecast that State HCD used; and,
- 2) Government Code 65584.01(a) clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts that State HCD used.

<sup>15</sup> Southern California Association of Governments: September 18, 2019 letter to Mr. Doug McCauley, State HCD Acting Director, 2.

<sup>16</sup> State HCD: October 15, 2019 letter, 2.

Had HCD adhered to the provisions of Government Code Section 65584.01(a) and used SCAG's population forecast as submitted by SCAG, SCAG's regional determination would have been 133,262 housing units less, as calculated by an Orange County analysis of this issue (Exhibit A-7).<sup>17 18</sup>

### **Bases for Filing Appeal #2:**

Appeal Basis: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029):

The City of Mission Viejo argues that if State HCD's regional housing need determination is incorrect – due to State HCD's failure to use SCAG's population estimates in calculating SCAG's regional need, as required by State law – then the application of SCAG's adopted RHNA methodology to calculate each SCAG jurisdiction's individual RHNA allocation is flawed, and the output: the local jurisdiction's individual RHNA allocation, is also incorrect.

A review of SCAG's adopted RHNA Allocation Methodology (Exhibit A-4) clearly identifies that the fundamental starting point of SCAG's adopted RHNA Allocation Methodology is explicitly based on State HCD's regional housing need number of 1,341,827 housing units, as presented below.

The direct relationship between State HCD's flawed regional need number of 1.34 million housing units and the application of that flawed regional number upon the calculations of each local jurisdiction's RHNA is indisputable. SCAG's adopted RHNA methodology makes numerous and specific references to the direct tie of the RHNA Allocation Methodology to State HCD's total regional need number of 1.34 million housing units, versus a corrected 1,208,565 housing units, as detailed below:

- 1) Page 4 of the adopted RHNA Allocation Methodology introduces the allocation methodology by stating "The next section describes the final RHNA methodology mechanism to distribute the *1,341,827 housing units determined by HCD* to all SCAG jurisdictions." (emphasis added).
- 2) Page 4 of the adopted RHNA Allocation Methodology states, "SCAG's final RHNA methodology starts with *the total regional determination provided by HCD* and separates existing need from projected need." (emphasis added).
- 3) Page 4 of the adopted RHNA Allocation Methodology states that 504,970 units of State HCD's regional need of 1.34 million housing units is allocated to regional Projected

<sup>17</sup> Orange County Mayors: September 18, 2020 letter to Honorable Rex Richardson, SCAG President, Attachment 2, Exhibit A.

<sup>18</sup> State HCD's regional determination of 1,341,827 housing units minus 1,208,565 housing units (using SCAG's population estimates) equals a 133,262 housing unit over-count.



Need, and 836,857 units of State HCD’s regional need of 1.34 million housing units is assigned to regional Existing Need. The Methodology further defines Existing Need to be “the remainder of the *regional determination* after projected need is subtracted.” (emphasis added).

- 4) Page 5 and 6 of the adopted RHNA Allocation Methodology include tables that details how much of State HCD’s 1.34 million units is assigned to each RHNA methodology component, as follows:

Methodology Component	Assigned Units
Projected Need: Household Growth	466,958
Projected Need: Future Vacancy Need	14,467
Projected Need: Replacement Need	23,545
Projected Need Subtotal	504,970

	Percentage of Existing Need	Assigned Units
Existing Need: Transit Accessibility	50%	418,429
Existing Need: Job Accessibility	50%	418,428
Existing Need Subtotal		836,857

Total Regional Need	1,341,827
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Source: SCAG Final RHNA Allocation Methodology: Updated 3/5/2020, pages 5 and 6

- 5) Page 6 of the adopted RHNA Allocation Methodology states, “The first step of the RHNA methodology is to determine a jurisdiction’s projected need. From the *regional determination*, projected need is considered to be regional household growth, regional future vacancy need, and regional replacement need.” (emphasis added).
- 6) Page 9 of the adopted RHNA Allocation Methodology states, “After determining a jurisdiction’s projected need, the next step is to determine a jurisdiction’s existing need. Following the above discussions and *based on HCD’s determination of total regional need*, existing need is defined as the *total need* minus the projected need – approximately 62 percent of the entire regional determination.” (emphasis added).

**Conclusion:**

As illustrated in the SCAG RHNA Allocation Methodology table above, the sum total of Projected Need (504,970 units) and Existing Need (836,857 units) equals State HCD’s total housing need for the SCAG region: 1,341,827 housing units.

This is a number we argue is incorrect and defective, based on State HCD’s failure to use SCAG’s population estimates in determining the region’s housing need. HCD’s denial to use SCAG’s population forecast to determine SCAG’s regional housing unit need, results in a 133,262 housing unit over-count of housing need for the SCAG region. Further, as argued above, this incorrect number is embedded in SCAG’s RHNA Allocation methodology, and its application results in a flawed, starting point in calculating each jurisdiction’s individual RHNA housing allocation.

State HCD’s 1.34 million housing unit number is inextricably integrated into SCAG’s RHNA allocation methodology. It is the starting point of SCAG’s RHNA Allocation methodology. Further, the 1.34 million housing units number is a data point in the RHNA Allocation methodology that is used to calculate how much of the regional need number would be assigned to regional Projected Housing Need and regional Existing Housing Need. This, in turn, directly affects the subsequent RHNA methodology’s sequential calculations of each local jurisdiction’s share of Existing Need that ultimately feed into deriving a jurisdiction’s 6<sup>th</sup> cycle RHNA number.

Had State HCD utilized SCAG’s population forecast, as required by State Government Code 65584.01(a), the RHNA Allocation Methodology would have used a starting point of 1,208,565 housing units to calculate the region’s Projected Need and Existing Need, not the 1,341,827 housing units as currently factored in the SCAG RHNA Methodology. Such a correction is demanded and necessary; defective data should not be used to dictate and command housing policy.



FEBRUARY 2020

# The Housing Supply Shortage: State of the States

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The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



### Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates ( $v^*$ ). Second, we need an estimate of the target number of households ( $h^*$ ).<sup>1</sup> The estimates of  $v^*$  and  $h^*$  give an estimate of housing demand ( $k^*$ ) using the formula:

$$k^* = \frac{h^*}{1 - v^*} \text{ Eq(1)}$$

### Vacancy rates

As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates ( $v^*$ ), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for  $v^*$  because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

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<sup>1</sup> The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.

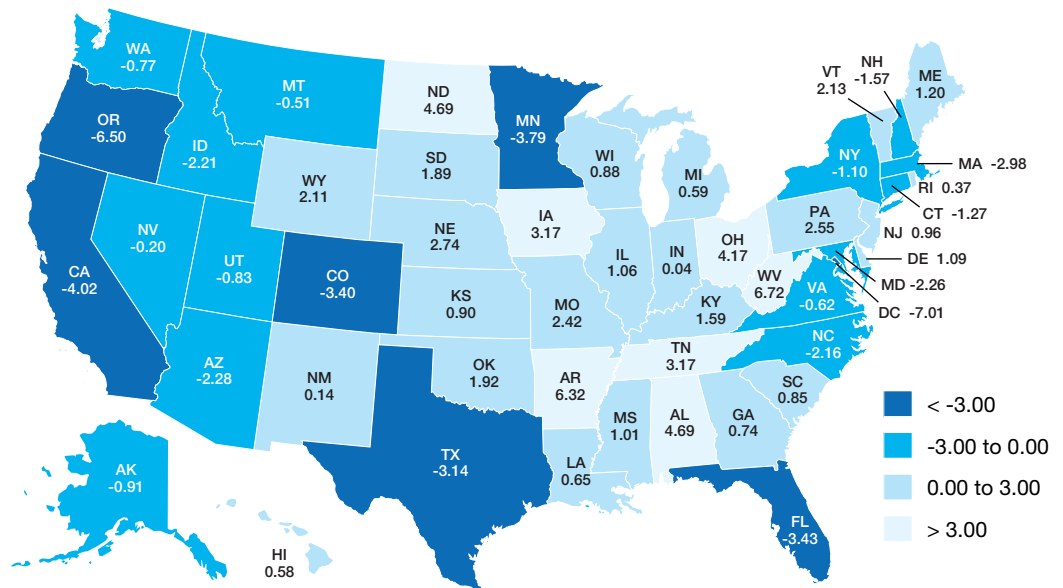


It is interesting to compare each state's long-term vacancy rate ( $v^*$ ) to recent estimates ( $v$ ). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

**Exhibit 1**

**Difference between 2018 vacancy rate and historical vacancy rate**

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



### Target households

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

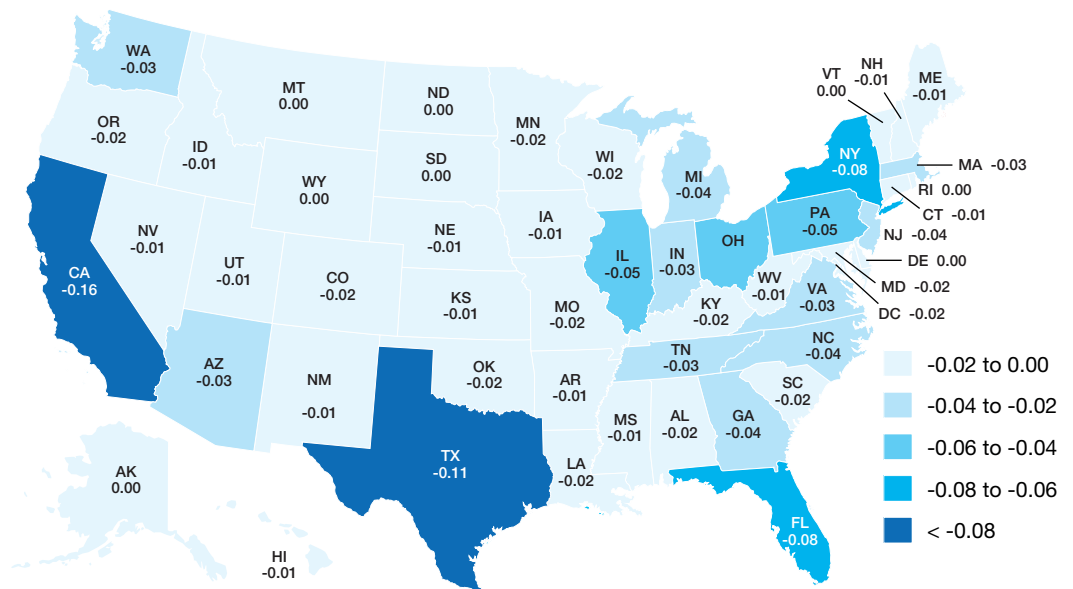
Due to different age profiles, the share of missing households varies by state.

**Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

### Exhibit 2

#### Missing households due to high housing costs (millions)

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.



### Static estimate of housing deficit

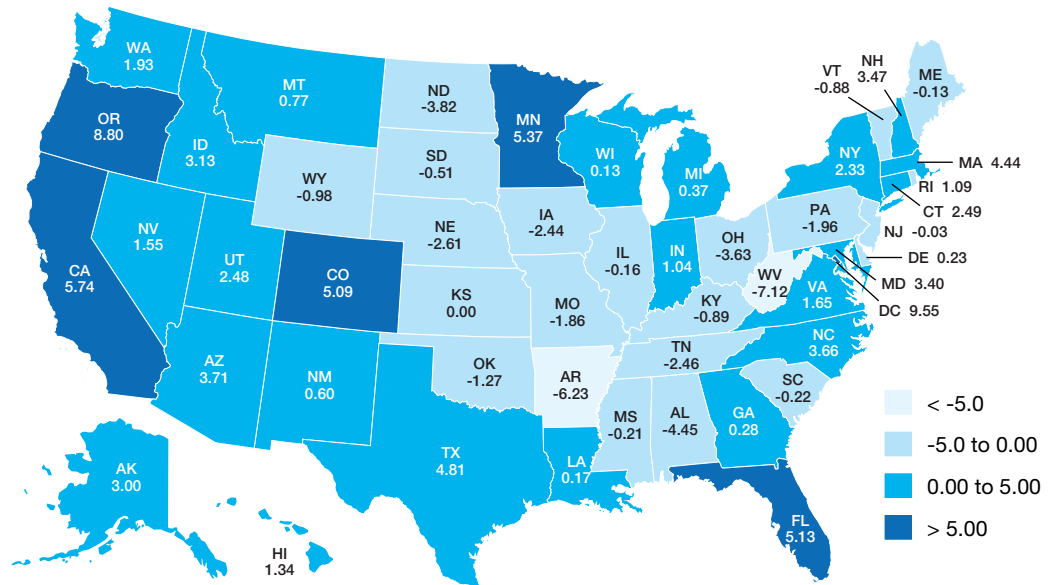
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).<sup>2</sup> Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

**Exhibit 3**

### Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

<sup>2</sup> The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.



### Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

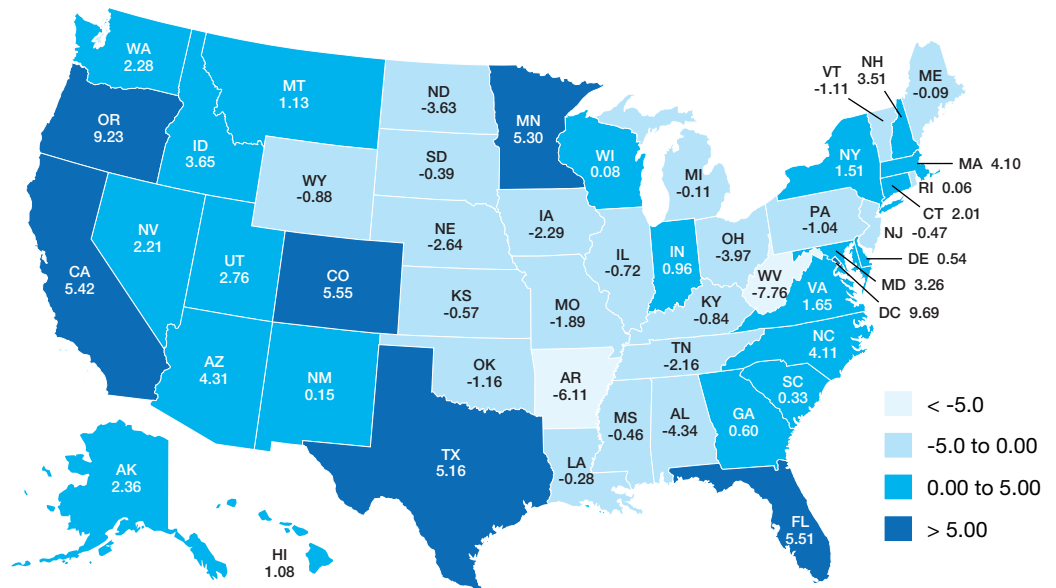
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (**Exhibit 4**).<sup>3</sup>

**Exhibit 4**

### Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

<sup>3</sup> We used the average net migration flows between states from 2001 to 2017 for the past flows.





For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

### Conclusion

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.



## Appendix

### 1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody’s analytics for the period from 1970 to 2000<sup>4</sup> and estimate the average vacancy rate for this period for each state.

$$VR_i = average(VR_i) \text{ for } 1970\text{--}2000,$$

where  $i$  is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership–Table 8–Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state’s weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

### 1.2 Estimating target households

We obtain the headship rates<sup>5</sup> for the year 2018 by state and by age for all the 50 states and District of Columbia.<sup>6</sup> We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey–Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where  $i$  is the state and  $j$  is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.<sup>7</sup>

### 1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

where  $i$  is the state,  $j$  is the five-year age buckets,  $I$  is the in-migrants, and  $O$  is the outmigrants.

To estimate the net outmigrants from states that have a  $NM < 0$ , we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,i}$$

where  $P_{i,j,out}^*$  is the total change in population (net out-migrants) for states that have net outmigration,

<sup>7</sup> These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$  is the net out-migrants by age group and state,

$\sum NM_{i,j}$  is the sum of the total out-migrants for the state, and

$P_{m,i}$  is the historical net domestic migration data from Moody.

The ratio of  $NM / \sum NM$  gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ( $P_{i,j,out}^*$ ) is then divided among the in-migrating states, given that the net flows for the country are  $0$ .

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where  $\Delta P_{i,j,in}^*$  is the in-migrants to the state  $i$  from the outmigrants pool,

$SI_i$  is the share of the state in total in-migrants,

$SA_{i,j}$  is the share of the five-year age bucket in the total in-migrants, and

$\Delta P_{i,j,out}^*$  is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).



Economic & Housing Research **Insight**

**Prepared by the Economic & Housing Research group**

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# **Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030. But what if the math is wrong?**

**Senate Bill 828, co-sponsored by the Bay Area Council and Silicon Valley Leadership Group, and authored by state Sen. Scott Wiener in 2018, has inadvertently doubled the “Regional Housing Needs Assessment” in California.**

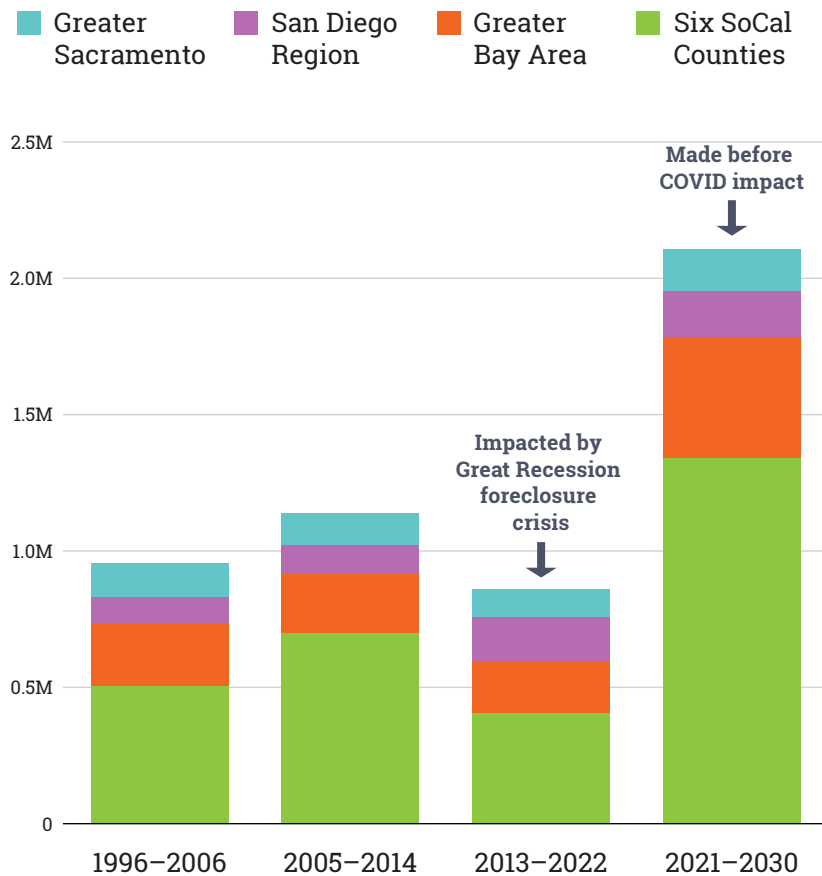
Use of an incorrect vacancy rate and double counting, inspired by SB-828, caused the state’s Department of Housing and Community Development (HCD) to exaggerate by more than 900,000 the units needed in SoCal, the Bay Area, and the Sacramento area.

The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.

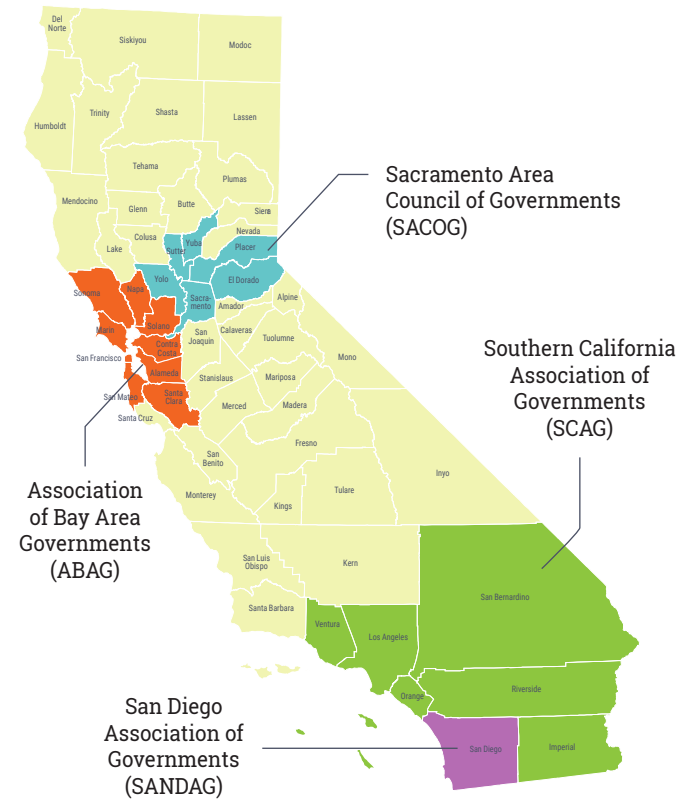
## Double counting (not surprisingly) doubled the assessed housing need for the four major planning regions.

Every five to eight years the Department of Housing and Community Development (HCD) supervises and publishes the results of a process referred to as the Regional Housing Needs Assessment (RHNA). Four regional planning agencies cover the 21 most urban counties and account for 80% of California's housing. All four regions saw a significant jump in the state's assessment of their housing need for the years 2021 to 2030.

### Housing Units Needed According to the State, (1996–2030)



### Four Regions Contain 80% of the State's Housing



# The double count, an unintended consequence of Senate Bill 828, has exaggerated the housing need by more than 900,000 units in the four regions below.

California plans for its housing needs in “cycles.” The four regions are on cycles that last roughly eight years with staggered start dates. In the 2021–2030 housing cycle, errors introduced by language in SB-828 nearly equal the entire 1.15M units of new housing required during the 2013–2022 “cycle.” As illustrated, Southern California and the Bay Area are the most impacted by the state’s methodology errors.





# Senate Bill 828 was drafted absent a detailed understanding of the Department of Finance’s methodology for developing household forecasts, and absent an understanding of the difference between rental and home-owner vacancies. These misunderstandings have unwittingly ensured a series of double counts.

## SB-828 MISTAKENLY ASSUMED:

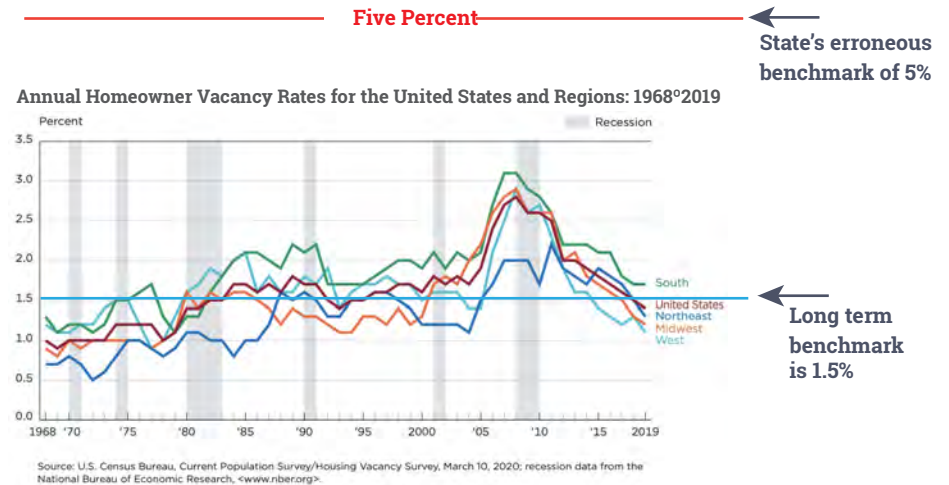
## THE REALITY IS:

1. SB-828 wrongly assumed ‘existing housing need’ was not evaluated as part of California’s previous Regional Housing Need Assessments, or RHNA. There was an assumption that only future need had been taken into account in past assessments. (In fact, as detailed in The Reality section, the state’s existing housing need was fully evaluated in previous RHNA assessment cycles).

1. Existing housing need has long been incorporated in California’s planning cycles. It has been evaluated by comparing existing vacancy rates with widely accepted benchmarks for healthy market vacancies (rental and owner-occupied). The difference between actual and benchmark is the measure of housing need/surplus in a housing market. Confusion about the inclusion of “existing need” may have arisen because vacancy rates at the time of the last assessment of housing need (“the 5th cycle”) were unusually high (higher than the healthy benchmarks) due to the foreclosure crisis of 2007–2010, and in fact, the vacancy rates suggested a surplus of housing. So, in the 5th cycle, the vacancy adjustment had the effect of lowering the total housing need. Correctly seeing the foreclosure crisis as temporary, the state Department of Finance did not apply the full weight of the surplus but instead assumed a percentage of the vacant housing would be absorbed by the time the 5th cycle began. The adjustment appears in the 5th cycle determinations, not as ‘Existing Housing Need’ but rather as “Adjustment for Absorption of Existing Excess Vacant Units.”

2. SB-828 wrongly assumed a 5% vacancy rate in owner-occupied housing is healthy (as explained in the column on the right, 5% vacancy in owner-occupied homes is never desirable, and contradicts Government Code 65584.01(b)(1)(E) which specifies that a 5% vacancy rate applies only to the rental housing market).

2. While 5% is a healthy benchmark for rental vacancies, it is unhealthy for owner-occupied housing (which typically represents half of existing housing). In the U.S. homeowner vacancy has hovered around 1.5% since the ‘70s, briefly reaching 3% during the foreclosure crisis. However, 5% is well outside any healthy norm, and thus does not appear on the Census chart (to the right) showing Annual Homeowner Vacancy Rates for the United States and Regions: 1968–2019.



3. SB-828 wrongly assumed overcrowding and cost-burdening had not been considered in Department of Finance projections of housing need. The bill sought to redress what it mistakenly thought had been left out by requiring regional planning agencies to report overcrowding and cost-burdening data to the Dept. of Housing and Community Development (as explained in the right column).

3. Unknown to the authors of SB-828, the Department of Finance (DOF) has for years factored overcrowding and cost-burdening into their household projections. These projections are developed by multiplying the estimated population by the headship rate (the proportion of the population who will be head of a household). The Department of Finance (DOF), in conjunction with the Department of Housing and Community Development (HCD), has documented its deliberate decision to use higher headship rates to reflect optimal conditions and intentionally “alleviate the burdens of high housing cost and overcrowding.” Unfortunately, SB-828 has caused the state to double count these important numbers.

# The forced double-counting errors are significant.\*

---

## 1. Incorrect use of a 5% benchmark vacancy rate for owner-occupied housing.

The vacancy rate was incorrectly used for both existing and projected owner-occupied households.

**+ 229,000**  
housing units

---

## 2. Current vacancies were assumed to exist in household projections.

This error is unrelated to SB-828, but is an accounting error introduced by HCD methodology.

**- 22,000**  
housing units

---

## 3. Overcrowding and cost-burdening were double counted.\*\*

In addition to the household projection methodology outlined by the Department of Finance (shown to account for overcrowding and cost-burdening), the matter is also mentioned in meeting notes available on the Association of Bay Area Government's (ABAG) website.\*\*\*

Quote from ABAG's Housing Methodology Committee Agenda Packet for the 4th RHNA Cycle, July 2006

"There was also a lot of discussion about the headship rates used by HCD/DOF. Several people commented that headship rates in the Bay Area are generally lower than the State's estimates because the region's high housing costs limit household formation. In response, Mr. Fassinger noted that HCD uses these higher headship rates because the RHNA process is intended to alleviate the burdens of high housing cost and overcrowding."

Despite this, overcrowding and cost-burdening were counted a second time as adjustment factors required by SB-828.

**+ 734,000**  
housing units

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**TOTAL:** **+ 941,000**  
housing units

\* All errors are rounded to the nearest thousand.

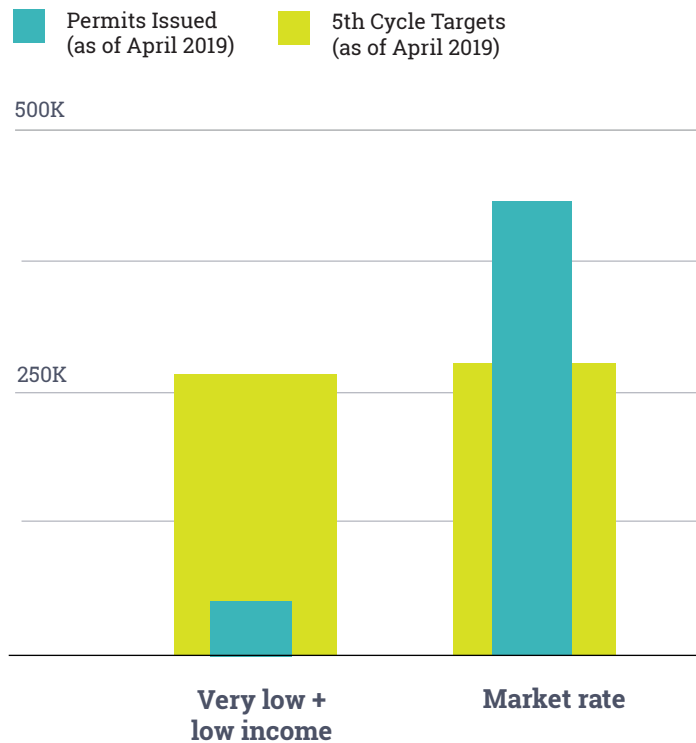
\*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels – extremely low, very low, low, moderate, above moderate

\*\*\* P-4 tables are created by the Department of Finance–Household Projection table 2020–2030 and their methodology is fully explained in 'read me' notes that accompany the table.

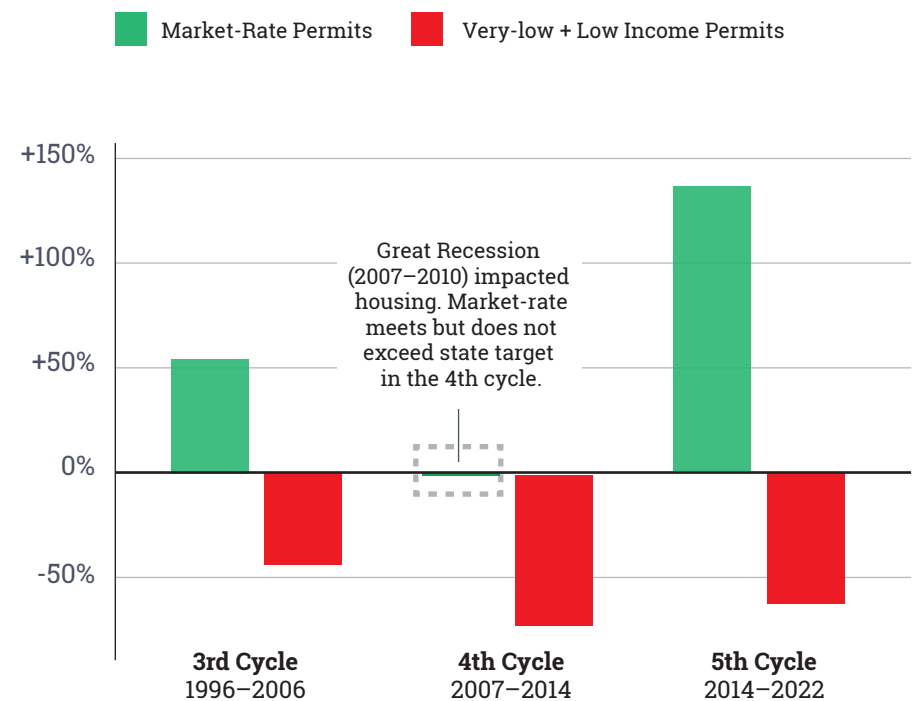
# The state's exaggerated targets unfortunately mask the real story: Decades of overachieving in market-rate housing has not reduced housing costs for lower income households.

The state has shown, with decades of data, that it cannot dictate to the market. The market is going to take care of itself. The state's responsibility is to take care of those left behind in the market's wake. Based on housing permit progress reports published by the Dept. of Housing and Community Development in July 2020, cities and counties in the four most populous regions continue to strongly outperform on the state's assigned market-rate housing targets, but fail to achieve even 20% of their low-income housing target. In the Bay Area where permit records have been kept since 1997, there is evidence that this housing permit imbalance has propagated through decades of housing cycles.

## Permit Progress in the 5th Cycle (2013-2022)\* (all 4 regions)



## Affordable Housing Languishes as Market-Rate Housing Overachieves (Bay Area only)\*



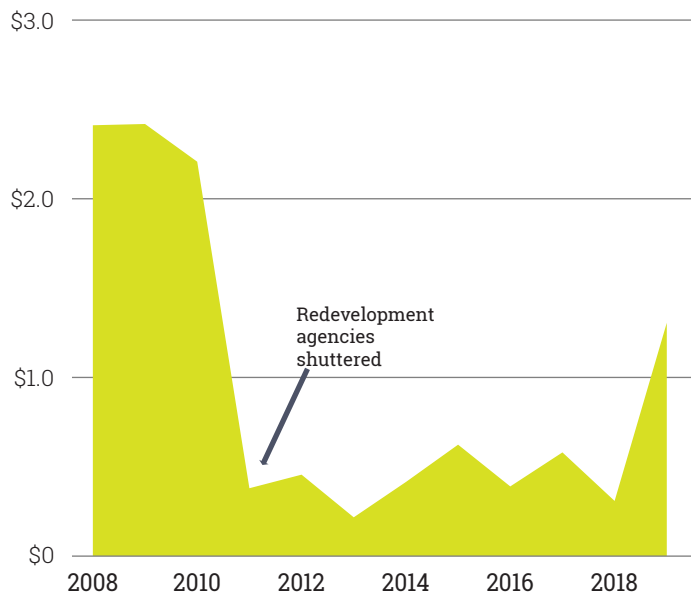
\* Based on permit progress reports published by the Dept of Housing and Community Development and updated July 2020, reporting progress through April 2019.

\*\* Only the Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles.

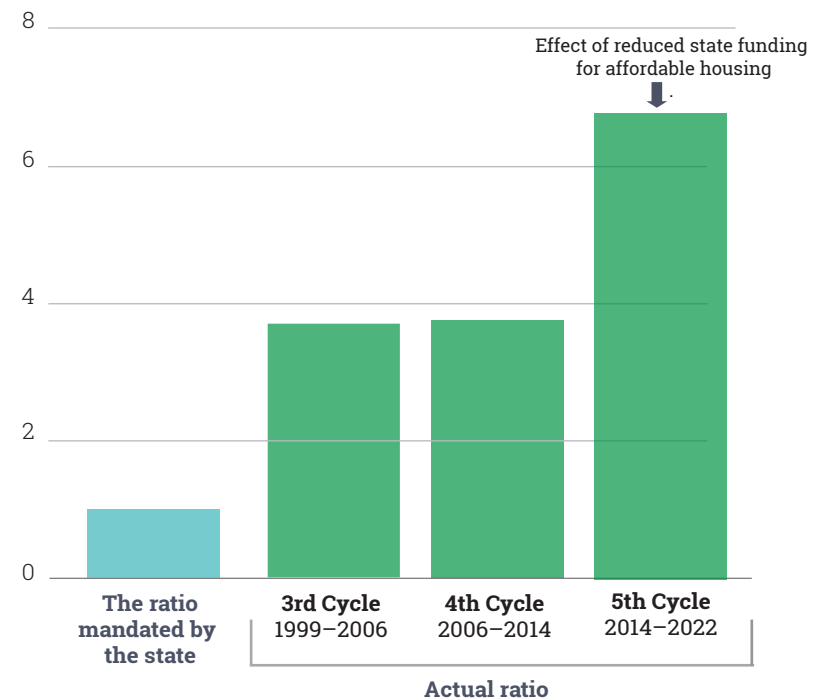
# It's clear. Market-rate housing doesn't need state incentives. Affordable housing needs state

Cities are charged by the state to build one market-rate home for every one affordable home. But state laws, such as the density bonus law, incentivize developers to build market-rate units at a far higher rate than affordable units. As a result, California has been building four market-rate units for every one affordable unit for decades. And with the near-collapse of legislative funding for low-income housing in 2011, that ratio has grown to seven to eight market-rate units to each affordable unit. Yet we need one-to-one. This worsening situation can't be fixed by zoning or incentives, which are the focus of many recent housing bills and only reinforce or worsen the ever-higher market-rate housing ratios. From the data it appears that the shortage of housing resulted not from a failure by cities to issue housing permits, but rather a failure by the state to fund and support affordable housing. Future legislative efforts should take note.

**State Funds for Affordable Housing, 2008–2019\***  
\$ Billion



**Market-Rate to Low-Income Housing Permits in the Bay Area has grown from a ratio of 4 : 1 to 7 : 1**  
(Bay Area only)\*\*



\* "The Defunding of Affordable Housing in California", Embarcadero Institute, update June 2020 [www.embarcaderoinstitute.com/reports/](http://www.embarcaderoinstitute.com/reports/)

\*\* Only Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles. Data is from ABAG's permit progress reports for 3rd and 4th cycle and Dept. of Housing and Community Development's 5th cycle Annual Progress Report.

# Finally, since penalties are incurred for failing to reach state targets for housing permits, the methodology for developing these numbers must be transparent, rigorous and defensible.

Non-performance in an income category triggers a streamlined approval process per Senate Bill 35 (2017). These exaggerated 6th cycle targets will make it impossible for cities and counties to attain even their market-rate targets, ensuring market-rate housing will qualify for incentives and bonuses meant for low-income housing. **Yet again, low-income housing will lose out.** The state needs to correct the latest housing assessment errors and settle on a consistent, defensible approach going forward.

## At Least Four Different Methodologies Have Been Used Simultaneously by the State to Discuss Housing Need: We Only Need One

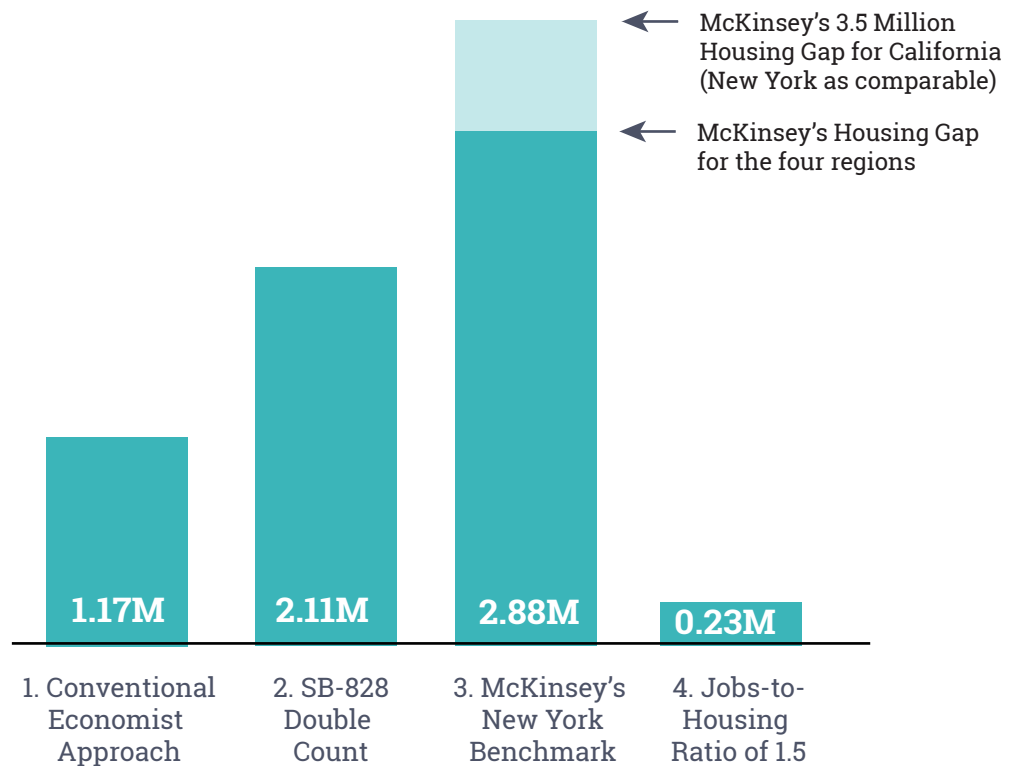
**1. The Conventional Economist Approach:** uses goldilocks (not too big, not too small, just right) benchmarks for vacancies - 1.5% for owner-occupied and 5% for rental housing.

**2. SB-828 Double Count:** incorrectly uses a benchmark of 5% vacancy for owner-occupied housing. It also double counts overcrowding and cost-burdening

**3. McKinsey's New York Benchmark:** the over-simplified approach generated an exaggerated housing gap of 3.5 Million for California. McKinsey multiplied California's population by New York's housing per capita to get 3.5M. New York is not a proper benchmark for California and NY's higher housing per capita is more reflective of NY's declining population rather than a healthy benchmark for housing

**4. Jobs-to-housing ratio of 1.5:** according to state planning agencies 1.5 is the optimal benchmark. Employment in the four regions is estimated to grow to 17 million by 2030 (job growth estimates prepared before COVID).\*\*

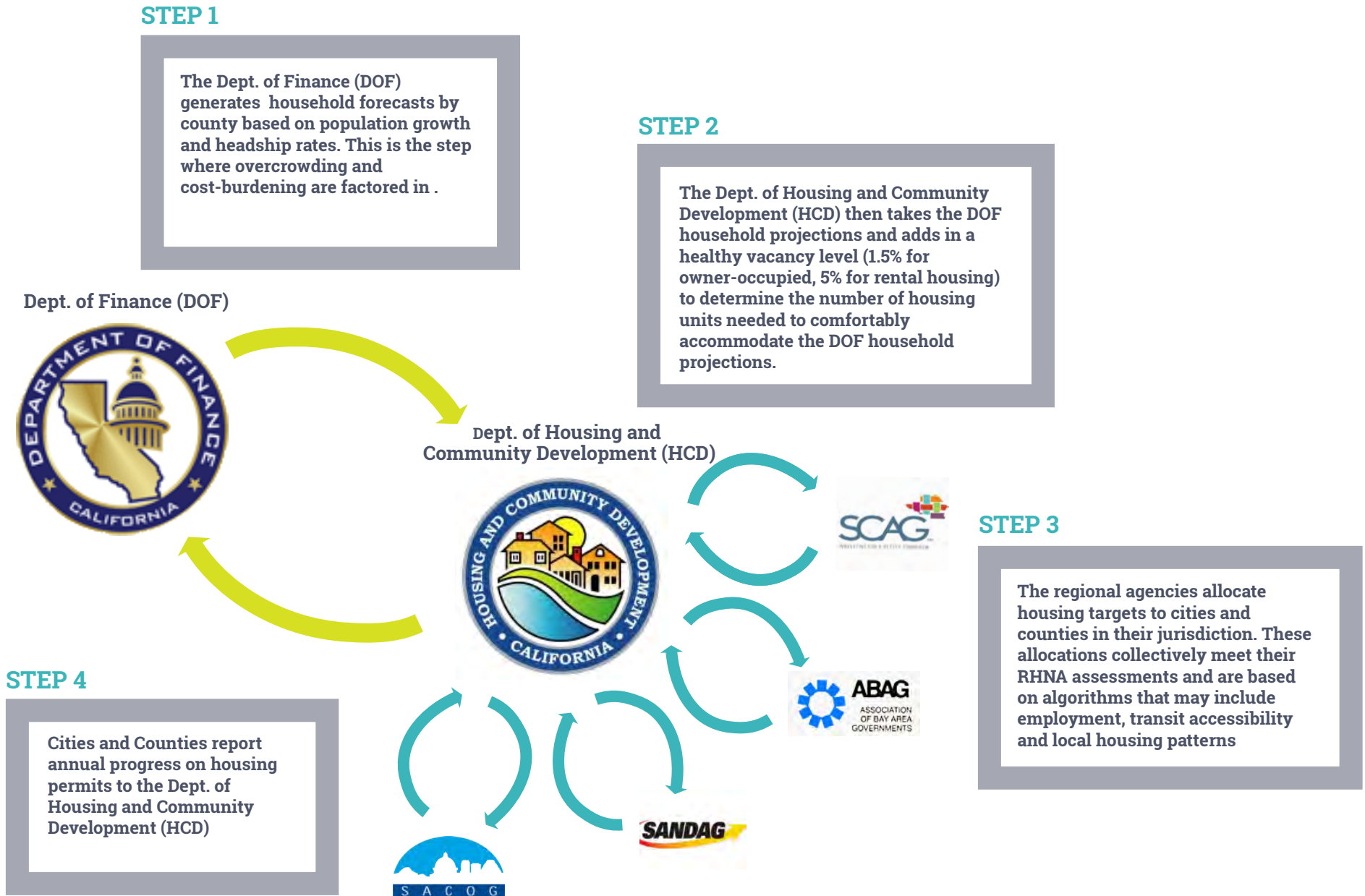
Forecast 2030 Housing Need for the Four Regions



\* California's Employment Development Department (EDD) estimates employment by county through 2026. Using annualized growth (2016 to 2026) as a basis for future growth 2030 employment is estimated for the four regions.

\*\* The 17 million includes estimates of self employed, private household workers, farm and nonfarm employment. Occupations with employment below 100 in 2016 are excluded.

**How it Works: A multi-agency collaborative effort has generated past state housing targets. However, in 2018, SB-828 anointed the Dept. of Housing and Community Development with final veto powers.**



**SB-828 introduced errors in Step 2 (when the Dept. of Housing and Community Development made adjustments to the Dept. of Finance’s household projections).**

Southern California and the Bay Area were most impacted by the double counting. San Diego was not assessed for cost-burdening although it is more cost-burdened than the Bay Area. It was perhaps overlooked because its assessment cycle began in July, 2018, a few months before SB-828 passed into law.

**The Department of Housing and Community and Development**

**1. Used a benchmark of 5% vacancy rate for BOTH owner-occupied and rental housing.**

<b>Six SoCal Counties</b>	<b>=</b>	<b>+126,000</b>	
<b>Greater Bay Area</b>	<b>=</b>	<b>+59,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>+23,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>+21,000</b>	
			<b>+ 229,000</b> <b>housing units</b>

**2. Assumed vacancies in household projections \***

<b>Six SoCal Counties</b>	<b>=</b>	<b>-13,000</b>	
<b>Greater Bay Area</b>	<b>=</b>	<b>-4,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>-2,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>-3,000</b>	
			<b>- 22,000</b> <b>housing units</b>

**3. Double counted overcrowding and cost-burdening**

<b>Six SoCal Counties</b>	<b>=</b>	<b>+578,000</b>	
<b>Greater Bay Area</b>	<b>=</b>	<b>+104,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>+39,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>+13,000</b>	
			<b>+ 734,000</b> <b>housing units</b>

\* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in ‘read me’ notes that accompany the table  
 \*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels—extremely low, very low, low, moderate, above moderate.

## Detailed explanation of the errors using SoCal Counties as an example: First—the correct approach.

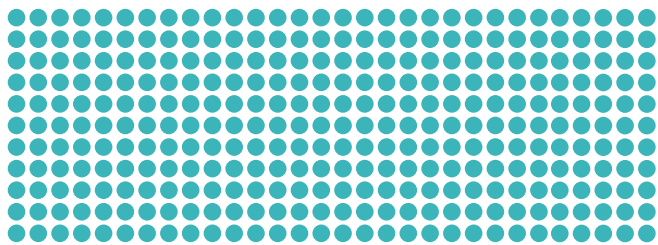
The Department of Housing and Community Development (HCD) has traditionally arrived at a number for pent-up demand or housing shortfall by comparing vacancy rates in owner-occupied and rental housing to healthy benchmarks (1.5% for owner-occupied\* and 5% for rental housing). The largest of the four regions, six SoCal Counties (covering Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties) is considered in the example below\*\*.

### EXISTING HOUSING: Six SoCal Counties

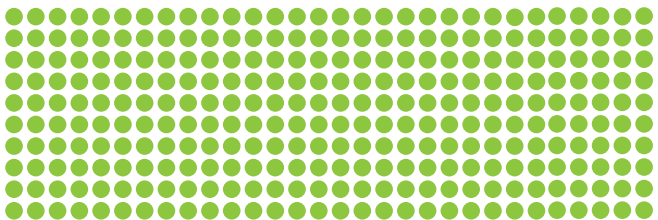
1 circle = 10,000 households

#### Occupied Housing Units

##### Home-owned (3.3 Million)



##### Rentals (3 Million)



#### Vacant Housing Units

Actual Vacancies (40,000)



1.2%

Healthy Benchmark (50,000)



1.5%

(10,000)



Actual Vacancies (111,000)



3.7%

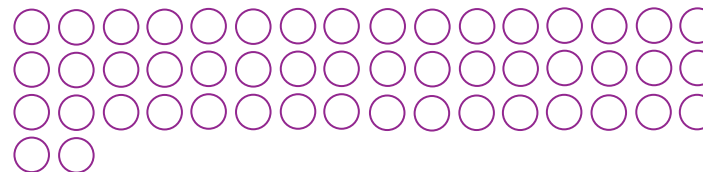
Healthy Benchmark (150,000)



5.0%

(39,000)

Seasonal Vacancies (500,000)\*\*\*



\* Owner-occupied has a lower healthy vacancy rate because it is usually only vacant while a house is for sale

\*\* All numbers are rounded to the nearest thousand.

\*\*\* Seasonal Vacancies represent second homes, corporate housing, and short-term rentals such as AirBnBs

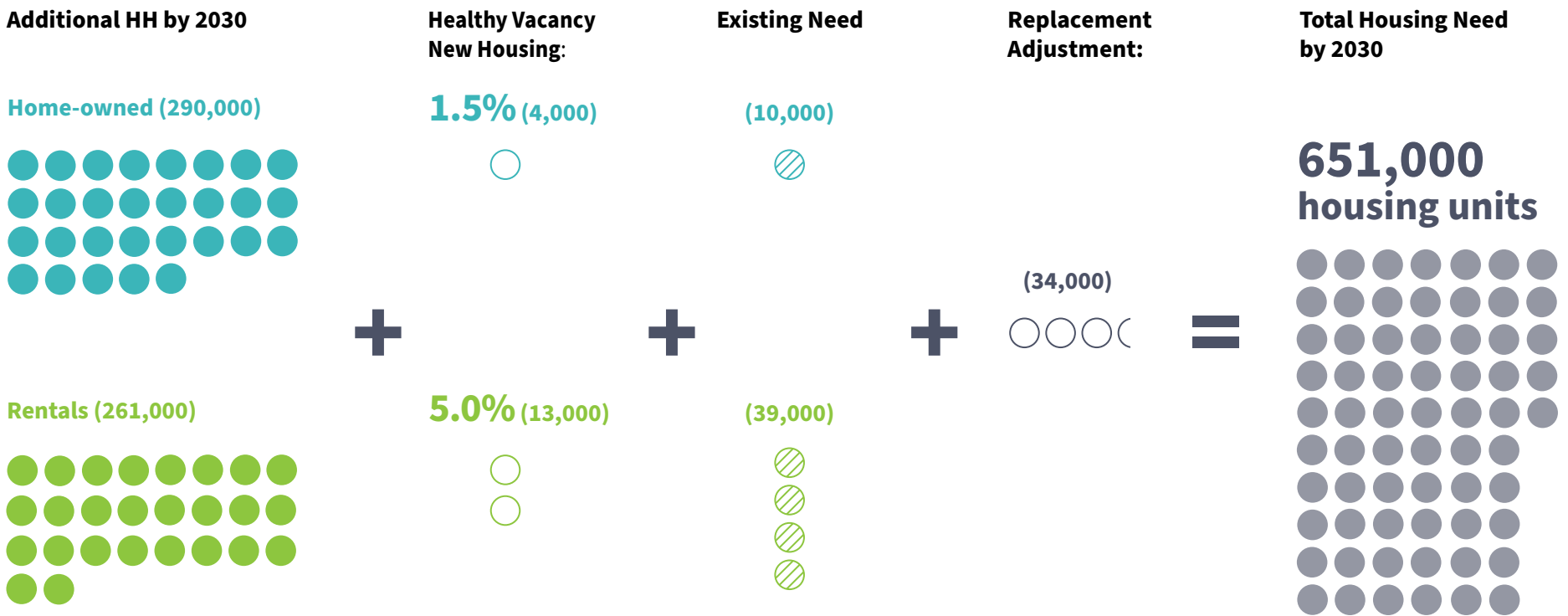


## The housing need also takes into account for future growth.

The Dept. of Finance (DOF) supplies the Dept. of Housing and Community Development (HCD) with an estimate of additional households (HH) needed by the end of the cycle. The DOF forecast the 2030 population, and using an optimal household formation rate determine the number of households required to comfortably house that population\*. The DOF also supply the HCD with the number of existing households at the start of the cycle. The HCD adds to the base number of additional households needed, factoring in vacancies for a healthy market, and adding a replacement adjustment (also supplied by the DOF)\*\*.

### PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



\* Households represent occupied housing units. The number of housing units is always higher as at any given time than the number of households because some housing will be vacant or unutilized. The DOF is responsible for the base projection because they manage population projections for the state, and determine those by analyzing births, deaths and net migration.

\*\* Replacement represents houses that may be demolished or replaced during the cycle\*.

**However, the Dept. of Housing and Community Development has adopted an unusual methodology in evaluating existing need in the 6th housing cycle.**

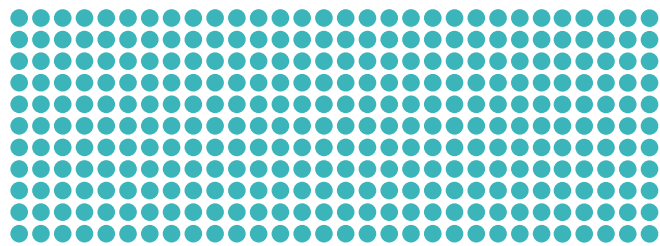
Instead of the typical 1.5% benchmark for owner-occupied housing, they used a 5% vacancy rate usually reserved for rental housing. A 5% vacancy in owner-occupied housing is indicative of a distressed housing market. At 5%, SoCal's existing housing need is increased by 115,000 housing units. Existing need for rental housing is unchanged.

**EXISTING HOUSING: Six SoCal Counties**

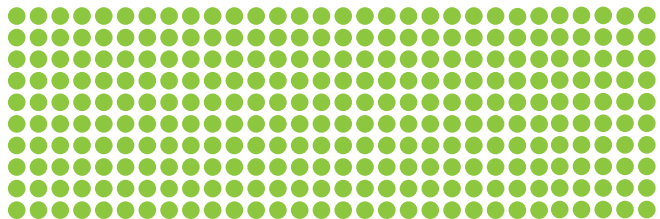
1 circle = 10,000 households

**Occupied Housing Units**

**Home-owned (3.3 Million)**



**Rentals (3 Million)**



**Vacant Housing Units**

**Actual Vacancies (40,000)**



**1.2%**

**Healthy Benchmark (165,000)**



**5.0%**

**Actual Vacancies (110,000)**



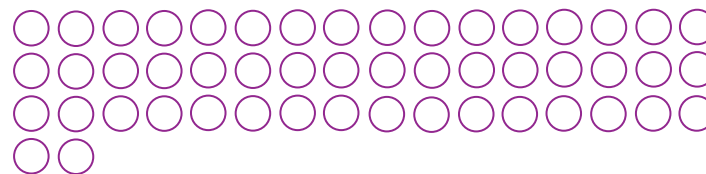
**3.7%**

**Healthy Benchmark (149,000)**



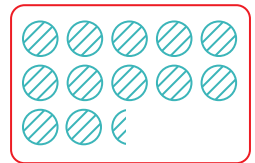
**5.0%**

**Seasonal Vacancies (500,000)**



**Existing Need**

**(125,000)**



**=**

**(39,000)**

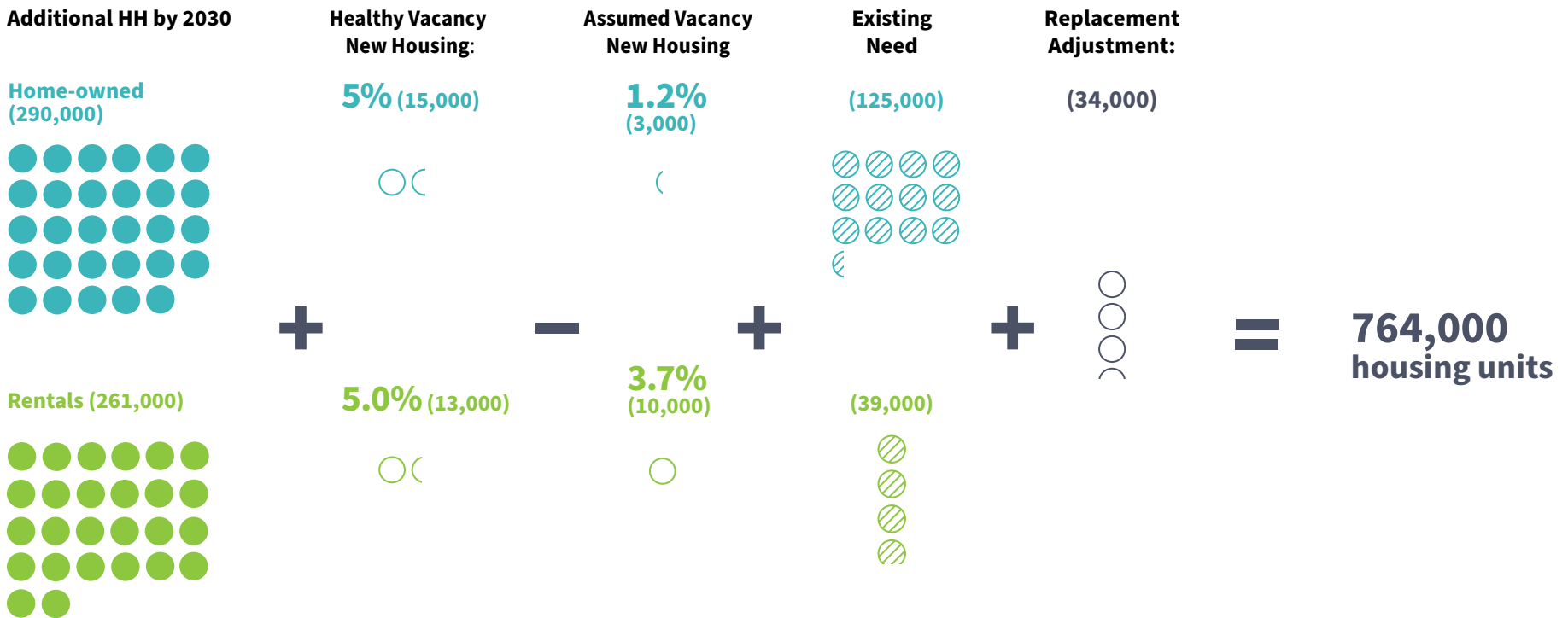


**The Dept. of Housing and Community Development have also taken an unusual approach in evaluating projected housing need.**

Again, instead of using the separate benchmark of 1.5% for owner-occupied housing, 5% was used for all housing. It was also assumed that new projected households had existing vacancies. The full benchmark was not applied to new households. Instead, the difference between the benchmark and the current vacancy rate was applied. The replacement adjustment was applied as it has been in the past.

**PROJECTED HOUSING NEED: Six SoCal Counties**

1 circle = 10,000 households



**Lastly, the Dept. of Housing and Community Development double counted by adding two new factors that had already been factored into household forecasts made by the Dept. of Finance (DOF).**

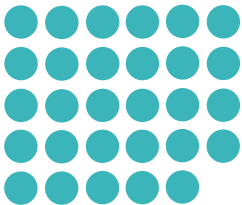
Two new factors were introduced into the 6th assessment – overcrowding and cost burdening. These factors had already been rolled into the DOF’s household projections. The DOF explicitly recognized that regional household formation rates might be depressed (a symptom of overcrowding and cost-burdening) because of the affordable housing crisis. The household formation rate used by the DOF is higher than the actual rate experienced. As such, it generates a higher housing target meant to relieve overcrowding and cost-burdening.

**PROJECTED HOUSING NEED: Six SoCal Counties**

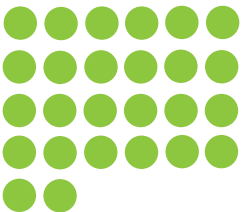
1 circle = 10,000 households

**Additional HH by 2030**

Home-owned  
(290,000)



Rentals (261,000)



**Projected Households already factors in overcrowding and cost-burdening**

From the Department of Finance

“The argument was that the Great Recession and the affordability crisis which impact recent trends in headship should not be allowed to solely dominate the projection, rather some return to underlying socio-cultural norms of homeownership/fewer roommates is a beneficial assumption”



**A DOUBLE COUNT**

Overcrowding Adjustment\*

(460,000)



Cost Burdening Adjustment\*\*

(118,000)



\* In addition to double counting, HCD incorrectly calculated the overcrowding factor. They assumed that for every house that was overcrowded another house would be required to relieve overcrowding. The more accurate analysis would be to assess the number of extra people to be housed and divide by the average household size.  
 \*\* HCD only applied cost-burdening adjustments to future households not existing households. It is unclear why cost-burdening would only be considered an issue for future households, as the data is for current households.

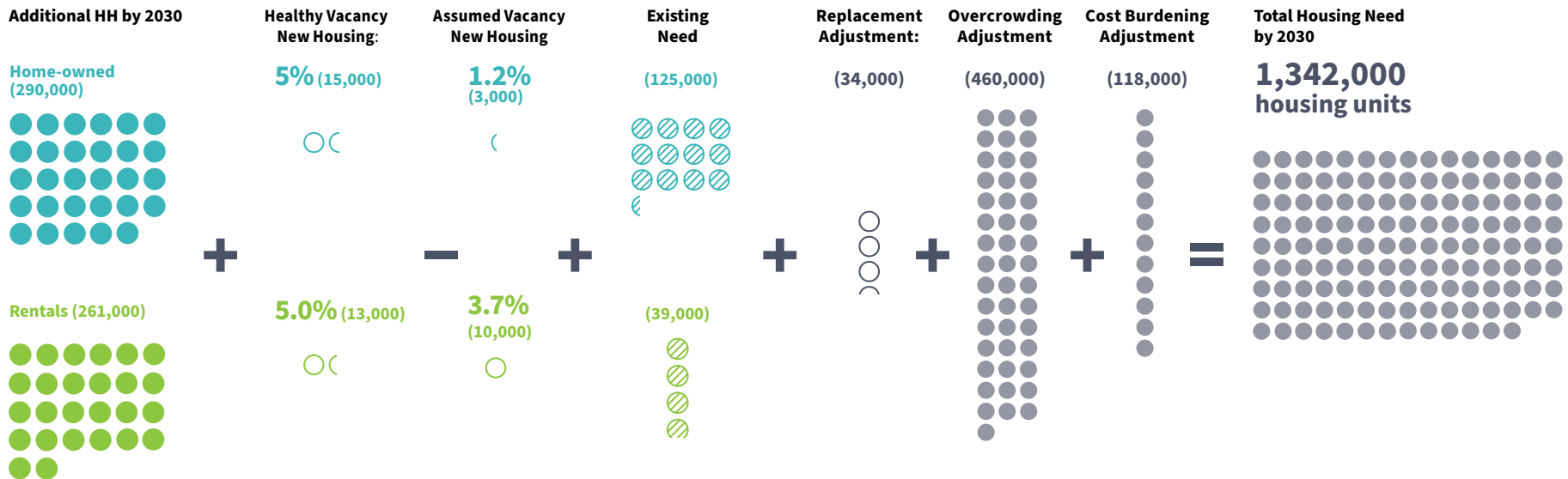
# The vacancy errors and double counting resulted in a doubling of the housing needs assessment for the six counties of SoCal.

## TYPICAL METHODOLOGY

1 circle = 10,000 households



## HCD 6TH CYCLE METHODOLOGY



Complete data tables: *RHNA Data and Models 6th cycle*, [www.embarcaderoinstitute.com](http://www.embarcaderoinstitute.com)

**References used in the analysis :**

**Dept. of Housing and Community Development (HCD)** <https://www.hcd.ca.gov>

**Regional Housing Needs Allocation and Housing Elements**

**Regional Housing Needs**

**Allocations for 6th Cycle Housing Elements:**

- Association of Bay Area Governments Regional Housing Need Determination Plan for the Sixth Housing Element Update
- Sacramento Area Council of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- Southern California Association of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- San Diego Association of Governments Regional Housing Need Determination and Plan for the Sixth Housing Element Update

**Allocations for 5th Cycle Housing Elements:**

- Association of Bay Area Governments (February 24, 2012)
- Sacramento Area Council of Governments (September 26, 2011)
- San Diego Association of Governments (November 23, 2010)
- Southern California Association of Governments (August 17, 2011)

**Annual Progress Reports**

Annual Progress Report APR: 5th Cycle Annual Progress Report Permit Summary (updated 7/30/2020)

**Allocations for Earlier Cycles and Housing Element**

- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06
- Regional Housing Needs Plan 2006 to 2013 SACOG February 2008
- 3rd and 4th Cycle RHNA allocations (data sent in personal communication with the Department of Housing and Community Development)

**Department of Finance Methodology for Household Forecasts**

- "Read Me" P4 Tables : Household Projections 2020 to 2030
- Association of Bay Area Governments Digital Library: RHNA Documents, Regional Housing Needs Allocation Documents
- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06, Regional Housing Need Allocation p 2

**Other Housing Assessment Methodologies**

**"Mckinsey & Company:** A TOOL KIT TO CLOSE CALIFORNIA'S HOUSING GAP: 3.5 MILLION HOMES BY 2025", October 2016

**Jobs to Housing**

Employment Development Department, State of California, Employment Projections : Long Term Projections  
<https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html>

Exhibit A-3\_Embarcadero Institute\_Housing-Needs-Assessment-Models-Californias-Four-Major-Planning-Regions-Oct-2020-Update

*This attachment was submitted as an excel file and cannot be viewed in PDF format due to formatting issues. To view the excel file submitted by the City of Mission Viejo, please visit <https://scaq.ca.gov/sites/main/files/file-attachments/missionviejo-exhibit-a-3.xlsx?1604962810>.*

## Final RHNA Allocation Methodology

### EXECUTIVE SUMMARY

*SCAG is required to develop a final RHNA methodology to distribute existing and projected housing need for the 6th cycle RHNA for each jurisdiction, which will cover the planning period October 2021 through October 2029. Following extensive feedback from stakeholders during the proposed methodology comment period and an extensive policy discussion, SCAG’s Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019, as described below, and provide it to the State Department of Housing and Community Development (HCD) for their statutory review. On January 13, 2020, HCD completed its review of the draft methodology and found that it furthers the five statutory objectives of RHNA and on March 4, 2020, SCAG’s Regional Council voted to approve the Final RHNA Methodology. The overall framework for this methodology is included in the table below and further described in the rest of this document.*

Projected need	Existing need	Income categories
Household growth 2020-2030	Transit accessibility (HQTA population 2045)	150% social equity adjustment minimum
Future vacancy need	Job accessibility	0-30% additional adjustment for areas with lowest or highest resource concentration
Replacement need	Residual distribution within the county	

### HOUSING CRISIS

There is no question that there is an ongoing housing crisis throughout the State of California. A variety of measures indicate the extent of the crisis including overcrowding and cost-burdened households, but the underlying cause is due to insufficient housing supply despite continuing population growth over recent decades.

As part of the RHNA process SCAG must develop a final RHNA methodology, which will determine each jurisdiction’s draft RHNA allocation as a share of the regional determination of existing and projected housing need provided by the California Department of Housing and Community Development (HCD). There are several requirements outlined by Government Code Section 65584.04, which will be covered in different sections of this packet:

- Allocation methodology, per Government Code 65584.04(a)
- How the allocation methodology furthers the objectives State housing law, per GC 65584.04(f)



- How local planning factors are incorporated into the RHNA methodology, per GC 65584.04(f)
- Furthering the objectives of affirmatively furthering fair housing (AFFH), per GC 65584.04(d)
- Public engagement, per GC 65584.04(d)

Additionally, SCAG has developed a dynamic estimator tool and data appendix that contains a full set of various underlying data and assumptions to support the methodology. Due to the size of the appendix, a limited number of printed copies are available. SCAG has posted the dynamic estimator tool and full methodology appendix, on its RHNA webpage: [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna).

Per State housing law, the RHNA methodology must distribute existing and projected housing need to all jurisdictions. The following section provides the final methodology for distributing projected and existing need to jurisdictions from the RHNA regional determination provided by the California Department of Housing and Community Development (HCD) pursuant to Government Code Section 65584.01.

#### Guiding Principles for RHNA Methodology

In addition to furthering the five objectives pursuant to Government Code 65585(d), there are several guiding principles that SCAG staff has developed to use as the basis for developing the distribution mechanism for the RHNA methodology. These principles are based on the input and guidance provided by the RHNA Subcommittee during their discussions on RHNA methodology between February 2019 and June 2019.

1. The housing crisis is a result of housing building not keeping up with growth over the last several decades. The RHNA allocation for all jurisdictions is expected to be higher than the 5<sup>th</sup> RHNA cycle.
2. Each jurisdiction must receive a fair share of their regional housing need. This includes a fair share of planning for enough housing for all income levels, and consideration of factors that indicate areas that have high and low concentration of access to opportunity.
3. It is important to emphasize the linkage to other regional planning principles to develop more efficient land use patterns, reduce greenhouse gas emissions, and improve overall quality of life.

The jurisdictional boundaries used in the recommended RHNA methodology will be based on those as of August 31, 2016. Spheres of influence in unincorporated county areas are considered within unincorporated county boundaries for purposes of RHNA.

#### Proposed RHNA Allocation Methodology

The proposed RHNA methodology, which was released for public review on August 1, contained three (3) options to distribute HCD's regional determination for existing and projected need for the

SCAG region. HCD provided SCAG a final regional determination of 1,341,827 units for the 6<sup>th</sup> cycle RHNA on October 15, 2019.<sup>1</sup>

The three options were developed based on RHNA Subcommittee feedback on various factors at their meetings between February and June 2019 and feedback from stakeholders. SCAG solicited formal public comment on the three options and any other factors, modifications, or alternative options during the public comment period, which commenced on August 1 and concluded on September 13, 2019.

Four public hearings were conducted to formally receive verbal and written comments on the proposed RHNA methodology, in addition to one public information session with a total participation of approximately 250 people. Almost 250 written comments were submitted to SCAG specifically on the proposed methodology and over 35 verbal comments were shared at four (4) public hearings held in August 2019.

#### Draft and Final RHNA Allocation Methodology

Based on comments received during the public comment period, staff recommended a combination of the three options in the proposed methodology further enhanced by factors specifically suggested by stakeholders.

On November 7, 2019, SCAG's Regional Council voted to approve the Draft RHNA Methodology. The approved draft methodology included modifications to the staff-recommended draft methodology for calculating existing housing need to more closely align the methodology with job and transit accessibility factors.

On January 13, 2020, HCD completed their statutory review and found that SCAG's Draft RHNA Methodology furthers the five statutory objectives of RHNA, which allows SCAG to finalize the RHNA methodology and issue draft RHNA allocations to each individual jurisdiction. HCD's comment letter, which can be found at [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna), notes:

*"HCD has completed its review of the methodology and finds that the draft SCAG RHNA methodology furthers the five statutory objectives of RHNA. HCD acknowledges the complex task of developing a methodology to allocate RHNA to 197 diverse jurisdictions while furthering the five statutory objectives of RHNA. This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of objective factors specifically linked the statutory objectives in the existing need methodology."*

Following this finding, staff recommended the draft RHNA methodology as the final RHNA methodology. On March 5, 2020, SCAG's Regional Council approved Resolution No. 20-619-2

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<sup>1</sup> On September 5, 2019, the SCAG Regional Council voted to object to HCD the regional determination of 1,344,740, per Government Code Section 65584.01, that was provided on August 15, 2019. After review of SCAG's objection letter, HCD provided a final regional determination of 1,341,827 units on October 15, 2019.

adopting the Final RHNA Methodology for the Sixth Housing Element Cycle. Following the formal distribution of draft RHNA allocations based on the Final RHNA methodology and a separate appeals phase described in Government Code 65584.05 et seq., RHNA allocations will be finalized in approximately October 2020.

The next section describes the final RHNA methodology mechanism to distribute the 1,341,827 housing units determined by HCD to all SCAG jurisdictions.

#### Determining Existing Need and Projected Need

SCAG's final RHNA methodology starts with the total regional determination provided by HCD and separates existing need from projected need.

Projected need is considered as household growth for jurisdictions between the RHNA projection period between July 1, 2021 and October 1, 2029, in addition to a calculated future vacancy need and replacement need. For projected household growth, SCAG's Connect SoCal growth forecast for the years 2020-2030 is used as the basis for calculating projected housing unit need for the region. The anticipated growth in households over this period is multiplied by 0.825 to approximate growth during the 8.25-year RHNA projection period of July 1, 2021 to October 1, 2029.

For several jurisdictions, SCAG's growth forecast includes projected household growth on tribal land. For these jurisdictions, SCAG's estimate of household growth on tribal land from July 1, 2021 to October 1, 2029 is subtracted from the jurisdictional projected household growth (see note in the accompanying dynamic estimator tool). A vacancy adjustment of 1.5% for owner-occupied units and 5% for renter-occupied units representing healthy-market vacancy will be applied to projected household growth to determine future vacancy need. Next a replacement need is added, which is an estimate of expected replacement need over the RHNA period. **Based on these components, the regional projected need is 504,970 units.**

Existing need is considered the remainder of the regional determination after projected need is subtracted. **Based on this consideration, the regional existing need is 836,857 units.**

#### Determining a Jurisdiction's RHNA Allocation (Existing and Projected Need)

In determining the existing need and projected need for the region, the methodology applies a three-step process to determine a jurisdiction's RHNA allocation by income category:

1. Determine a jurisdiction's projected housing need
  - a. Assign household growth to jurisdictions based on SCAG's Connect SoCal Regional Transportation Plan/Sustainable Communities Strategy Growth Forecast between 2020 and 2030
  - b. Calculate a jurisdiction's future vacancy need by applying a healthy market vacancy rate separately to the jurisdiction's owner and renter households
  - c. Assign a replacement need to jurisdictions based on each jurisdiction's share of regional net replacement need based on information collected from the replacement need survey submitted by local jurisdictions

2. Determine a jurisdiction’s existing housing need
  - a. Assign 50 percent of regional existing need based on a jurisdiction’s share of region’s population within the high quality transit areas (HQTAs) based on future 2045 HQTAs
  - b. Assign 50 percent of regional existing need based on a jurisdiction’s share of the region’s jobs that can be accessed within a 30-minute driving commute
  - c. For extremely disadvantaged communities (hereafter “DACs,” see definition below), identify residual existing need, which is defined herein as total housing need in excess of household growth between 2020 and 2045<sup>2</sup>. DACs are jurisdictions with more than half of the population living in high segregation and poverty or low resource areas as defined by the California Tax Credit Allocation Committee (TCAC)/HCD Opportunity Index Scores further described in the document.
  - d. Reallocate residual existing need by county to non-DAC jurisdictions within the same county based on the formula in (a) and (b) above, i.e. 50% transit accessibility and 50% job accessibility.
  
3. Determine a jurisdiction’s total housing need
  - a. Add a jurisdiction’s projected housing need from (1) above to its existing housing need from (2) above to determine its total housing need.
  
4. Determine four RHNA income categories (very low, low, moderate, and above moderate)
  - a. Use a minimum 150% social equity adjustment
  - b. Add an additional percentage of social equity adjustment to jurisdictions that have a high concentration of very low or very high resource areas using the California Tax Credit Allocation Committee (TCAC)’s index scoring
    - i. Add a 10% social equity adjustment to areas that are designated as 70-80% very high or very low resource area
    - ii. Add a 20% social equity adjustment to areas that are designated as 81-90% very high or very low resource area
    - iii. Add a 30% social equity adjustment to areas that are designated as 91-100% very high or very low resource area

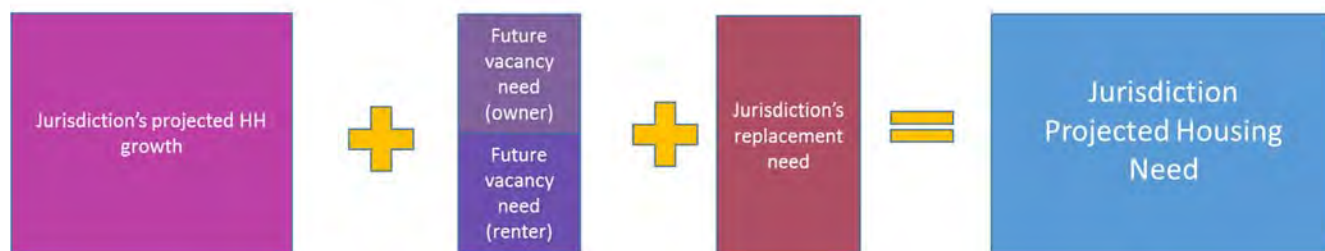
Methodology Component	Assigned units
Projected need: Household growth	466,958
Projected need: Future vacancy need	14,467
Projected need: Replacement need	23,545
Projected need subtotal	504,970

<sup>2</sup> Since HCD’s regional determination of 1,341,827 exceeds SCAG’s 2020-2045 household growth forecast of 1,297,000 by 3.46 percent, for the purposes of existing need allocation, exceeding “local input” or more accurately, Connect SoCal Growth Forecast, household growth shall mean exceeding 1.0368 times household growth.

	Percentage of Existing Need	Assigned units
Existing need: Transit accessibility	50%	418,429
Existing need: Job accessibility	50%	418,428
Existing need subtotal		836,857
<b>Total regional need</b>		<b>1,341,827</b>

### Step 1: Determine Projected Housing Need

The first step of the RHNA methodology is to determine a jurisdiction’s projected need. From the regional determination, projected need is considered to be regional household growth, regional future vacancy need, and regional replacement need.



To determine a jurisdiction’s projected need, the methodology uses a three-step process:

- a. Determine the jurisdiction’s regional projected household growth based on local input
- b. Determine future vacancy need based on a jurisdiction’s existing composition of owner and renter households and apply a vacancy rate on projected household growth based on the following:
  - a. Apply a 1.5% vacancy need for owner households
  - b. Apply a 5.0% vacancy need for renter households
- c. Determine a jurisdiction’s net replacement need based on replacement need survey results

### Step 1a: Projected Household Growth

SCAG’s Connect SoCal regional growth forecast reflects recent and past trends, key demographic and economic assumptions, and local, regional, state, and national policy. SCAG’s regional growth forecasting process also emphasizes the participation of local jurisdictions and other stakeholders. The growth forecast process kicked off on May 30, 2017 with a panel of experts meeting wherein fifteen academic scholars and leading practitioners in demographics and economics were invited to review key input assumptions for the growth forecast including expected job growth, labor force

participation, birth rates, immigration and household formation rates. SCAG staff then incorporated the recommendations of the panel of experts into a preliminary range of population, household, and employment growth figures for 2016, 2020, 2030, 2035, and 2045 for the region and six counties individually.

SCAG further projects jurisdiction-level and sub-jurisdiction-level employment, population, and households using several major data sources, including:

- California Department of Finance (DOF) population and household estimates;
- California Employment Development Department (EDD) jobs report by industry;
- 2015 existing land use and General Plans from local jurisdictions;
- 2010 Census and the latest ACS data (2013-2017 5-year samples);
- County assessor parcel databases;
- 2011 and 2015 Business Installment data from InfoGroup; and
- SCAG's 2016 RTP/SCS growth forecast.

On October 31, 2017, the preliminary small area (i.e. jurisdiction and sub-jurisdiction) growth forecasts were released to local jurisdictions for their comments and input. This kicked off SCAG's *Bottom-Up Local Input and Envisioning Process* which provided each local jurisdiction with their preliminary growth forecast information as well as several other data elements both produced by SCAG and other agencies which are related to the development of Connect SoCal. Data map books were generated and provided electronically and in hard copy format and included detailed parcel-level land use data, information on resource areas, farmland, transportation, geographical boundaries and the draft growth forecast. Complete information on the Data map books and the Bottom-Up Local Input and Envisioning Process can be found at <http://scagrtpscs.net/Pages/DataMapBooks.aspx>. Over the next eight months, SCAG staff conducted one-on-one meetings with all 197 local jurisdictions to explain methods and assumptions behind the jurisdiction and sub-jurisdiction growth forecast as well as to provide an opportunity to review, edit, and approve SCAG's preliminary forecast for population, employment, and households for 2016, 2020, 2030, 2035, and 2045.

Between October 2018 and February 2019, SCAG reviewed local input on the growth forecast and other data map book elements. The local input growth forecast was evaluated at the county and regional level for the base year of 2016 and the horizon year of 2045 and was found to be technically sound. Specifically, as it relates to SCAG's local input household forecast:

- The forecast generates a 2045 regional unemployment rate of 4.7 percent which is reasonable based on past trends and ensured that the forecast is balanced, i.e. there are not too many jobs for the number of anticipated workers
- The forecast generates a 2045 population-to-household ratio of 2.9 which is consistent with the preliminary forecast and reflects expert-anticipated decreases in this ratio, ensuring that there are not too many people for the anticipated number of households region-wide
- From 2020-2045, the forecast anticipates household growth of 21 percent and population growth of 15 percent, indicating an alleviation of the region's current housing shortage over this future period.

SCAG's growth forecast for the years 2020-2030 is used as the basis for calculating projected housing unit need. Because the 6th cycle RHNA projection period covers July 1, 2021 through October 15, 2029, it is necessary to adjust reported household growth between 2020 and 2030 and adjust it to an 8.25 year projection period. The anticipated growth in households over this period is multiplied by 0.825 to approximate growth during the 8.25-year RHNA projection period (July 1, 2021 to October 15, 2029).

### Step 1b: Future Vacancy Need

The purpose of a future vacancy need is to ensure that there are enough vacant units to support a healthy housing market that can genuinely accommodate projected household growth. An undersupply of vacant units can prevent new households from forming or moving into a jurisdiction. Formulaically, future vacancy need is a percentage applied to the jurisdiction's household growth by tenure type (owner and renter households). While individual jurisdictions may experience different vacancy rates at different points in time, future vacancy need is independent of existing conditions and instead is a minimum need to support household growth.

To calculate a jurisdiction's future vacancy need, its proportion of owner-occupied units and renter-occupied units are determined using American Community Survey (ACS) 2013-2017 data—the most recent available at the time of the draft methodology's development. The percentages are applied to the jurisdiction's projected household growth from the previous step, which results in the number of projected households that are predicted to be owners and those that are predicted to be renters.

Next, two different vacancy rates are applied based on the regional determination provided by HCD. The recommended methodology uses 1.5 percent for owner-occupied units and a rate of 5 percent for renter-occupied units. The difference is due to the higher rates of turnover generally reported by renter units in comparison to owner-occupied units. The vacancy rates are applied to their respective tenure category to determine how many future vacant units are needed by tenure and then added together to get the total future vacancy need.

### Step 1c: Replacement Need

Residential units are demolished for a variety of reasons including natural disasters, fire, or desire to construct entirely new residences. Each time a unit is demolished, a household is displaced and disrupts the jurisdiction's pattern of projected household growth. The household may choose to live in a vacant unit or leave the jurisdiction, of which both scenarios result in negative household growth through the loss of a vacant unit for a new household or subtracting from the jurisdictions number of households.

For these reasons, replacement need is a required component of the regional determination provided by HCD. The methodology's replacement need will be calculated using a jurisdiction's net replacement need based on data submitted for the replacement need survey, which was conducted between March and April 2019.

Each jurisdiction's data on historical demolitions between reporting years 2008 and 2018, which was collected from the California Department of Finance (DOF), was tabulated and provided to

jurisdictions in the replacement need survey. Jurisdictions were asked to provide data on units that replaced the reported demolished units. A net replacement need was determined based on this information for each jurisdiction.

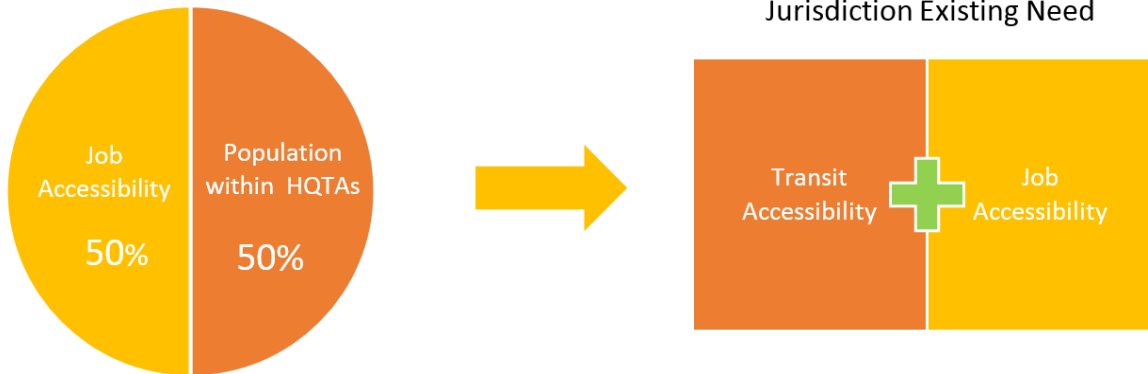
After determining each of the projected housing need components, they are combined to determine a jurisdiction’s projected housing need.

**Step 2: Determine Existing Housing Need**

After determining a jurisdiction’s projected need, the next step is to determine a jurisdiction’s existing need. Following the above discussion and based on HCD’s determination of total regional housing need, existing need is defined as the total need minus the projected need—approximately 62 percent of the entire regional determination. SCAG’s Regional Council determined that the regional existing need be split into two parts:

- Fifty (50) percent on population near transit (HQTAs), or 31 percent of total need
- Fifty (50) percent on job accessibility, or 31 percent of total need

Regional Existing Need



**Step 2a: Share of Regional HQTAs Population**

The next step involves the consideration of proximity to transit to distribute fifty (50) percent of the region’s existing housing need, in an effort to better align transportation and housing planning.

For several years, SCAG has developed a measure called High Quality Transit Areas (HQTAs) which are areas within a half-mile of transit stations and corridors with at least a fifteen (15) minute headway during peak hours for bus service. HQTAs are based on state statutory definitions of high-quality transit corridors (HQTcs) and major transit stops. For the development of Connect SoCal, freeway-running HQTcs have been excluded from HQTAs to better reflect the level of service they provide to nearby areas.

Planned HQTcs and major transit stops for future years are improvements that are expected to be implemented by transit agencies by the Connect SoCal horizon year of 2045. SCAG updates its inventory with the quadrennial adoption of each RTP/SCS; however, planning and environmental



impact studies may be completed by transit agencies more frequently. Therefore, HQTAs in future years reflect the best information currently available to SCAG regarding the location of future high-quality transit service accessibility. More detailed information on HQTAs-related definitions is available in the data appendix.

50 percent of the regional existing housing need will be distributed based on a jurisdiction's share of regional residential population within an HQTAs, based on the HQTAs boundaries used in the final Connect SoCal Plan anticipated to be adopted by SCAG in April 2020. Not all jurisdictions have an HQTAs within their jurisdictional boundaries and thus may not receive existing need based on this factor.

### Step 2b: Job Accessibility

The concept behind job accessibility is to further the statewide housing objective and SCAG's Connect SoCal objective of improving the relationship between jobs and housing. While none of the three options presented in the proposed RHNA methodology included a factor directly based on job accessibility, an overwhelming number of public comments expressed support for the methodology to include this specific component.

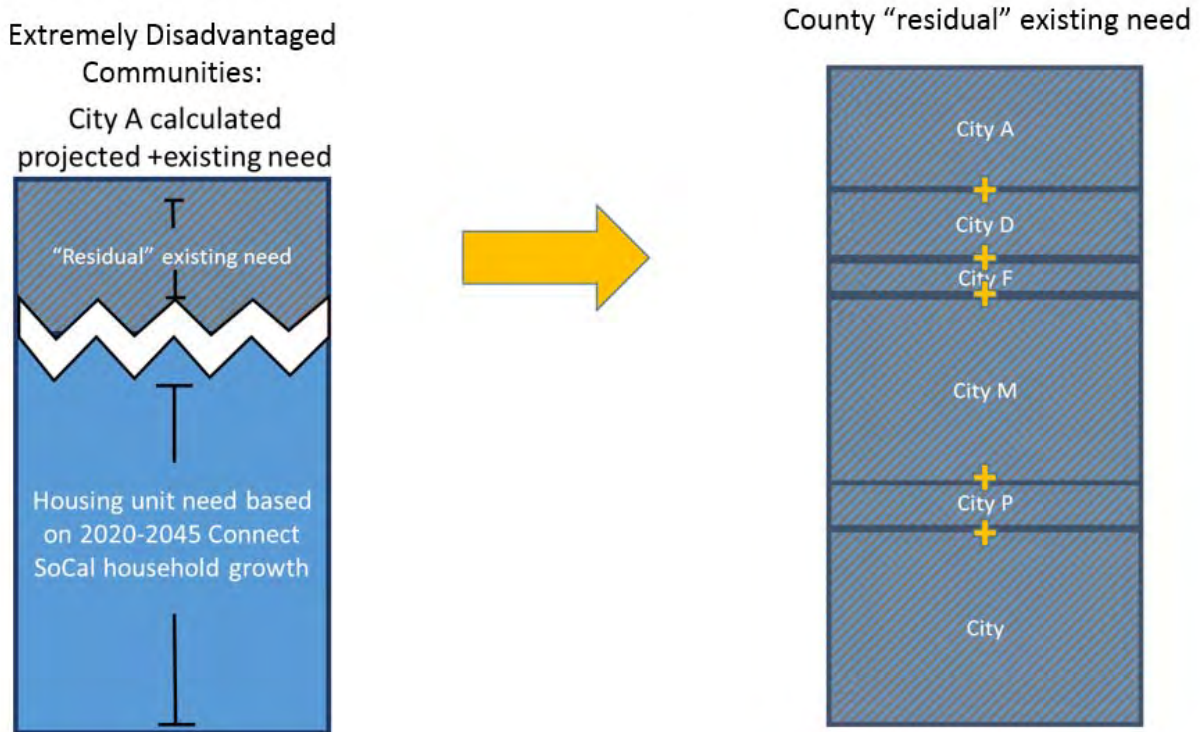
The methodology assigns fifty (50) percent of regional existing need based on job accessibility. Job accessibility is based on the share of the region's jobs accessible by a thirty (30) minute commute by car in 2045. Importantly, the RHNA methodology's job access factor is *not* based on the number of jobs within a jurisdiction from SCAG's Connect SoCal Plan or any other data source. Rather, it is a measure based on of how many jobs can be *accessed* from that jurisdiction within a 30-minute commute, which includes jobs in other jurisdictions. Since over 80 percent of SCAG region workers live and work in different jurisdictions, genuinely improving the relationship between jobs and housing necessitates an approach based on job access rather than the number of jobs in a jurisdiction.

These job accessibility data are derived at the transportation analysis zone (TAZ) level from travel demand modelling output from SCAG's final Connect SoCal Plan. SCAG realizes that in many jurisdictions, especially larger ones, job access many not be uniform in all parts of the city or county. However, since the RHNA process requires allocating housing need at the jurisdictional-level, staff reviewed several ways to measure the typical commuter's experience in each jurisdiction. Ultimately, the share of the region's jobs that could be accessed by a jurisdiction's *median TAZ* was found to be the best available measure of job accessibility for that jurisdiction. Based on this measure, in central parts of the region, residents of some jurisdictions can access as much as 23 percent of the region's jobs in a 30 minute car commute, while the average across all the region's jurisdictions was 10.5 percent.

This measure is multiplied by a jurisdiction's share of total population in order to allocate housing unit need to jurisdictions. This important step ensures that the potential beneficiaries of greater accessibility (i.e., the population in a jurisdiction with good job access) are captured in the methodology. Based on this approach, jurisdictions with limited accessibility to jobs will receive a smaller RHNA allocation based on this component.

### Step 2c: "Residual" Adjustment Factor for Existing Need

In many jurisdictions defined as “disadvantaged communities (DACs)”, the calculated projected and existing need is higher than its household growth between 2020 and 2045, as determined by the SCAG Growth Forecast used in the final Connect SoCal regional plan. Those DAC jurisdictions that have a need as determined by the RHNA methodology as higher than its 2020 to 2045 household growth<sup>3</sup> will be considered as generating “residual” existing need. Residual need will be subtracted from jurisdictional need in these cases so that the maximum a DAC jurisdiction will receive for existing need is equivalent to its 2020 to 2045 household growth. Not all DAC jurisdictions will have a residual existing need.



A county total of residual existing need will be calculated and then redistributed with the same county to non-DAC jurisdictions. The redistribution will be assigned to jurisdictions based on transit accessibility (50%) and job accessibility (50%), and will exclude DAC jurisdictions which have over 50% of their populations in very low resource areas using California Tax Credit Allocation Committee (TCAC)/HCD Opportunity Indices.

Very low resource areas are areas that have least access to opportunity as measured by indicators such as poverty levels, low wage job proximity, math and reading proficiency, and pollution levels. This mechanism will help to further AFFH objectives since residual existing RHNA need, which includes additional affordable units, will be assigned to areas that are not identified as those with the

<sup>3</sup> Since HCD’s regional determination of 1,341,827 exceeds SCAG’s 2020-2045 household growth forecast of 1,297,000 by 3.68 percent, for the purposes of existing need allocation, exceeding “local input” or “Connect SoCal” household growth shall mean exceeding 1.0368 times household growth.

lowest resources, which will increase access to opportunity. A full discussion on the TCAC opportunity indicators is provided in the following section on social equity adjustment. Data relating to the TCAC opportunity indicator categories for each jurisdiction can be found in the RHNA methodology data appendix and in the accompanying RHNA allocation estimator tool on the RHNA webpage: [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna).

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### Step 3: Determining Total Housing Need

After determining a jurisdiction’s projected housing need from step 1 and its existing housing need from step 2, the sum of the projected and existing need becomes a jurisdiction’s total housing need.



### Step 4: Determining Four Income Categories through Social Equity Adjustment

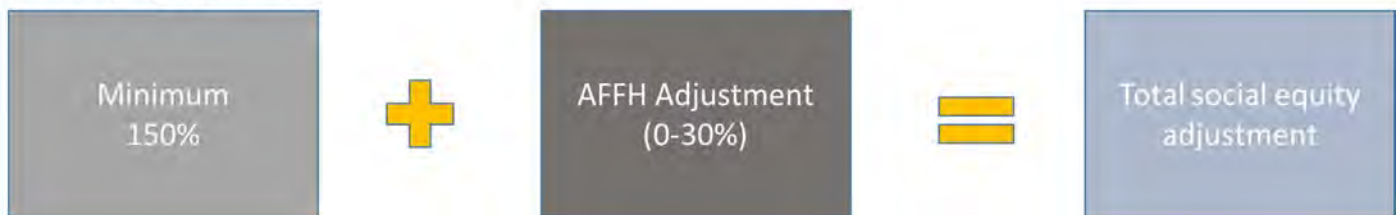
After determining a jurisdiction’s total RHNA allocation, the next step is to assign the total into four RHNA income categories. The four RHNA income categories are:

- Very low (50 percent or less of the county median income);
- Low (50-80 percent);
- Moderate (80 to 120 percent); and
- Above moderate (120 percent and above)

The fourth RHNA objective specifically requires that the RHNA methodology allocate a lower proportion of housing need in jurisdictions that already have a disproportionately high concentration of those households in comparison to the county distribution. Additionally, the fifth objective, affirmatively furthering fair housing (AFFH), requires that the RHNA methodology further the objectives of addressing significant disparities in housing needs and access to opportunity in order to overcome patterns of segregation.

To further these two objectives, the RHNA methodology includes a minimum 150 percent social equity adjustment and an additional 10 to 30 percent added in areas with significant populations that are defined as very low or very high resource areas, referred to as an AFFH adjustment. This determines the distribution of four income categories for each jurisdiction.

#### Social equity adjustment



A social equity adjustment ensures that jurisdictions accommodate their fair share of each income category. First, the percentage of each jurisdiction’s distribution of four income categories is determined using the county median income as a benchmark. For example, in Los Angeles County, a household earning less than \$30,552 annually, or 50 percent of the county median income, would be considered a very low income household. A household in Los Angeles County earning more than \$73,218 annually, or 120 percent of the county median income, would be counted in the above moderate category. The number of households in each category is summed and then a percentage of each category is then calculated.

For reference, below is the median household income by county.

- Imperial County: \$44,779
- Los Angeles County: \$61,015
- Orange County: \$81,851
- Riverside County: \$60,807
- San Bernardino County: \$57,156
- Ventura County: \$81,972
- SCAG region: \$64,114

Source: American Community Survey (ACS) 2013-2017 5-year estimates

Once a jurisdiction’s household income distribution by category is determined, the percentage is compared to the county’s percentage of existing household income distribution. For example, if a jurisdiction has an existing distribution of 30 percent of very low income households while the county is 25 percent, the jurisdiction is considered as having an overconcentration of very low income households compared to the county. A social equity adjustment ensures that the jurisdiction will be assigned a smaller percentage of very low income households for its RHNA allocation than both what it and the county currently experience.

If the jurisdiction is assigned a social equity adjustment of 150 percent, the formula to calculate its very low income percentage is:

Household Income Level	Formula to Calculate City A Social Equity Adjustment of 150%
Very Low Income	$30\% - [(30\% - 25\%) \times 1.5] = 22.5\%$

In this example, 22.5 percent of the jurisdiction’s total RHNA allocation would be assigned to the very low income category. This adjustment is lower than both its existing household income distribution (30 percent) and the existing county distribution (25 percent).

The inverse occurs in higher income categories. Assuming 20 percent of a jurisdiction’s households are above moderate income while 25 percent of the county’s households are above moderate income, the jurisdiction will be assigned a distribution of 27.5 percent for above moderate income need.

Household Income Level	Formula to Calculate City A Social Equity Adjustment of 150%
Above moderate income	$20\% - [(20\% - 25\%) \times 1.5] = 27.5\%$

If the adjustment was 100 percent a jurisdiction’s distribution would be exactly the same as the County’s distribution. Conceptually a 150 percent adjustment means that the City meets the County distribution and goes beyond that threshold by 50 percent, resulting in a higher or lower distribution than the County depending on what existing conditions are in the City. The higher the adjustment, the more noticeable the difference between the jurisdiction’s existing household income distribution and its revised distribution.

The RHNA methodology recommends a minimum of 150 percent social equity adjustment with an additional 10, 20, or 30 percent added depending on whether the jurisdiction is considered a very low or very high resource area based on its Opportunity Index score.

In 2015 the U.S. Department of Housing and Urban Development (HUD) developed a set of “Opportunity Indices” to help states and localities identify factors that contribute to fair housing issues in their region and comply with the federal Fair Housing Act. In late 2017, a Task Force convened by HCD and the California Tax Credit Allocation Committee (TCAC) released an “Opportunity mapping” tool based on these HUD indices to identify areas in California that can “offer low-income children and adults the best chance at economic advancement, high educational attainment, and good physical and mental health.”<sup>4</sup>

The TCAC and HCD Opportunity mapping tool includes a total of eleven (11) census-tract level indices to measure exposure to opportunity in local communities. The indices are based on measures of economic, environmental, and educational opportunities within communities. Regional patterns of segregation are also identified based on this tool. Below is a summary table of the 11 indices sorted by type:

<b>Economic</b>	<b>Environment</b>	<b>Education</b>
Poverty	CalEnviroScreen 3.0 indicators	Math proficiency
Adult education		Reading proficiency
Employment		High school graduation rates
Low-wage job proximity		Student poverty rate
Median home value		<ul style="list-style-type: none"> <li>• <i>Ozone</i></li> <li>• <i>PM2.5</i></li> <li>• <i>Diesel PM</i></li> <li>• <i>Drinking water contaminates</i></li> <li>• <i>Pesticides</i></li> <li>• <i>Toxic releases from facilities</i></li> <li>• <i>Traffic density</i></li> <li>• <i>Cleanup sites</i></li> <li>• <i>Groundwater threats</i></li> <li>• <i>Hazardous waste</i></li> <li>• <i>Impaired water bodies</i></li> <li>• <i>Solid waste sites</i></li> </ul>

<sup>4</sup> California Fair Housing Taskforce Revised opportunity Mapping Technology, Updated November 27, 2018: <https://www.treasurer.ca.gov/ctcac/opportunity/final-opportunity-mapping-methodology.pdf>

Based on its respective access to opportunity, each census tract is given a score that designates it under one of the following categories:

- High segregation & poverty
- Low resource
- Moderate resource
- High resource
- Highest resource

Tract-level indices were summed to the jurisdictional-level by SCAG using area-weighted interpolation. Using 2013-2017 American Community Survey population data, SCAG determined the share of each jurisdiction’s population in each of these five categories. For example:

	Lowest Resource				Very High Resource
Opportunity Indicator Category	High segregation & poverty	Low resource	Moderate resource	High resource	Highest resource
City A Percentage of population	10%	10%	30%	30%	20%
City B Percentage of population	90%	5%	5%	0%	0%
City C Percentage of population	0%	0%	10%	15%	75%

The recommended methodology determines high resource concentration using the “very high” resource area score. The recommended methodology determines “lowest” resource areas by combining the two lowest measures. In the above table, City B would be considered to have a much higher concentration of lower resource areas than City A. City C would be considered to have a much higher concentration of highest resource areas.<sup>5</sup>

- High segregation & Poverty + Low Resource = Lowest Resource
- Highest Resource

Jurisdictions that are identified as having between 70 and 100 percent of the population within a lowest or very high resource area are assigned an additional 10 and 30 percent social equity adjustment:

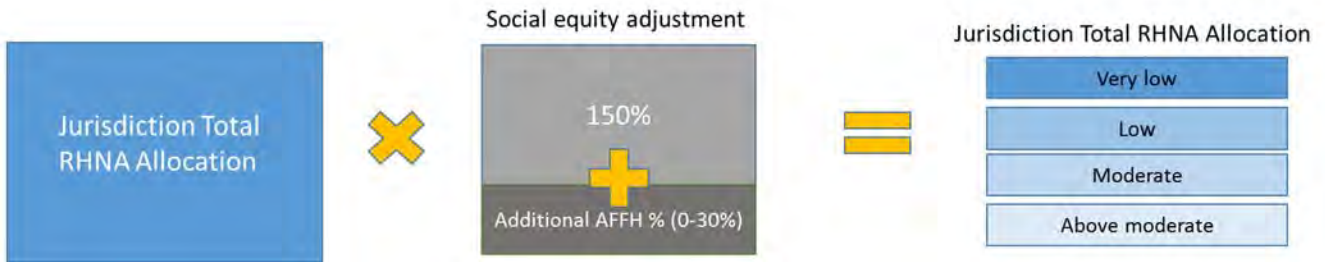
<sup>5</sup> As a cross-reference, if City B has both a high job and transit accessibility it would be exempt from the redistribution of residual existing need from the RHNA methodology’s Step 2d because more than 50 percent of its population is within a very low resource area. On the other hand City A and City C, if they have a high job and transit access, would not be exempt from receiving regional residual need because they have only 20 percent and 0 percent of their respective population within a very low resource area.

Concentration of population within very low or very high resource area	Additional social equity adjustment
70-80%	+10%
80-90%	+20%
90-100%	+30%

In the example table, City B would receive an additional social equity adjustment of 30% because 95% of its population is within a lowest resource area (sum of high segregation & poverty and low resource measures). City C would receive an additional social equity adjustment of 10% because 75% of its population is within a very high resource area. City A would not receive a further adjustment because it does not have a high enough concentration of population within either the lowest or very high resource categories.

Assigning a higher social equity adjustment based on Opportunity Indices will result in a higher percentage of affordable housing units to areas that have higher resources. Concurrently, it will assign a lower percentage of affordable housing in areas where they is already an overconcentration. Because Opportunity Indices consider factors such as access to lower wage jobs, poverty rates, and school proficiency, the social equity adjustment in the RHNA methodology will result in factors beyond simply household income distribution. This additional adjustment will help to adjust the disparity in access to fair housing across the region, furthering the AFFH objective required in State housing law.

Once the social equity adjustment is determined, it is used to assign need to the four income categories.



**Final Adjustments**

On a regional level the final RHNA allocation plan must be the same as the regional determination, by income category, provided by HCD. The final RHNA methodology will result in slight differences, among income categories, since income categories are required to use county distributions as benchmarks and the HCD determination does not include county-level benchmarks. For this reason, after the initial income categories are determined for jurisdictions, SCAG will apply a normalization adjustment to the draft fsRHNA allocation to ensure that the regional total by income category is maintained.



Additionally, in the event that a jurisdiction receives an allocation of zero (0) units under the RHNA methodology a minimum RHNA allocation of eight (8) units would be assigned. Government Code Section 65584.04(m)(2) requires that the final RHNA allocation plan ensure that each jurisdiction receive an allocation of units for low- and very low income households. Under these circumstances, SCAG will assign those jurisdictions a minimum of four (4) units in the very low income category and four (4) units in the low income category for a draft RHNA allocation of eight (8) units.

## Meeting the Objectives of RHNA

Government Code Section 65584.04(a) requires that the RHNA methodology furthers the five objectives of the Regional Housing Needs Assessment:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.
  - (e) For purposes of this section, “affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

On January 13, 2020, HCD completed its review of SCAG’s draft RHNA methodology and found that it furthers the five statutory objectives of RHNA.

## Local Planning Factors

As part of the development of the proposed RHNA methodology, SCAG must conduct a survey of planning factors that identify local conditions and explain how each of the listed factors are incorporated into the RHNA methodology. This survey, also known as the “Local Planning Factor” survey, is a specific requirement for the RHNA methodology process and is separate from the local review process of the Growth Forecast used as the basis for determining future growth in the Connect SoCal plan.

The survey was distributed to all SCAG jurisdictions in mid-March 2019 with a posted due date of May 30, 2019. One-hundred and nine (109) jurisdictions, or approximately 55%, submitted a response to the local planning factor survey. To facilitate the conversation about local planning factors, between October 2017 and October 2018 SCAG included these factors as part of the local input survey and surveyed a binary yes/no as to whether these factors impacted jurisdictions. The formal local planning factor survey was pre-populated with the pre-survey answers to help facilitate survey response. The full packet of local planning factor surveys can be downloaded at [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna).

SCAG staff reviewed each of the submitted surveys to analyze planning factors opportunities and constraints across the region. The collected information was used to ensure that the methodology will equitably distribute housing need and that underlying challenges as a region are collectively addressed.

- (1) Each member jurisdiction’s existing and projected jobs and housing relationship. This shall include an estimate, based on readily available data, of the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate, based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.*

The RHNA methodology directly considers job accessibility and determines a portion of housing need for each jurisdiction based on this factor. Using transportation analysis zones as a basis, the percentage of jobs accessible within a 30 minute drive for a jurisdiction’s population is determined and then weighted based on the jurisdiction’s population size to determine individual shares of regional jobs accessible. Based on a review of other potential mechanisms to factor in jobs into the RHNA methodology, SCAG staff has determined that this mechanism most closely aligns with the goals of State housing law.

A supplemental analysis of the impact of the draft RHNA methodology’s impact on jobs-housing relationships and low-wage jobs-housing relationships was provided to the Regional Council on February 5, 2020.

*(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:*

- (A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.*
  
- (B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.*
  
- (C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to non-agricultural uses.*
  
- (D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to non-agricultural uses.*

Consideration of the above planning factors have been incorporated into the Growth Forecast process and results by way of analysis of aerial land use data, general plan, parcel level property data, open space, agricultural land and resource areas, and forecast surveys distributed to local jurisdictions. The bottom-up Local Input and Envisioning Process, which is used as the basis for both RHNA and SCAG’s Connect SoCal (Regional Transportation Plan/Sustainable Communities Strategy) started with an extensive outreach effort involving all local jurisdictions regarding their land use and development constraints. All local jurisdictions were invited to provide SCAG their respective growth perspective and input. The RHNA methodology directly incorporates local input on projected household growth, which should be a direct reflection of local planning factors such as lack of water or sewer capacity, FEMA-designated flood sites, and open space and agricultural land protection.

Prior RHNA cycles did not promote direct linkage to transit proximity and the methodology encourages more efficient land use patterns by utilizing existing as well as future planned transportation infrastructure and preserves areas designated as open space and agricultural

lands. In particular the inclusion of transit proximity places an increased emphasis on infill opportunities and areas that are more likely to support higher residential densities.

- (3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.*

As indicated above, the Growth Forecast used as the basis for the Connect SoCal Plan is also used as the basis for projected household growth in the RHNA methodology. The weighting of a jurisdiction's population share within an HQTAs directly maximizes the use of public transportation and existing transportation infrastructure.

- (4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county, and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.*

This planning factor has been identified through the local input process and local planning factor survey collection as affecting growth within Ventura County. The urban growth boundary, known as Save Our Agricultural Resources (SOAR), is an agreement between the County of Ventura and its incorporated cities to direct growth toward incorporated areas, and was recently extended to 2050. Based on the input collected, SCAG staff has concluded that this factor is already reflected in the RHNA methodology since it was considered and incorporated into the local input submitted by jurisdictions.

- (5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583 that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.*

The conversion of low income units into non-low income units is not explicitly addressed through the distribution of existing and projected housing need. Staff has provided statistics in the RHNA methodology appendix on the potential loss of units in assisted housing developments. The loss of such units affects the proportion of affordable housing needed within a community and the region as a whole.

Local planning factor survey responses indicate that the impact of this factor is not regionally uniform. Many jurisdictions that replied some units are at-risk for losing their affordability status in the near future have indicated that they are currently reviewing and developing local resources to address the potential loss. Based on this, SCAG staff has determined that at-risk units are best addressed through providing data on these units as part of the RHNA methodology and giving local jurisdictions the discretion to address this factor and adequately plan for any at-risk unit loss in preparing their housing elements.

*(6) The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.*

An evaluation of survey responses reveals that cost-burdened households, or those who pay at least 30 percent of their household income on housing costs, is a prevalent problem throughout the region. The RHNA methodology also includes in its appendix data from the ACS 2013-2017 on cost-burdened statistics for households who pay more than 30 percent of their income on housing by owner and renter, and for renter households who pay 50 percent or more of their income on housing. The general trend is seen in both high and low income communities, suggesting that in most of the SCAG region high housing costs are a problem for all income levels.

Nonetheless a large number of jurisdictions indicated in the survey that overpaying for housing costs disproportionately impacts lower income households in comparison to higher income households. This issue is exacerbated in areas where there is not enough affordable housing available, particularly in higher income areas. For this reason, the RHNA methodology incorporates not only a 150 percent social equity adjustment, but also uses the TCAC Opportunity Indices to distribute the RHNA allocation into the four income categories in areas identified as being the highest resource areas of the region. The Opportunity Indices include a proximity to jobs indicator, particularly for low-wage jobs, which identifies areas with a high geographical mismatch between low wage jobs and affordable housing. Increasing affordable housing supply in these areas can help alleviate cost-burden experienced by local lower income households because more affordable options will be available.

The reason for using social equity adjustment and opportunity indices to address cost-burden households rather than assigning total need is because it is impossible to determine through the methodology how and why the cost-burden is occurring in a particular jurisdiction. Cost-burden is a symptom of housing need and not its cause. A jurisdiction might permit a high number of units but still experiences cost-burden because other jurisdictions restrict residential permitting. Or, a jurisdiction might have a large number of owner-occupied housing units that command premium pricing, causing cost-burden for high income households and especially on lower income households due to high rents from high land costs. An analysis of existing need indicators by jurisdiction, which is part of the RHNA methodology data appendix, does not reveal a single strong trend to base a distribution methodology for cost-burden and thus the RHNA methodology distributes this existing need indicator regionally using social equity adjustment and Opportunity Indices rather than to where the indicators exist.

*(7) The rate of overcrowding.*

An evaluation of survey responses indicates that there is a variety of trends in overcrowding throughout the region. Overcrowding is defined as more than 1.01 persons per room (not bedroom) in a housing unit. Some jurisdictions have responded that overcrowding is a severe issue, particularly for lower income and/or renter households, while others have

responded that overcrowding is not an issue at all. At the regional determination level HCD applied an overcrowding component, which is a new requirement for the 6<sup>th</sup> RHNA cycle. Because

Similar to cost-burden, overcrowding is caused by an accumulated housing supply deficit and is considered an indicator of existing housing need. The reason for not assigning need directly based on this indicator is because it is impossible to determine through the methodology how and why the overcrowding is occurring in a particular jurisdiction. A jurisdiction that has an overcrowding rate higher than the regional average might be issuing more residential permits than the regional average while the surrounding jurisdictions might not have overcrowding issues but issue fewer permits than the regional average. An analysis of existing need indicators by jurisdiction, which is part of the RHNA methodology data appendix, does not reveal a single strong trend to base a distribution methodology for overcrowding and thus the methodology distributes this existing need indicator regionally rather than to where the indicators exist.

While not specifically surveyed, several jurisdictions have indicated that density has affected their jurisdictions and have requested that the methodology should consider this as a factor. While density is not directly addressed as a factor, the social equity adjustment indirectly addresses density particularly for lower income jurisdictions. In housing elements, jurisdictions most demonstrate that a site is affordable for lower income households by applying a “default density”, defined in State housing law as either 20 or 30 dwelling units per acre depending on geography and population. In other words, a site that is zoned at 30 dwelling units per acre is automatically considered as meeting the zoning need for a low income household.

However there is not a corresponding default density for above moderate income zoning. Assigning a lower percentage of lower income households than existing conditions indirectly reduces future density since the jurisdiction can zone at lower densities if it so chooses. While this result does not apply to higher income jurisdictions, directing growth toward less dense areas for the explicit purpose of reducing density is in direct contradiction to the objectives of state housing law, especially for promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development pattern.

*(8)The housing needs of farmworkers.*

The RHNA methodology appendix provides data on agricultural jobs by jurisdiction as well as workers by place of residence. The survey responses indicate that most jurisdictions do not have agricultural land or only have small agricultural operations that do not necessarily require designated farmworker housing. For the geographically concentrated areas that do have farmworker housing, responses indicate that many jurisdictions already permit or are working to allow farmworker housing by-right in the same manner as other agricultural uses are allowed. Jurisdictions that are affected by the housing needs of farmworkers can be assumed to have considered this local factor when submitting feedback on SCAG’s Growth

Forecast. A number of jurisdictions reiterated their approach in the local planning factor survey response.

Similar to at-risk units, the RHNA methodology does not include a distribution mechanism to distribute farmworker housing. However, SCAG has provided data in its RHNA methodology appendix related to this factor and encourages local jurisdictions to adequately plan for this need in their housing elements.

*(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.*

SCAG staff has prepared a map outlining the location of four-year private and public universities in the SCAG region along with enrollment numbers from the California School Campus Database (2018). Based on an evaluation of survey responses that indicated a presence of a university within their boundaries, SCAG staff concludes that most housing needs related to university enrollment are addressed and met by dormitories provided by the institution both on- and off-campus. No jurisdiction expressed concern in the surveys about student housing needs due to the presence of a university within their jurisdiction.

However, some jurisdictions have indicated outside of the survey that off-campus student housing is an important issue within their jurisdictions and are in dialogue with HCD to determine how this type of housing can be integrated into their local housing elements. Because this circumstance applies to only a handful of jurisdictions, it is recommended that housing needs generated by a public or private university be addressed in the jurisdiction's housing element if it is applicable.

*(10) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.*

Replacement need, defined as units that have been demolished but not yet replaced, are included as a component of projected housing need in the RHNA methodology. To determine this number, HCD reviewed historical demolition permit data between 2008 and 2017 (reporting years 2009 and 2018) as reported by the California Department of Finance (DOF), and assigned SCAG a regional replacement need of 0.5% of projected and existing need, or 34,010 units.

There have been several states of emergency declared for fires in the SCAG region that have destroyed residential units, as indicated by several jurisdictions in their local planning factor survey responses. Survey responses indicate that a total of 1,785 units have been lost regionally from fires occurring after January 1, 2018. Units lost from fires that occurred prior to January 1, 2018, have already been counted in the replacement need for the 6<sup>th</sup> RHNA cycle.



In spring 2019, SCAG conducted a replacement need survey with jurisdictions to determine units that have been replaced on the site of demolished units reported. Region wide 23,545 of the region's demolished units still needed to be replaced based on survey results. The sum of the number of units needing to be replaced based on the replacement need survey and the number of units reported as lost due to recent states of emergency, or 25,330, is lower than HCD's regional determination of replacement need of 34,010. One can reasonably conclude that units lost based on this planning factor are already included in the regional total and distributed, and thus an extra mechanism to distribute RHNA based on this factor is not necessary to meet the loss of units.

*(11)The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.*

An assessment of survey responses indicate that a number of jurisdictions in the SCAG region are developing efforts for more efficient land use patterns and zoning that would result in greenhouse gas emissions. These include a mix of high-density housing types, neighborhood based mixed-use zoning, climate action plans, and other local efforts to reduce greenhouse gas emissions at the regional level.

The RHNA methodology includes a distribution of 50 percent of regional existing need based on a jurisdiction's share of regional population within an HQT. The linkage between housing planning and transportation planning will allow for a better alignment between the RHNA allocation plan and the Connect SoCal RTP/SCS. It will promote more efficient development land use patterns, encourage transit use, and importantly reduce greenhouse gas emissions. This will in turn support local efforts already underway to support the reduction of regional greenhouse gas emissions.

Moreover the RHNA methodology includes the Growth Forecast reviewed with local input as a distribution component, particularly for projected housing need. Local input is a basis for SCAG's Connect SoCal Plan, which addresses greenhouse gas emissions at the regional level since it is used to reach the State Air Resources Board regional targets. An analysis of the consistency between the RHNA and Connect SoCal Plan is included as an attachment to this document.

*(12)Any other factors adopted by the council of governments that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.*

No other planning factors were adopted by SCAG to review as a specific local planning factor.

## Affirmatively Furthering Fair Housing (AFFH)

Among a number of changes due to recent RHNA legislation is the inclusion of affirmatively furthering fair housing (AFFH) as both an addition to the listed State housing objectives of Government Section 65588 and to the requirements of RHNA methodology as listed in Government Code Section 65584.04(b) and (c), which includes surveying jurisdictions on AFFH issues and strategies and developing a regional analysis of findings from the survey.

### AFFH Survey

The AFFH survey accompanied the required local planning factor survey and was sent to all SCAG jurisdictions in mid-March 2019 with a posted due date of May 30, 2019. Ninety (90) of SCAG's 197 jurisdictions completed the AFFH survey, though some jurisdictions indicated that they would not be submitting the AFFH survey due to various reasons. The full packet of surveys submitted prior to the development of the proposed methodology packet can be downloaded at [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna).

Jurisdictions were asked various questions regarding fair housing issues, strategies and actions. These questions included:

- Describe demographic trends and patterns in your jurisdiction over the past ten years. Do any groups experience disproportionate housing needs?
- To what extent do the following factors impact your jurisdiction by contributing to segregated housing patterns or racially or ethnically-concentrated areas of poverty?
- To what extent do the following acts as determinants for fair housing and compliance issues in your jurisdiction?
- What are your public outreach strategies to reach disadvantaged communities?
- What steps has your jurisdiction undertaken to overcome historical patterns of segregation or remove barriers to equal housing opportunity?

The survey questions were based on the U.S. Department of Housing and Urban Development (HUD) Analysis of Impediments to Fair Housing Choice survey that each jurisdiction, or their designated local Housing Authority, must submit to HUD to receive Community Development Block Grant (CDBG) funds. For the AFFH survey, jurisdictions were encouraged to review their HUD-submitted surveys to obtain data and information that would be useful for submitting the AFFH survey.

Pursuant to Government Code Section 65584.04(c), the following is an analysis of the survey results.

### *Themes*

Several demographic themes emerged throughout the SCAG region based on submitted AFFH surveys. A high number of jurisdictions indicated that their senior populations are increasing and many indicated that the fixed income typically associated with senior populations might have an effect on housing affordability. Other jurisdictions have experienced an increase in minority populations, especially among Latino and Asian groups. There is also a trend of the loss of young adults (typically younger than 30) and a decrease in the number of families with children in more suburban locations due to the rise in housing costs.

*Barriers*

There was a wide variety of barriers reported in the AFFH survey, though a number of jurisdictions indicated they did not have any reportable barriers to fair access to housing. Throughout the SCAG region, communities of all types reported that community opposition to all types of housing was an impediment to housing development. Sometimes the opposition occurred in existing low income and minority areas. Some jurisdictions indicated that high opportunity resource areas currently do not have a lot of affordable housing or Section 8 voucher units while at the same time, these areas have a fundamental misunderstanding of who affordable housing serves and what affordable housing buildings actually look like. Based on these responses, it appears that community opposition to housing, especially affordable housing and the associated stigma with affordable housing, is a prevalent barrier throughout the SCAG region.

Other barriers to access to fair housing are caused by high land and development costs since they contribute to very few affordable housing projects being proposed in higher opportunity areas. The high cost of housing also limits access to fair housing and is a significant contributing factor to disparities in access to opportunity. Increasing property values were reported across the region and some jurisdictions indicated that they are occurring in existing affordable neighborhoods and can contribute to gentrification and displacement. Additionally, during the economic downturn a large number of Black and Latino homeowners were disproportionately impacted by predatory lending practices and therefore entered foreclosure in higher numbers than other populations.

Other barriers reported in the AFFH survey include the lack of funding available to develop housing after the dissolution of redevelopment agencies in 2012. Moreover, some jurisdictions indicated that the lack of regional cooperation contributes to segregation.

*Strategies to Overcome Barriers*

All submitted AFFH surveys indicated that their respective jurisdictions employed at least a few strategies to overcome barriers to access fair housing. These strategies ranged from local planning and zoning tools to funding assistance to innovative outreach strategies.

In regard to planning and zoning tools, a number of jurisdictions indicated they have adopted inclusionary zoning ordinances or an in-lieu fee to increase the number of affordable units within their jurisdictions. Others have adopted an accessory dwelling unit (ADU) ordinance with accommodating standards to allow for higher densities in existing single-family zone neighborhoods. A few jurisdictions indicated that they have adopted an unpermitted dwelling unit (UDU) ordinance, which legalizes unpermitted units instead of removing them provided that the units meet health and safety codes. In addition to ADU and UDU ordinances, some jurisdictions have also adopted density bonuses, which allow a project to exceed existing density standards if it meets certain affordability requirements. Some responses in the survey indicate that the establishment of some of these tools and standards have reduced community opposition to projects. In addition, some jurisdictions responded that they have reduced review times for residential permit approvals and reduced or waived fees associated with affordable housing development.

To combat gentrification and displacement, some jurisdictions have established rent-stabilization ordinances while others have established a rent registry so that the jurisdiction can monitor rents

and landlord practices. Some jurisdictions have adopted relocation plans and others are actively seeking to extend affordability covenants for those that are expiring.

In regard to funding, SCAG jurisdictions provide a wide variety of support to increase the supply of affordable housing and increase access to fair housing. A number of jurisdictions provide citywide rental assistance programs for low income households and some indicated that their programs include favorable home purchasing options. Some of these programs also encourage developers to utilize the local first-time homebuyer assistance program to specifically qualify lower income applicants.

Other jurisdictions indicate that they manage housing improvement programs to ensure that their existing affordable housing stock is well maintained. Some AFFH surveys describe local multiple rental assistance programs, including Section 8 Housing Choice vouchers and financial support of tenant/landlord arbitration or mediation services.

Some jurisdictions indicated that they have focused on mobile homes as a way to increase access to fair housing. There are programs described that assist households that live in dilapidated and unsafe mobile homes in unpermitted mobile home parks by allowing the household to trade in their mobile home in exchange for a new one in a permitted mobile park. Other programs include rental assistance specifically for households who live in mobile homes.

In regard to community outreach, a large number of jurisdictions in the SCAG region have established or are seeking to establish innovative partnerships to increase access to fair housing and reduce existing barriers. Many jurisdictions work with fair housing advocacy groups such as the Housing Rights Center, which provide community workshops, counseling, and tenant-landlord mediation services. Other jurisdictions have established landlord-tenant commissions to resolve housing disputes and provide services to individuals with limited resources. Some jurisdictions have partnered with advocacy groups, such as the League of United Latin American Citizens (LULAC), to hold community-based workshops featuring simultaneous multi-lingual translations. Other innovative partnerships created by jurisdictions include those with local schools and school districts and public health institutions to engage disadvantaged groups and provide services to areas with limited resources.

A large number of jurisdictions have also indicated that they have increased their social media presence to reach more communities. Others have also increased their multi-lingual outreach efforts to ensure that limited-English proficiency populations have the opportunity to engage in local fair housing efforts.

Based on the AFFH surveys submitted by jurisdictions, while there is a wide range of barriers to fair housing opportunities in the SCAG region there is also a wide range of strategies to help overcome these barriers at the local level.

Meeting AFFH Objectives on a Regional Basis

To work towards the objective of AFFH, several benchmarks were reviewed as potential indicators of increasing access to fair housing and removing barriers that led to historical segregation patterns.

*Opportunity Indices*

The objectives of affirmatively furthering fair housing are to not only overcome patterns of segregation, but to also increase access to opportunity for historically marginalized groups, particularly in racially and ethnically concentrated areas of poverty. In 2015 the U.S. Department of Housing and Urban Development (HUD) developed a set of indices, known as “Opportunity Indices” to help states and jurisdictions identify factors that contribute to fair housing issues in their region and comply with the federal Fair Housing Act.

In 2015 the U.S. Department of Housing and Urban Development (HUD) developed a set of indices, known as “Opportunity Indices” to help states and jurisdictions identify factors that contribute to fair housing issues in their region and comply with the federal Fair Housing Act. In late 2017, a Task Force convened by HCD and the California Tax Credit Allocation Committee (TCAC) released an “Opportunity mapping” tool based on these HUD indices to identify areas in California that can “offer low-income children and adults the best chance at economic advancement, high educational attainment, and good physical and mental health.”

The TCAC and HCD Opportunity mapping tool includes a total of eleven (11) census-tract level indices to measure exposure to opportunity in local communities. Regional patterns of segregation can be identified based on this tool. The indices are based on indicators such as poverty levels, low wage job proximity, pollution, math and reading proficiency. Below is a summary table of the 11 indices sorted by type:

<b>Economic</b>	<b>Environment</b>	<b>Education</b>
Poverty	CalEnviroScreen 3.0 indicators <ul style="list-style-type: none"> <li>• <i>Ozone</i></li> <li>• <i>PM2.5</i></li> <li>• <i>Diesel PM</i></li> <li>• <i>Drinking water contaminates</i></li> <li>• <i>Pesticides</i></li> <li>• <i>Toxic releases from facilities</i></li> <li>• <i>Traffic density</i></li> <li>• <i>Cleanup sites</i></li> <li>• <i>Groundwater threats</i></li> <li>• <i>Hazardous waste</i></li> <li>• <i>Impaired water bodies</i></li> <li>• <i>Solid waste sites</i></li> </ul>	Math proficiency
Adult education		Reading proficiency
Employment		High school graduation rates
Low-wage job proximity		Student poverty rate
Median home value		

To further the objectives of AFFH, SCAG utilizes the Opportunity indices tool at multiple points in the RHNA methodology. Jurisdictions that have the highest concentration of population in low resource areas are exempted from receiving regional residual existing need, which will result in fewer units

assigned to areas identified as having high rates of poverty and racial segregation. Additionally, jurisdictions with the highest concentration of population within highest resource areas will receive a higher social equity adjustment, which will result in more access to opportunity for lower income households.

### Public Engagement

The development of a comprehensive RHNA methodology requires comprehensive public engagement. Government Code Section 65584.04(d) requires at least one public hearing to receive oral and written comments on the proposed methodology, and also requires SCAG to distribute the proposed methodology to all jurisdictions and requesting stakeholders, along with publishing the proposed methodology on the SCAG website. The official public comment period on the proposed RHNA methodology began on August 1, 2019 after Regional Council action and concluded on September 13, 2019.

To maximize public engagement opportunities, SCAG staff hosted four public workshops to receive verbal and written comment on the proposed RHNA methodology and an additional public information session in August 2019:

- August 15, 6-8 p.m. Public Workshop, Los Angeles (View-only webcasting available)
- August 20, 1-3 p.m. Public Workshop, Los Angeles (Videoconference at SCAG regional offices and View-only webcasting available)
- August 22, 1-3 p.m., Public Workshop, Irvine
- August 27, 6-8 p.m., Public Workshop, San Bernardino (View-only webcasting available)
- August 29, 1-3pm Public Information Session, Santa Clarita

Approximately 250 people attended the workshops in-person, at videoconference locations, or via webcast. Over 35 individual verbal comments were shared over the four workshops.

To increase participation from individuals and stakeholders that are unable to participate during regular working hours, two of the public workshops were held in the evening hours. One of the workshops was held in the Inland Empire. SCAG worked with its Environmental Justice Working Group (EJWG) and local stakeholder groups to reach out to their respective contacts in order to maximize outreach to groups representing low income, minority, and other traditionally disadvantaged populations.

Almost 250 written comments were submitted by the comment deadline and included a wide range of stakeholders. Approximately 50 percent were from local jurisdictions and subregions, and the other 50 percent were submitted by advocacy organizations, industry groups, residents and resident groups, and the general public. All of the comments received, both verbal and written, were reviewed by SCAG staff, and were used as the basis for developing the RHNA methodology.

The increased involvement by the number of jurisdictions and stakeholders beyond the municipal level compared to prior RHNA cycles indicate an increased level of interest by the public in the housing crisis and its solutions, and the efforts of SCAG to meet these interests. As part of its housing

program initiatives, SCAG will continue to reach out to not only jurisdictions, but to advocacy groups and traditionally disadvantaged communities that have not historically participated in the RHNA process and regional housing planning. These efforts will be expanded beyond the RHNA program and will be encompassed into addressing the housing crisis at the regional level and ensuring that those at the local and community level can be part of solutions to the housing crisis.

**Additional RHNA Methodology Supporting Materials**

Please note that additional supporting materials for the RHNA Methodology have been posted on SCAG’s RHNA website at [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna) including Data Appendix, Local Planning Factor Survey Responses and Affirmatively Furthering Fair Housing Survey Responses.



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September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Subject: SCAG’s Objection to HCD’s Regional Housing Need Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)’s formal objection to HCD’s Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

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*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*

SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### Improved Vacancy Rate Comparison

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

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<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

- 4. From our review, HCD’s data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

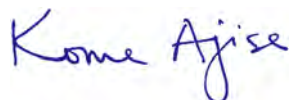
During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region’s future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG’s originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD’s current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise  
Executive Director

Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1  
SCAG Alternative Determination**

1	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	<i>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			<i>-327,879</i>
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>			
		<b>20,397,998</b>		<b>6,668,498</b>
	<b>under 15 years</b>	3,812,391		n/a
	<b>15 - 24 years</b>	2,642,548		147,005
	<b>25 - 34 years</b>	2,847,526		864,349
	<b>35 - 44 years</b>	2,821,442		1,304,658
	<b>45 - 54 years</b>	2,450,776		1,243,288
	<b>55 - 64 years</b>	2,182,421		1,116,479
	<b>65 -74 years</b>	1,883,181		1,015,576
	<b>75 - 84 years</b>	1,167,232		637,415
	<b>85+</b>	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	<b>+ Vacancy</b>	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		<b>0.14%</b>	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>823,808</b>

1	<b>OPTION B: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)</b>				
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>				20,725,878
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)				-327,879
4	<b>Household (HH) Population, Oct 1, 2029</b>				20,397,998
	<b>Household Formation Groups</b>	<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>	
		20,397,998		6,668,498	
	under 15 years	3,812,391		n/a	
	15 - 24 years	2,642,548		147,005	
	25 - 34 years	2,847,526		864,349	
	35 - 44 years	2,821,442		1,304,658	
	45 - 54 years	2,450,776		1,243,288	
	55 - 64 years	2,182,421		1,116,479	
	65 -74 years	1,883,181		1,015,576	
	75 - 84 years	1,167,232		637,415	
	85+	590,480		339,727	
5	<b>Projected Households (Occupied Unit Stock)</b>				6,668,498
6	+ Vacancy	Owner	Renter		
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%		
	Households by Tenure	3,496,058	3,172,440		
	Healthy Market Vacancy Standard	2.00%	6.00%		
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%		
	Difference	0.87%	2.70%		
	Vacancy Adjustment	30,433	85,540		115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%	308,264
8	+ Replacement Adj (HCD minimum standard)		0.50%		33,340
	- Household Growth on Tribal Land (SCAG Estimate)				-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)				-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)				47,724
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>				<b>920,772</b>

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>



<b>Option A: Regional Housing Need Allocation (RHNA) Determination</b>			
<b>SCAG Region</b>			
<b>June 30, 2021 through October 1, 2029</b>			
<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>	
Very-Low *	25.8%	212,284	
Low	15.1%	124,375	
Moderate	17.1%	140,601	
Above-Moderate	42.1%	346,547	
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>	
* Extremely-Low	14.6%	included in Very-Low Category	

<b>Option B: Regional Housing Need Allocation (RHNA) Determination</b>			
<b>SCAG Region</b>			
<b>June 30, 2021 through October 1, 2029</b>			
<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>	
Very-Low *	25.8%	231,084	
Low	15.1%	135,390	
Moderate	17.1%	159,982	
Above-Moderate	42.1%	394,316	
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>	
* Extremely-Low	14.6%	included in Very-Low Category	

*Income Distribution*: Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
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October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum

RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

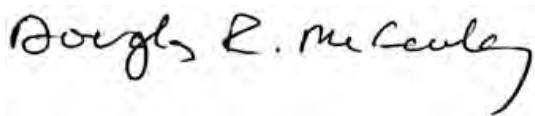
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle includes:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Douglas R. McCauley  
Acting Director

Enclosures

## ATTACHMENT 1

**HCD REGIONAL HOUSING NEED DETERMINATION**  
**SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

**Notes:****Income Distribution:**

*Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION**  
**SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

SCAG: June 30, 2021-October 15, 2029 (8.3 Years)		
HCD Determined Population, Households, & Housing Need		
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>	20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029	-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>	20,079,930
4.	<b>Projected Households (Occupied Unit Stock)</b>	6,801,760
5.	+ Vacancy Adjustment (2.63%)	178,896
6.	+ Overcrowding Adjustment (6.76%)	459,917
7.	+ Replacement Adjustment (.50%)	34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)	-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)	117,505
<b>Total</b>	<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>	<b>1,341,827</b>

Note: Detailed background data for this chart available upon request.

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S. overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.
7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied. (Continued on the next page).



8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



September 18, 2020

The Honorable Rex Richardson,  
President  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

Dear President Richardson:

On behalf of thirty-two cities in Orange County, we, the mayors respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States."). Further, the Embarcadero Institute, a non-profit policy analysis organization, just released a September 2020 Report – "Double Counting in the Latest Housing Needs Assessment" – that questions whether State HCD's use of an incorrect vacancy rate and double counting has exaggerated the RHNA for the SCAG region, San Diego, the Bay Area and Sacramento area by more than 900,000 units (Attachment 3).

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:

- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.


Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,



**Mike Munzing**  
Mayor  
City of Aliso Viejo



**Harry Sidhu**  
Mayor  
City of Anaheim



**Marty Simonoff**  
Mayor  
City of Brea



**Fred Smith**  
Mayor  
City of Buena Park



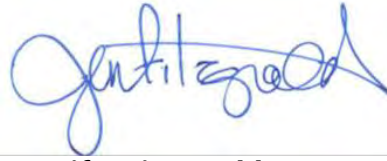
**Katrina Foley**  
Mayor  
City of Costa Mesa



**Rob Johnson**  
Mayor  
City of Cypress



**Cheryl Brothers**  
Mayor  
City of Fountain Valley



**Jennifer Fitzgerald**  
Mayor  
City of Fullerton



**Steven R. Jones**  
Mayor  
City of Garden Grove



**Lyn Semeta**  
Mayor  
City of Huntington Beach



**Christina Shea**  
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**Laurie Davies**  
Mayor  
City of Laguna Niguel



**Noel Hatch**  
Mayor  
City of Laguna Woods



**Neeki Moatzedi**  
Mayor  
City of Lake Forest



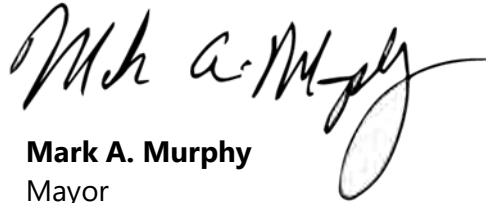
**Richard D. Murphy**  
Mayor  
City of Los Alamitos



**Brian Goodell**  
Mayor  
City of Mission Viejo



**Will O'Neill**  
Mayor  
City of Newport Beach



**Mark A. Murphy**  
Mayor  
City of Orange



**Ward Smith**  
Mayor  
City of Placentia



**Bradley J. McGirr**  
Mayor  
City of Rancho Santa Margarita



**Troy Bourne**  
Mayor  
City of San Juan Capistrano



**Miguel A. Pulido**  
Mayor  
City of Santa Ana



**Schelly Sustarsic**  
Mayor  
City of Seal Beach



**David J. Shawver**  
Mayor  
City of Stanton



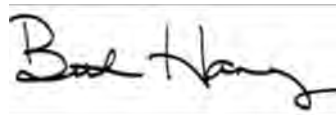
**Allan Bernstein**  
Mayor  
City of Tustin



**Robbie Pitts**  
Mayor  
City of Villa Park



**Tri Ta**  
Mayor  
City of Westminster



**Beth Haney**  
Mayor  
City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need
3. Embarcadero Institute Report: Updated September 2020

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair  
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors  
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors  
Mayor Pro Tem Michael Carroll, OC Representative SCAG's RHNA Litigation Study Team  
Orange County Representatives on SCAG Policy Committees and Regional Council  
Kome Ajise, SCAG Executive Director  
Orange County City Managers Association  
Orange County Mayors  
Marnie O'Brien Primmer, OCCOG Executive Director  
Nate Farnsworth, OCCOG TAC Chair



FEBRUARY 2020

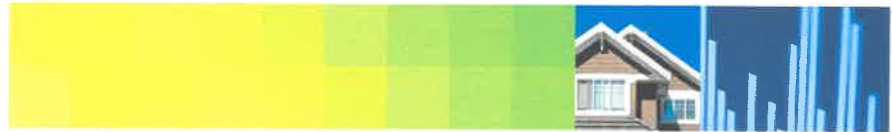
## The Housing Supply Shortage: State of the States

The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



### Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates ( $v^*$ ). Second, we need an estimate of the target number of households ( $h^*$ ).<sup>1</sup> The estimates of  $v^*$  and  $h^*$  give an estimate of housing demand ( $k^*$ ) using the formula:

$$k^* = \frac{h^*}{1 - v^*} \text{ Eq(1)}$$

### Vacancy rates

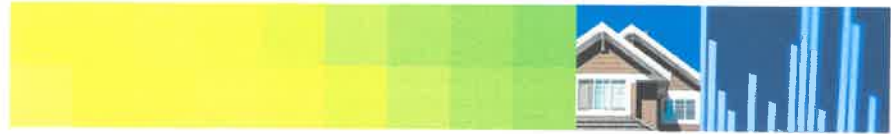
As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates ( $v^*$ ), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for  $v^*$  because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

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<sup>1</sup> The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.



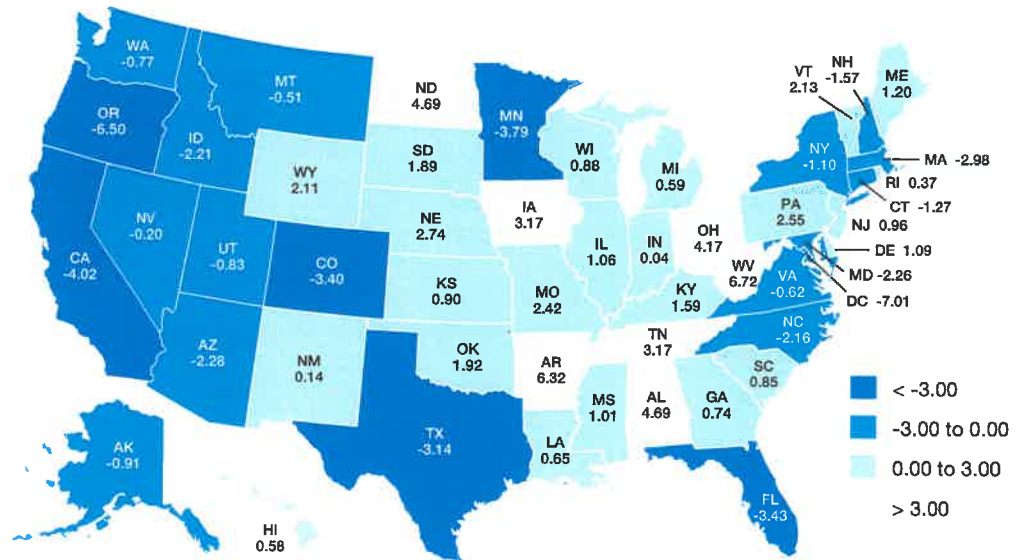


It is interesting to compare each state's long-term vacancy rate ( $v^*$ ) to recent estimates ( $v$ ). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

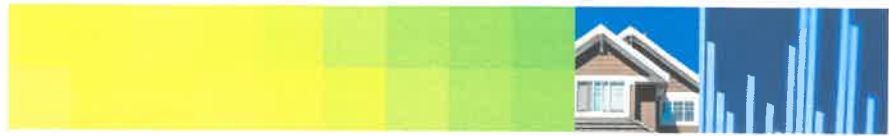
**Exhibit 1**

**Difference between 2018 vacancy rate and historical vacancy rate**

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



### Target households

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

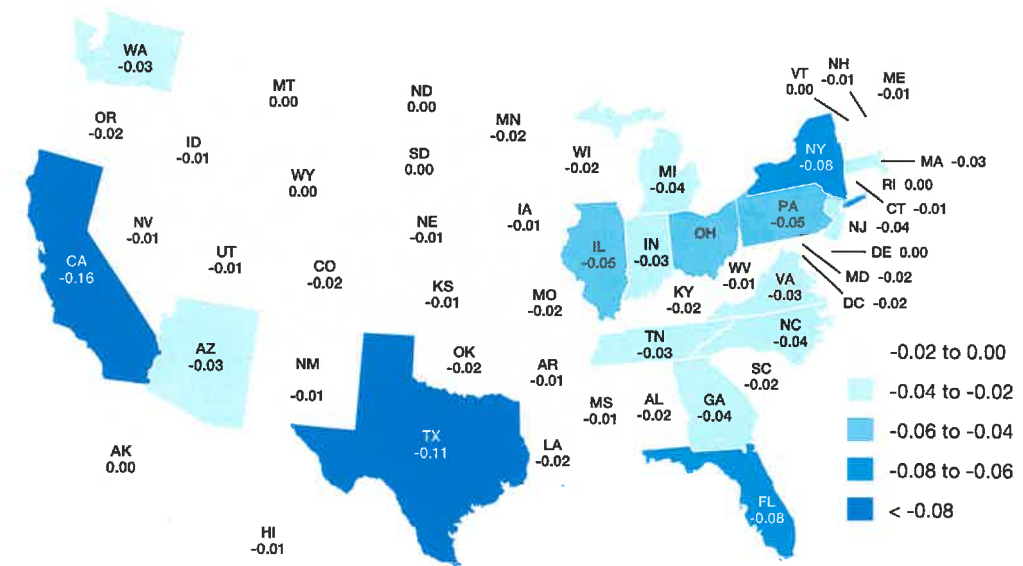
While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

Due to different age profiles, the share of missing households varies by state. **Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

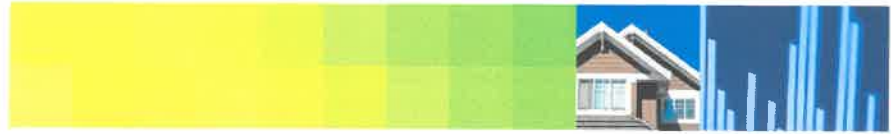
### Exhibit 2

#### Missing households due to high housing costs (millions)

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.



### Static estimate of housing deficit

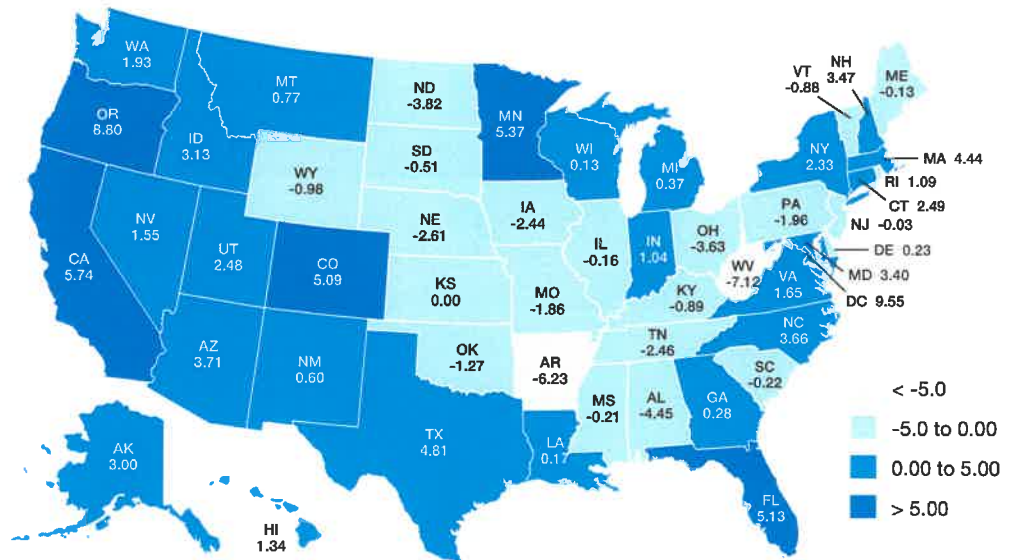
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).<sup>2</sup> Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

### Exhibit 3

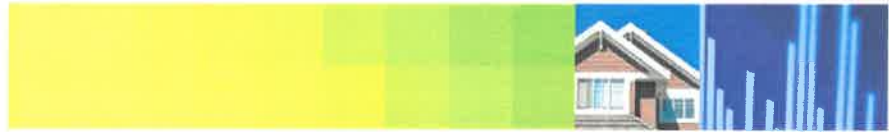
#### Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

<sup>2</sup> The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.



### Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

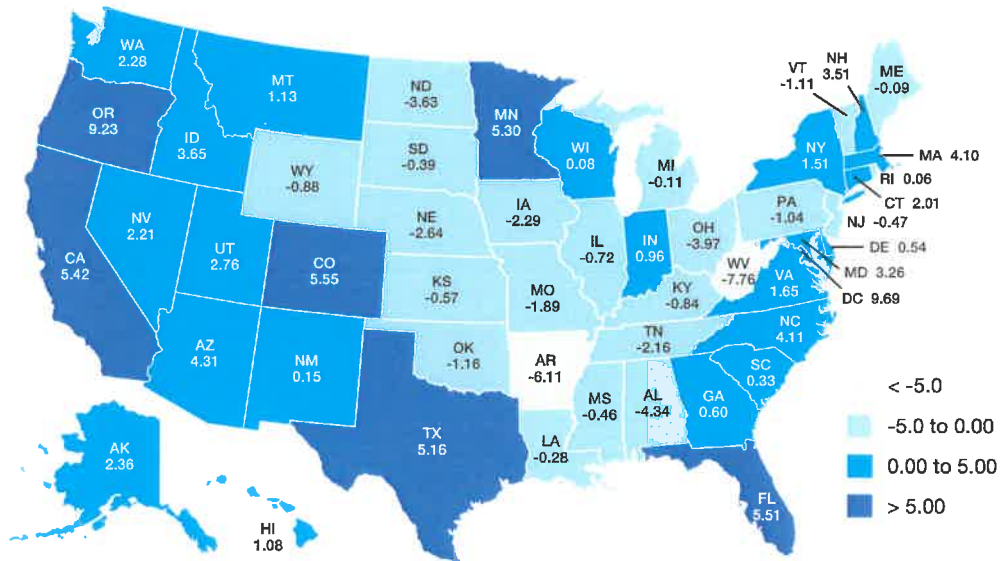
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (Exhibit 4).<sup>3</sup>

#### Exhibit 4

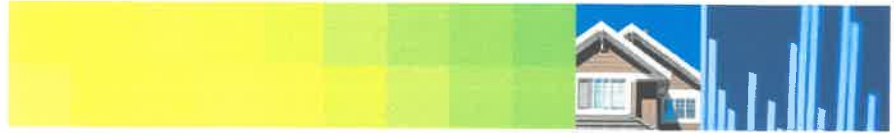
### Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

3 We used the average net migration flows between states from 2001 to 2017 for the past flows.



## Economic & Housing Research **Insight**

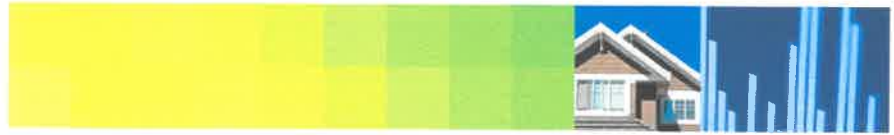
For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

### Conclusion

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.



## Appendix

### 1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody's analytics for the period from 1970 to 2000<sup>4</sup> and estimate the average vacancy rate for this period for each state.

$$VR_i = average(VR_i) \text{ for } 1970-2000,$$

where  $i$  is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership—Table 8—Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state's weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

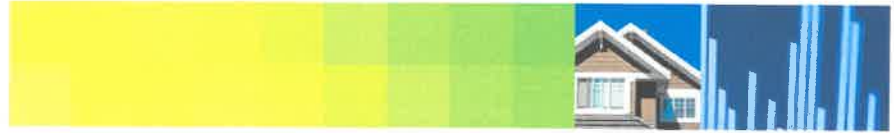
### 1.2 Estimating target households

We obtain the headship rates<sup>5</sup> for the year 2018 by state and by age for all the 50 states and District of Columbia.<sup>6</sup> We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey—Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where  $i$  is the state and  $j$  is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.<sup>7</sup>

### 1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

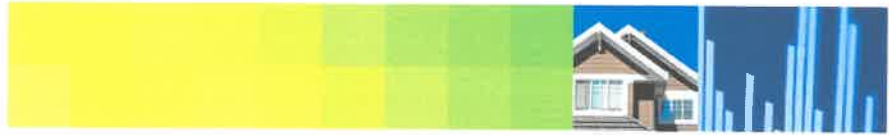
where  $i$  is the state,  $j$  is the five-year age buckets,  $I$  is the in-migrants, and  $O$  is the outmigrants.

To estimate the net outmigrants from states that have a  $NM < 0$ , we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,j}$$

where  $P_{i,j,out}^*$  is the total change in population (net out-migrants) for states that have net outmigration,

7 These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$  is the net out-migrants by age group and state,

$\sum NM_{i,j}$  is the sum of the total out-migrants for the state, and

$P_{m,j}$  is the historical net domestic migration data from Moody.

The ratio of  $NM / \sum NM$  gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ( $P_{i,j,out}^*$ ) is then divided among the in-migrating states, given that the net flows for the country are 0.

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where  $\Delta P_{i,j,in}^*$  is the in-migrants to the state i from the outmigrants pool,

$SI$  is the share of the state in total in-migrants,

$SA$  is the share of the five-year age bucket in the total in-migrants, and

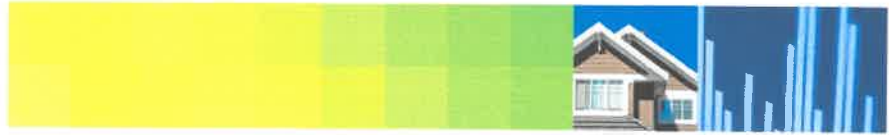
$\Delta P_{i,j,out}^*$  is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).





Economic & Housing Research **Insight**

**Prepared by the Economic & Housing Research group**

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Len Kiefer, Deputy Chief Economist

Venkataramana Yanamandra, Macro Housing Economics Senior

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### Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.

Exhibit A

<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>				
1	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
2	- <i>Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			<b>-327,879</b>
3	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>	<b>20,397,998</b>		<b>6,668,498</b>
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 - 74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
4	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
5	+ Vacancy Adjustment (2.63%)			178,896
6	+ Overcrowding (6.76%)			459,917
7	+ Replacement Adjustment (0.50%)			34,010
8	- <i>Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</i>			-6,250,261
9	+ Cost-burden Adjustment ((Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
	<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>			<b>1,208,565</b>



September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

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ASSOCIATION OF GOVERNMENTS  
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www.scag.ca.gov

Subject: SCAG’s Objection to HCD’s Regional Housing Need Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)’s formal objection to HCD’s Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

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*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*

SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### Improved Vacancy Rate Comparison

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

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<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.



statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

- 4. From our review, HCD’s data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region’s future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG’s originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD’s current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,

Kome Ajise  
Executive Director

Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1  
SCAG Alternative Determination**

1	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	<i>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			<i>-327,879</i>
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>			
		<b>20,397,998</b>		<b>6,668,498</b>
	<b>under 15 years</b>	3,812,391		n/a
	<b>15 - 24 years</b>	2,642,548		147,005
	<b>25 - 34 years</b>	2,847,526		864,349
	<b>35 - 44 years</b>	2,821,442		1,304,658
	<b>45 - 54 years</b>	2,450,776		1,243,288
	<b>55 - 64 years</b>	2,182,421		1,116,479
	<b>65 -74 years</b>	1,883,181		1,015,576
	<b>75 - 84 years</b>	1,167,232		637,415
	<b>85+</b>	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	<b>+ Vacancy</b>	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		<b>0.14%</b>	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>823,808</b>

1	<b>OPTION B: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)</b>				
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>				20,725,878
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)				-327,879
4	<b>Household (HH) Population, Oct 1, 2029</b>				20,397,998
	<b>Household Formation Groups</b>	<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>	
		20,397,998		6,668,498	
	under 15 years	3,812,391		n/a	
	15 - 24 years	2,642,548		147,005	
	25 - 34 years	2,847,526		864,349	
	35 - 44 years	2,821,442		1,304,658	
	45 - 54 years	2,450,776		1,243,288	
	55 - 64 years	2,182,421		1,116,479	
	65 -74 years	1,883,181		1,015,576	
	75 - 84 years	1,167,232		637,415	
	85+	590,480		339,727	
5	<b>Projected Households (Occupied Unit Stock)</b>				6,668,498
6	+ Vacancy	Owner	Renter		
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%		
	Households by Tenure	3,496,058	3,172,440		
	Healthy Market Vacancy Standard	2.00%	6.00%		
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%		
	Difference	0.87%	2.70%		
	Vacancy Adjustment	30,433	85,540		115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%	308,264
8	+ Replacement Adj (HCD minimum standard)		0.50%		33,340
	- Household Growth on Tribal Land (SCAG Estimate)				-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)				-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)				47,724
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>				<b>920,772</b>

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>

<b>Option A: Regional Housing Need Allocation (RHNA) Determination</b>			
<b>SCAG Region</b>			
<b>June 30, 2021 through October 1, 2029</b>			
<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>	
Very-Low *	25.8%	212,284	
Low	15.1%	124,375	
Moderate	17.1%	140,601	
Above-Moderate	42.1%	346,547	
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>	
* Extremely-Low	14.6%	included in Very-Low Category	

<b>Option B: Regional Housing Need Allocation (RHNA) Determination</b>			
<b>SCAG Region</b>			
<b>June 30, 2021 through October 1, 2029</b>			
<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>	
Very-Low *	25.8%	231,084	
Low	15.1%	135,390	
Moderate	17.1%	159,982	
Above-Moderate	42.1%	394,316	
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>	
* Extremely-Low	14.6%	included in Very-Low Category	

*Income Distribution* : Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.



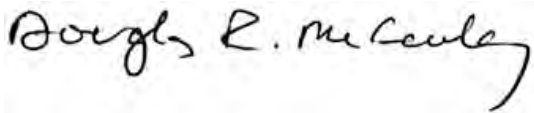
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Douglas R. McCauley  
Acting Director

Enclosures

**ATTACHMENT 1**

**HCD REGIONAL HOUSING NEED DETERMINATION**

**SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

*Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>				20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029				-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>				20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	<b>Projected Households (Occupied Unit Stock)</b>				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>					<b>1,341,827</b>

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



Our Work ▾

What We Do

Contact



# Double Counting in the Latest Housing Needs Assessment



[View PDF Report](#)



Attachment: Appeal Form and Supporting Documentation (City of Mission Viejo) (Appeal of the Draft RHNA Allocation for the City of Mission

**Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030.**

But what if the math is wrong?

Senate Bill 828, co-sponsored by the Bay Area Council and Silicon Valley Leadership Group, and authored by state Sen. Scott Wiener in 2018, has inadvertently doubled the “Regional Housing Needs Assessment” in California.

Use of an incorrect vacancy rate and double counting, inspired by SB-828, caused the state’s Department of Housing and Community Development (HCD) to exaggerate by more than 900,000 the units needed in SoCal, the Bay Area and the Sacramento area.

The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets, but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.



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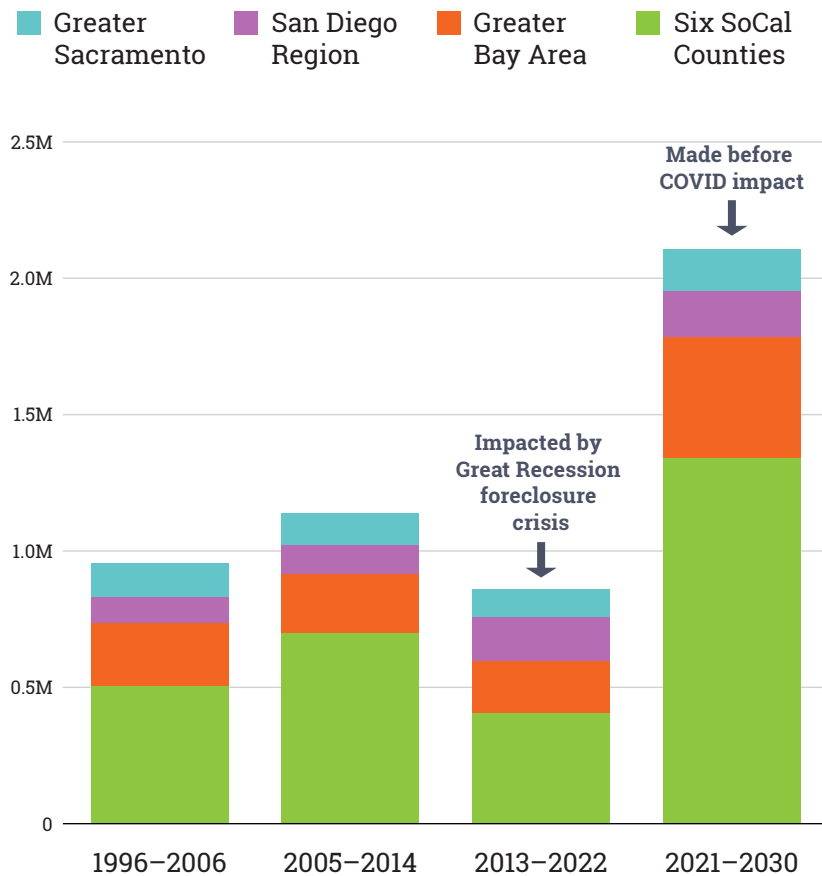
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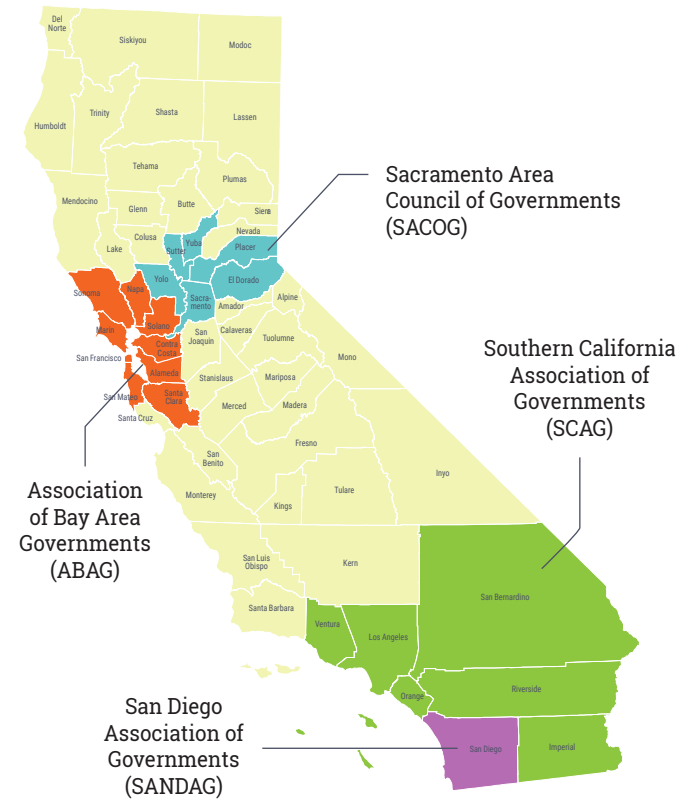
## Double counting (not surprisingly) doubled the assessed housing need for the four major planning regions.

Every five to eight years the Department of Housing and Community Development (HCD) supervises and publishes the results of a process referred to as the Regional Housing Needs Assessment (RHNA). Four regional planning agencies cover the 21 most urban counties and account for 80% of California's housing. All four regions saw a significant jump in the state's assessment of their housing need for the years 2021 to 2030.

### Housing Units Needed According to the State, (1996–2030)



### Four Regions Contain 80% of the State's Housing





# The double count, an unintended consequence of Senate Bill 828, has exaggerated the housing need by more than 900,000 units in the four regions below.

California plans for its housing needs in “cycles.” The four regions are on cycles that last roughly eight years with staggered start dates. In the 2021–2030 housing cycle, errors introduced by language in SB-828 nearly equal the entire 1.15M units of new housing required during the 2013–2022 “cycle.” As illustrated, Southern California and the Bay Area are the most impacted by the state’s methodology errors.



# Senate Bill 828 was drafted absent a detailed understanding of the Department of Finance’s methodology for developing household forecasts, and absent an understanding of the difference between rental and home-owner vacancies. These misunderstandings have unwittingly ensured a series of double counts.

## SB-828 MISTAKENLY ASSUMED:

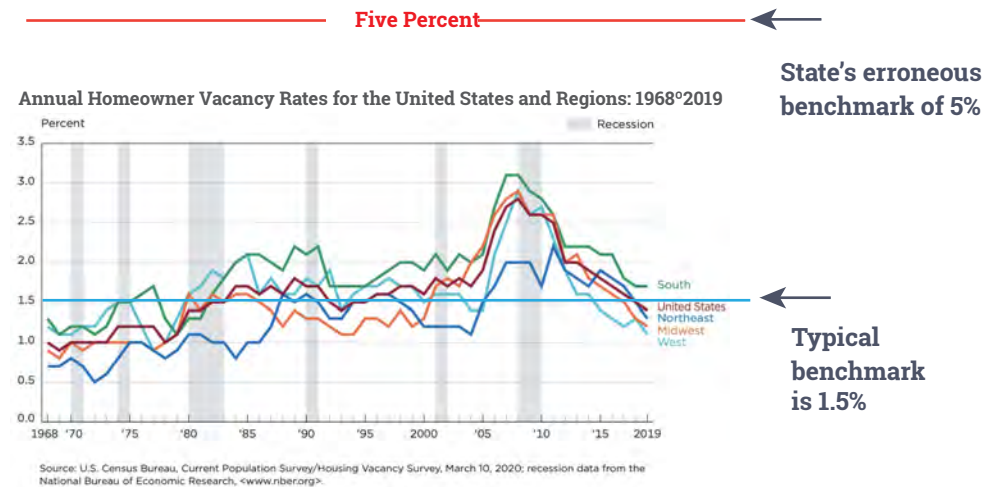
## THE REALITY IS:

1. SB-828 wrongly assumed ‘existing housing need’ was not evaluated as part of California’s previous Regional Housing Need Assessments, or RHNA. There was an assumption that only future need had been taken into account in past assessments. (In fact, as detailed in The Reality section, the state’s existing housing need was fully evaluated in previous RHNA assessment cycles).

1. Existing housing need has long been incorporated in California’s planning cycles. It has been evaluated by comparing existing vacancy rates with widely accepted benchmarks for healthy market vacancies (rental and owner-occupied). The difference between actual and benchmark is the measure of housing need/surplus in a housing market. Confusion about the inclusion of “existing need” may have arisen because vacancy rates at the time of the last assessment of housing need (“the 5th cycle”) were unusually high (higher than the healthy benchmarks) due to the foreclosure crisis of 2007–2010, and in fact, the vacancy rates suggested a surplus of housing. So, in the 5th cycle the vacancy adjustment had the effect of lowering the total housing need. Correctly seeing the foreclosure crisis as temporary, the state Department of Finance did not apply the full weight of the surplus, but instead assumed a percentage of the vacant housing would be absorbed by the time the 5th cycle began. The adjustment appears in the 5th cycle determinations, not as ‘Existing Housing Need’ but rather as “Adjustment for Absorption of Existing Excess Vacant Units.”

2. SB-828 wrongly assumed a 5% vacancy rate in owner-occupied housing is healthy (as explained in the column on the right, 5% vacancy in owner-occupied homes is never desirable, and contradicts Government Code 65584.01(b)(1)(E) which specifies that a 5% vacancy rate applies only to the rental housing market).

2. While 5% is a healthy benchmark for rental vacancies, it is unhealthy for owner-occupied housing (which typically represents half of existing housing). Homeowner vacancy in the U.S. has hovered around 1.5% since the ‘70s, briefly reaching 3% during the foreclosure crisis. However, 5% is well outside any healthy norm, and thus does not appear on the Census chart (to the right) showing Annual Homeowner Vacancy Rates for the United States and Regions: 1968–2019.



3. SB-828 wrongly assumed overcrowding and cost-burdening had not been considered in Department of Finance projections of housing need. The bill sought to redress what it mistakenly thought had been left out by requiring regional planning agencies to report overcrowding and cost-burdening data to the Dept. of Housing and Community Development (as explained in the right column).

3. Unknown to the authors of SB-828, the Department of Finance (DOF) has for years factored overcrowding and cost-burdening into their household projections. These projections are developed by multiplying estimated population by the headship rate (the proportion of the population who will be head of a household). The Department of Finance (DOF) in conjunction with the Department of Housing and Community Development (HCD) has documented its deliberate decision to use higher headship rates to reflect optimal conditions and intentionally “alleviate the burdens of high housing cost and overcrowding.” Unfortunately, SB-828 has caused the state to double count these important numbers.

# The forced double-counting errors are significant.\*

---

## 1. Incorrect use of a 5% benchmark vacancy rate for owner-occupied housing.

The vacancy rate was incorrectly used for both existing and projected owner-occupied households.

**+ 229,000**  
housing units

---

## 2. Current vacancies were assumed to exist in household projections.

This error is unrelated to SB-828, but is an accounting error introduced by HCD methodology.

**- 22,000**  
housing units

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## 3. Overcrowding and cost-burdening were double counted.\*\*

In addition to the household projection methodology outlined by the Department of Finance (shown to account for overcrowding and cost-burdening), the matter is also mentioned in meeting notes available on the Association of Bay Area Government's (ABAG) website.\*\*\*

Quote from ABAG's Housing Methodology Committee Agenda Packet for the 4th RHNA Cycle, July 2006

"There was also a lot of discussion about the headship rates used by HCD/DOF. Several people commented that headship rates in the Bay Area are generally lower than the State's estimates because the region's high housing costs limit household formation. In response, Mr. Fassinger noted that HCD uses these higher headship rates because the RHNA process is intended to alleviate the burdens of high housing cost and overcrowding."

Despite this, overcrowding and cost-burdening were counted a second time as adjustment factors required by SB-828.

**+ 734,000**  
housing units

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**TOTAL: + 941,000**  
housing units

\* All errors are rounded to the nearest thousand.

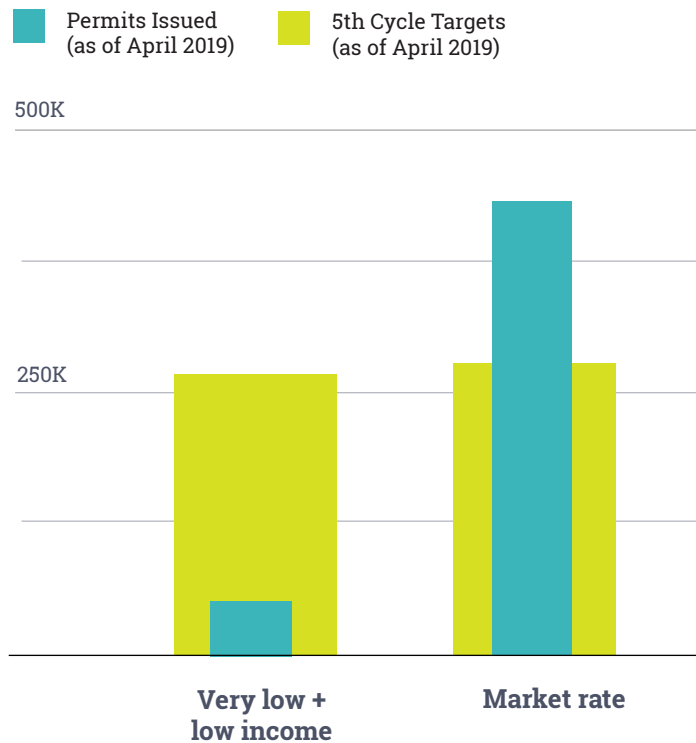
\*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels – extremely low, very low, low, moderate, above moderate

\*\*\* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in 'read me' notes that accompany the table.

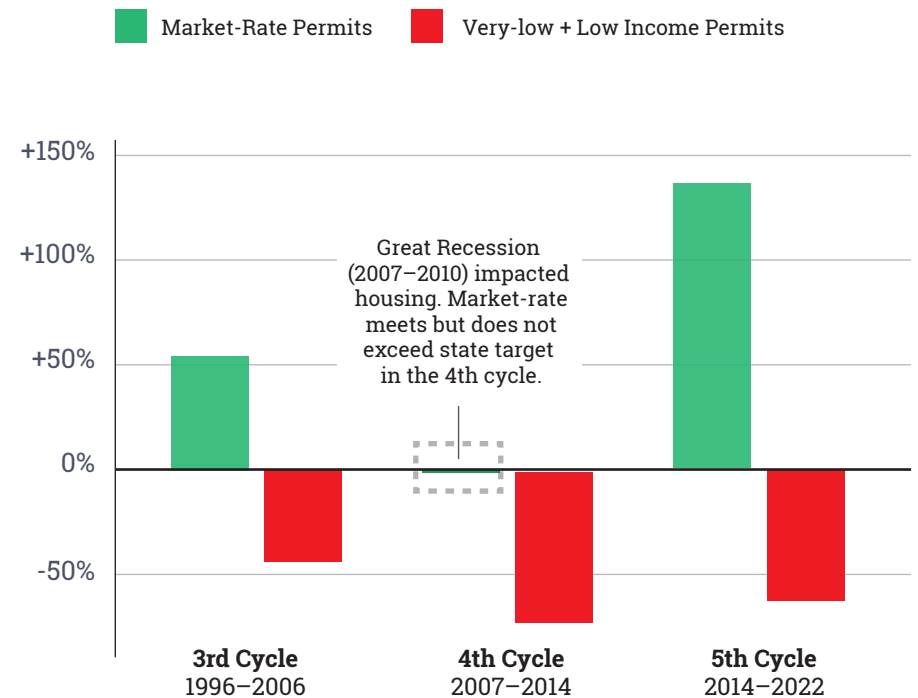
# The state's exaggerated targets unfortunately mask the real story: Decades of overachieving in market-rate housing has not reduced housing costs for lower income households.

The state has shown, with decades of data, that it cannot dictate to the market. The market is going to take care of itself. The state's responsibility is to take care of those left behind in the market's wake. Based on housing permit progress reports published by the Dept. of Housing and Community Development in July 2020, cities and counties in the four most populous regions continue to strongly outperform on the state's assigned market-rate housing targets, but fail to achieve even 20% of their low-income housing target. In the Bay Area where permit records have been kept since 1997, there is evidence that this housing permit imbalance has propagated through decades of housing cycles.

## Permit Progress in the 5th Cycle (2013-2022)\* (all 4 regions)



## Affordable Housing Languishes as Market-Rate Housing Overachieves (Bay Area only)\*



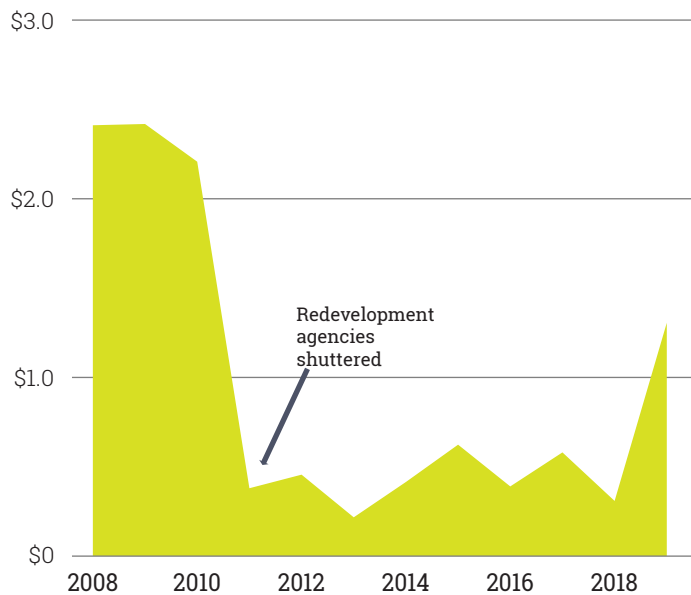
\* Based on permit progress reports published by the Dept of Housing and Community Development and updated July 2020, reporting progress through April 2019.

\*\* Only the Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles.

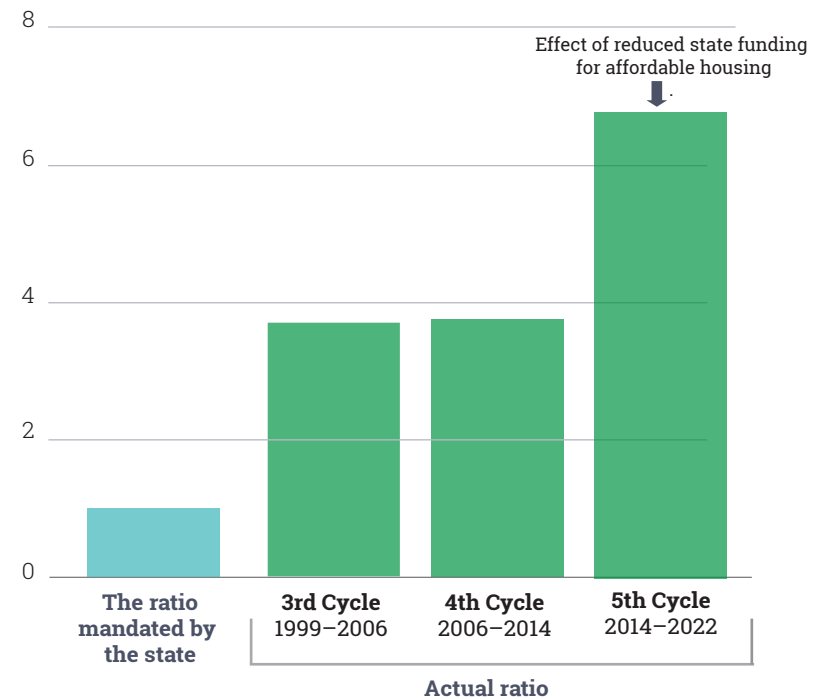
# It's clear. Market-rate housing doesn't need state incentives. Affordable housing needs state funding.

Cities are charged by the state to build one market-rate home for every one affordable home. But state laws, such as the density bonus law, incentivize developers to build market-rate units at a far higher rate than affordable units. As a result, California has been building four market-rate units for every one affordable unit for decades. And with the near-collapse of legislative funding for low-income housing in 2011, that ratio has grown to seven to eight market-rate units to each affordable unit. Yet we need one-to-one. This worsening situation can't be fixed by zoning or incentives which are the focus of many recent housing bills and only reinforce or worsen the ever-higher market-rate housing ratios. From the data it appears that the shortage of housing resulted not from a failure by cities to issue housing permits, but rather a failure by the state to fund and support affordable housing. Future legislative efforts should take note.

**State Funds for Affordable Housing, 2008–2019\***  
\$ Billion



**Market-Rate to Low-Income Housing Permits in the Bay Area has grown from a ratio of 4 : 1 to 7 : 1**  
(Bay Area only)\*\*



\* "The Defunding of Affordable Housing in California", Embarcadero Institute, update June 2020 [www.embarcaderoinstitute.com/reports/](http://www.embarcaderoinstitute.com/reports/)

\*\* Only Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles. Data is from ABAG's permit progress reports for 3rd and 4th cycle and Dept. of Housing and Community Development's 5th cycle Annual Progress Report.

## Finally, since penalties are incurred for failing to reach state targets for housing permits, the methodology for developing these numbers must be transparent, rigorous and defensible.

Non-performance in an income category triggers a streamlined approval process per Senate Bill 35 (2017). These exaggerated 6th cycle targets will make it impossible for cities and counties to attain even their market-rate targets, ensuring market-rate housing will qualify for incentives and bonuses meant for low income housing. **Yet again low-income housing will lose out.** The state needs to correct the errors in the latest housing assessment, and settle on a consistent, defensible approach going forward.

### At Least Four Different Methodologies Have Been Used Simultaneously by the State to Discuss Housing Need: We Only Need One

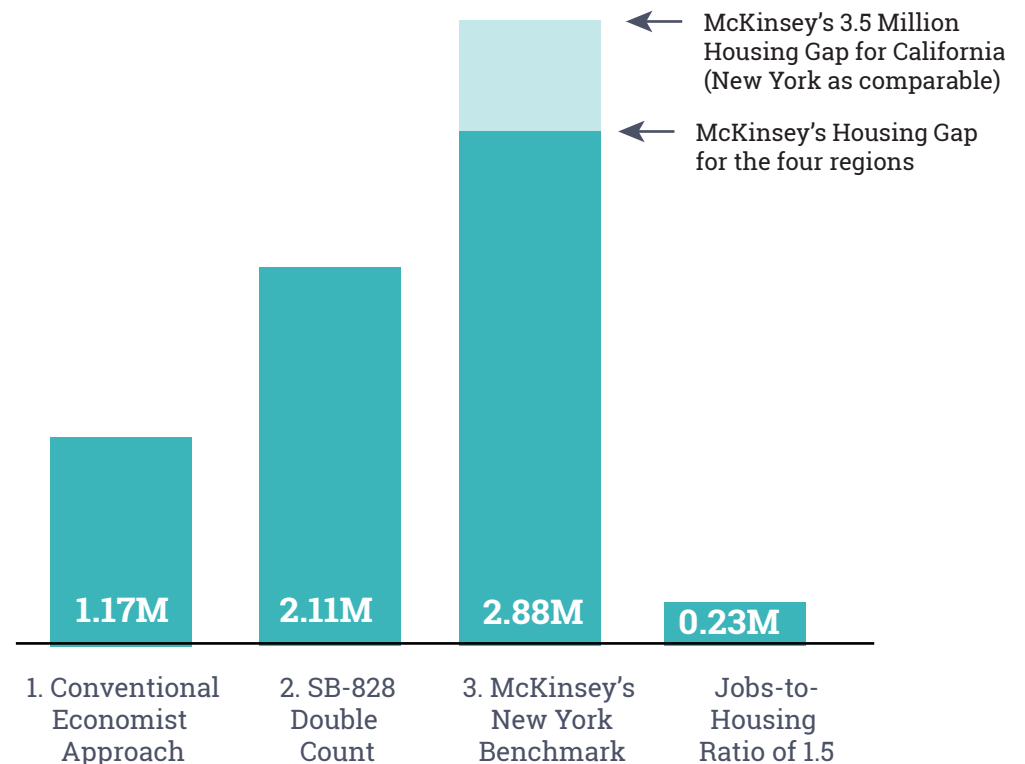
**1. The Conventional Economist Approach:** uses goldilocks (not too big, not too small, just right) benchmarks for vacancies - 1.5% for owner-occupied and 5% for rental housing.

**2. SB-828 Double Count:** incorrectly uses a benchmark of 5% vacancy for owner-occupied housing. It also double counts overcrowding and cost-burdening

**3. McKinsey's New York Benchmark:** the over-simplified approach generated an exaggerated housing gap of 3.5 Million for California. McKinsey multiplied California's population by New York's housing per capita to get 3.5M. New York is not a proper benchmark for California and NY's higher housing per capita is more reflective of NY's declining population rather than a healthy benchmark for housing

**4. Jobs-to-housing ratio of 1.5:** according to state planning agencies 1.5 is the optimal benchmark. Employment in the four regions is estimated to grow to 17 million by 2030 (job growth estimates prepared before COVID).\*\*

### Forecast 2030 Housing Need for the Four Regions



\* California's Employment Development Department (EDD) estimates employment by county through 2026. Using annualized growth (2016 to 2026) as a basis for future growth 2030 employment is estimated for the four regions.

\*\* The 17 million includes estimates of self employed, private household workers, farm and nonfarm employment. Occupations with employment below 100 in 2016 are excluded.

**How it Works : A multi-agency collaborative effort has generated past state housing targets. However, in 2018, SB-828 annointed the Dept. of Housing and Community Development with final veto powers.**

**STEP 1**

The Dept. of Finance (DOF) generates household forecasts by county based on population growth and headship rates. This is the step where overcrowding and cost-burdening are factored in .

Dept. of Finance (DOF)



**STEP 2**

The Dept. of Housing and Community Development (HCD) then takes the DOF household projections and adds in a healthy vacancy level (1.5% for owner-occupied, 5% for rental housing) to determine the number of housing units needed to comfortably accommodate the DOF household projections.

dept. of Housing and Community Development (HCD)



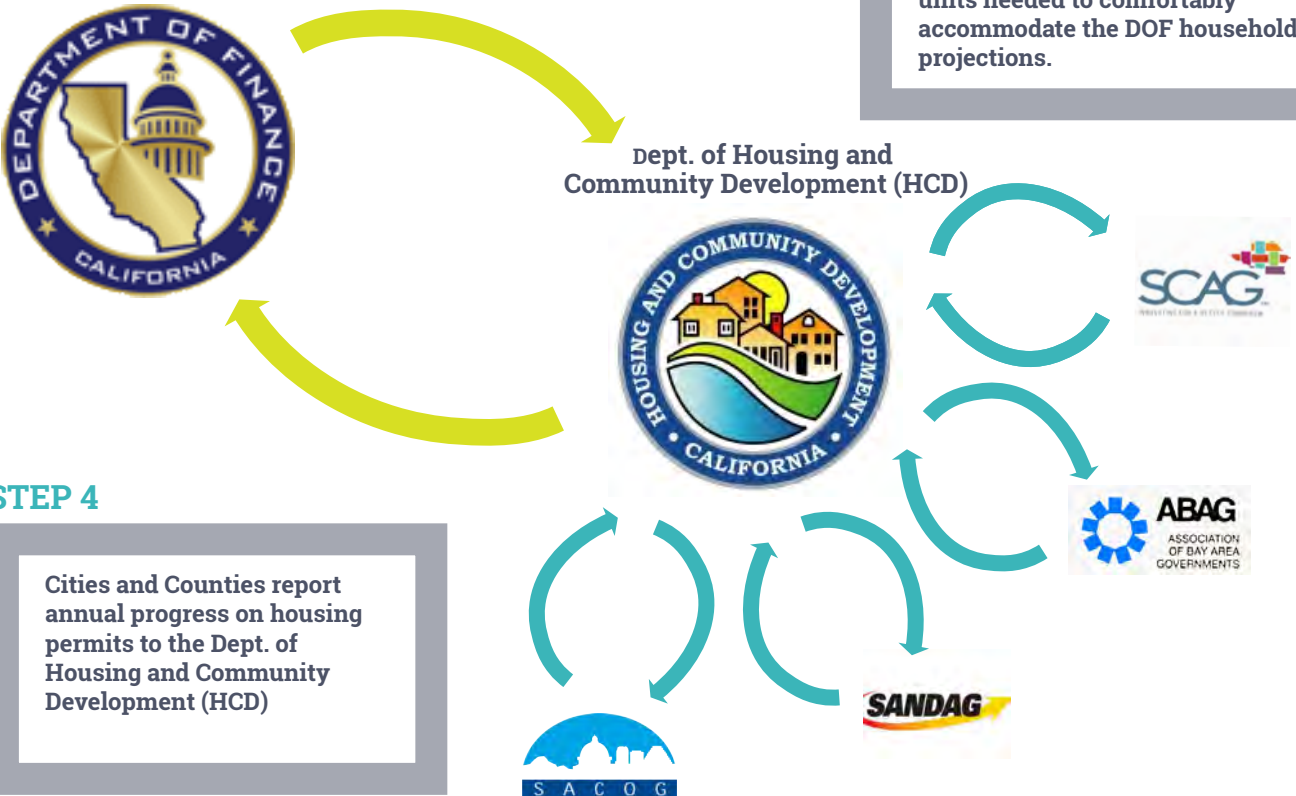
**STEP 3**

The regional agencies allocate housing targets to cities and counties in their jurisdiction. These allocations collectively meet their RHNA assessments, and are based on algorithms that may include employment, transit accessibility and local housing patterns



**STEP 4**

Cities and Counties report annual progress on housing permits to the Dept. of Housing and Community Development (HCD)



**SB-828 introduced errors in Step 2 (when the Dept. of Housing and Community Development made adjustments to the Dept. of Finance’s household projections).**

Southern California and the Bay Area were most impacted by the double counting. San Diego was not assessed for cost-burdening although it is more cost-burdened than the Bay Area. It was perhaps overlooked because its assessment cycle began in July, 2018, a few months before SB-828 passed into law.

**The Department of Housing and Community and Development**

**1. Used a benchmark of 5% vacancy rate for BOTH owner-occupied and rental housing.**

<b>Six SoCal Counties</b>	<b>=</b>	<b>+126,000</b>	<b>+ 228,000</b> housing units
<b>Greater Bay Area</b>	<b>=</b>	<b>+59,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>+23,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>+21,000</b>	

**2. Assumed vacancies in household projections \***

<b>Six SoCal Counties</b>	<b>=</b>	<b>-13,000</b>	<b>- 22,000</b> housing units
<b>Greater Bay Area</b>	<b>=</b>	<b>-4,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>-2,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>-3,000</b>	

**3. Double counted overcrowding and cost-burdening**

<b>Six SoCal Counties</b>	<b>=</b>	<b>+578,000</b>	<b>+ 734,000</b> housing units
<b>Greater Bay Area</b>	<b>=</b>	<b>+104,000</b>	
<b>San Diego Area</b>	<b>=</b>	<b>+39,000</b>	
<b>Greater Sacramento</b>	<b>=</b>	<b>+13,000</b>	

\* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in ‘read me’ notes that accompany the table  
 \*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels—extremely low, very low, low, moderate, above moderate.



## Detailed explanation of the errors using SoCal Counties as an example: First—the correct approach.

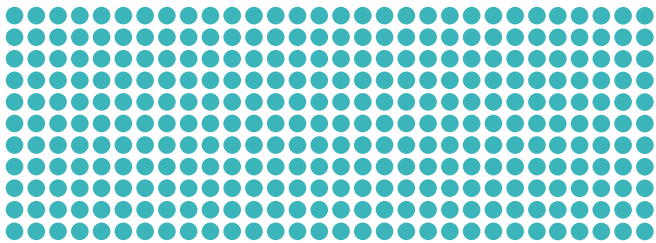
The Department of Housing and Community Development (HCD) have traditionally arrived at a number for pent-up demand or housing shortfall by comparing vacancy rates in owner-occupied and rental housing to healthy benchmarks (1.5% for owner-occupied\* and 5% for rental housing). The largest of the four regions, six SoCal Counties (covering Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties) is considered in the example below\*\*.

### EXISTING HOUSING: Six SoCal Counties

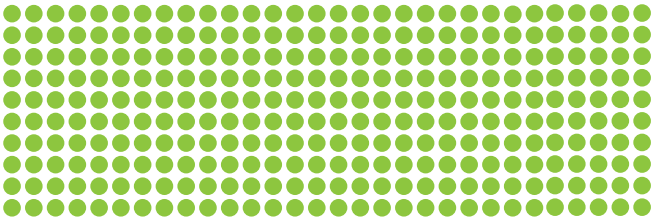
1 circle = 10,000 households

#### Occupied Housing Units

##### Home-owned (3.3 Million)



##### Rentals (3 Million)



#### Vacant Housing Units

Actual Vacancies (40,000)



1.2%

Healthy Benchmark (50,000)



1.5%

#### Existing Need

(10,000)



Actual Vacancies (111,000)



3.7%

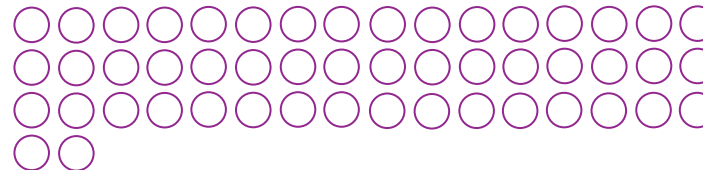
Healthy Benchmark (150,000)



5.0%

(39,000)

Seasonal Vacancies (500,000)\*\*\*



\* Owner-occupied has a lower healthy vacancy rate because it is usually only vacant while a house is for sale

\*\* All numbers are rounded to the nearest thousand.

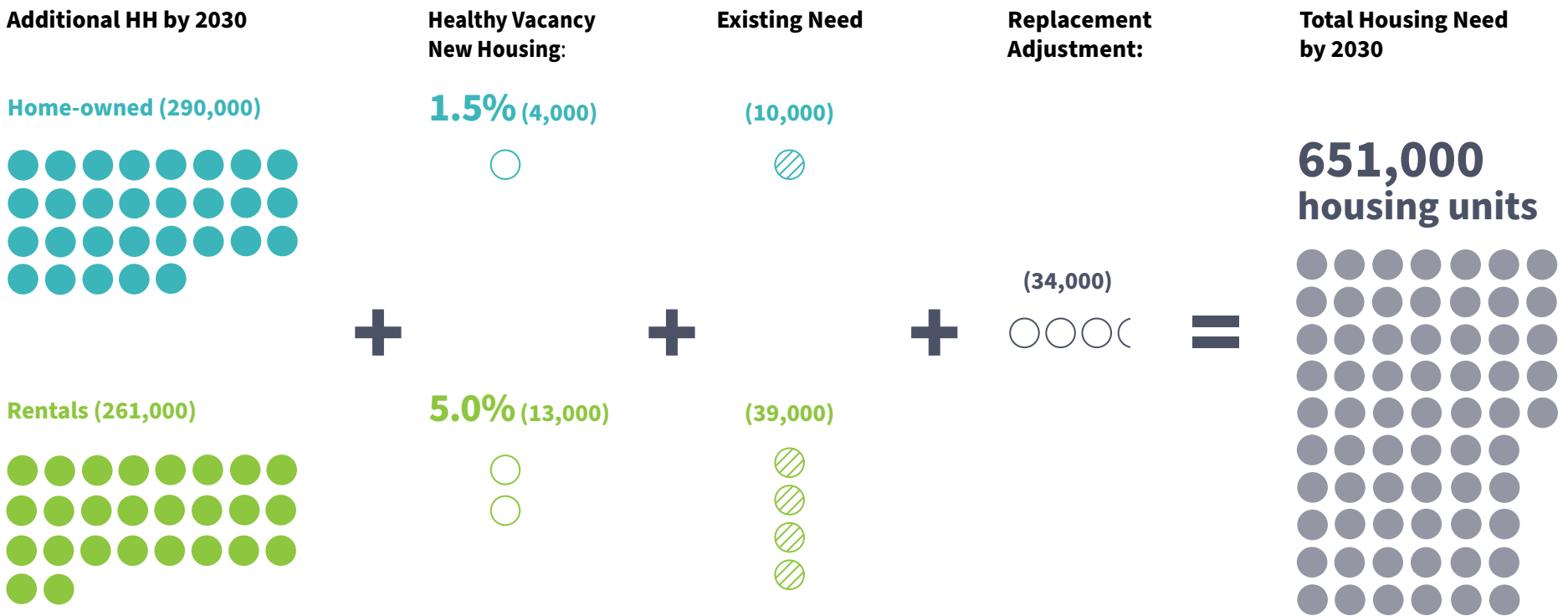
\*\*\* Seasonal Vacancies represent second homes, corporate housing, and short-term rentals such as AirBnBs

## The housing need also takes into account for future growth.

The Dept. of Finance (DOF) supplies the Dept. of Housing and Community Development (HCD) with an estimate of additional households (HH) needed by the end of the cycle. The DOF forecast the 2030 population and using an optimal household formation rate determine the number of households needed to comfortably house that population\*. The DOF also supply the HCD with the number of existing households at the start of the cycle. The HCD adds to the base number of additional households needed, factoring in vacancies for a healthy market, and adding a replacement adjustment (also supplied by the DOF)\*\*.

### PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



\* Households represent occupied housing units. The number of housing units is always higher as at any given time than the number of households because some housing will be vacant or unutilized. The DOF is responsible for the base projection because they manage population projections for the state, and determine those by analyzing births, deaths and net migration.

\*\* Replacement represents houses that may be demolished or replaced during the cycle\*.

**However, the Dept. of Housing and Community Development has adopted an unusual methodology in evaluating existing need in the 6th housing cycle.**

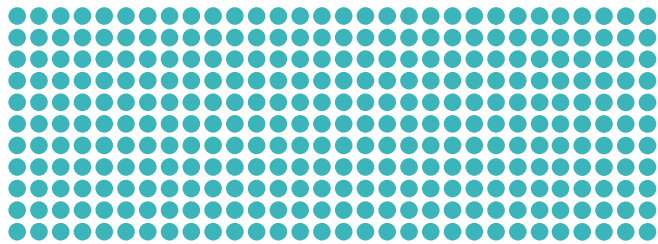
Instead of the typical 1.5% benchmark for owner-occupied housing, they used a 5% vacancy rate usually reserved for rental housing. A 5% vacancy in owner-occupied housing is indicative of a distressed housing market. At 5%, SoCal's existing housing need is increased by 115,000 housing units. Existing need for rental housing is unchanged.

**EXISTING HOUSING: Six SoCal Counties**

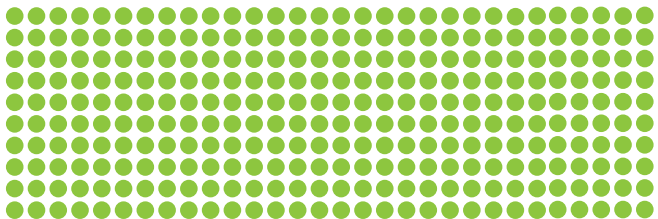
1 circle = 10,000 households

**Occupied Housing Units**

**Home-owned (3.3 Million)**



**Rentals (3 Million)**



**Vacant Housing Units**

**Actual Vacancies (40,000)**



**1.2%**

**Healthy Benchmark (165,000)**



**5.0%**

**Actual Vacancies (110,000)**



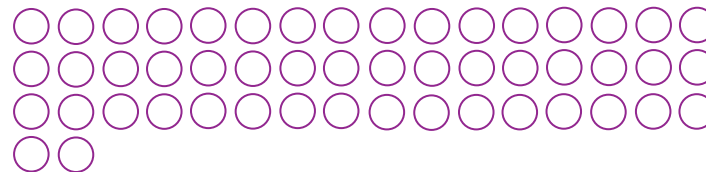
**3.7%**

**Healthy Benchmark (149,000)**



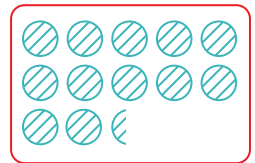
**5.0%**

**Seasonal Vacancies (500,000)**



**Existing Need**

**(125,000)**



**=**

**(38,000)**

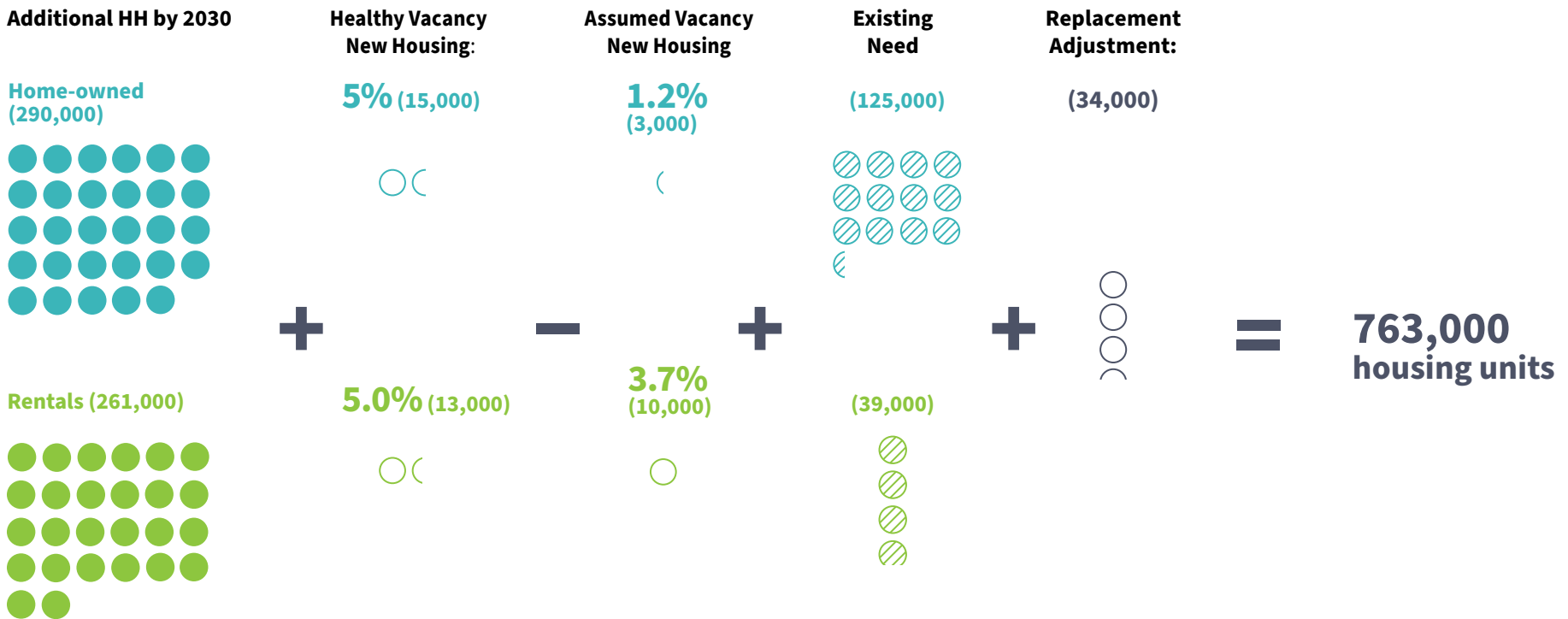


**The Dept. of Housing and Community Development have also taken an unusual approach in evaluating projected housing need.**

Again, instead of using the separate benchmark of 1.5% for owner-occupied housing, 5% was used for all housing. It was also assumed that new projected households had existing vacancies. The full benchmark was not applied to new households. Instead, the difference between the benchmark and the current vacancy rate was applied. The replacement adjustment was applied as it has been in the past.

**PROJECTED HOUSING NEED: Six SoCal Counties**

1 circle = 10,000 households



**Lastly, the Dept. of Housing and Community Development double counted by adding two new factors that had already been factored into household forecasts made by the Dept. of Finance (DOF).**

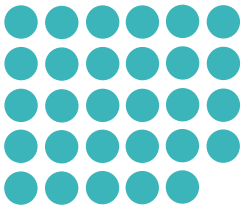
Two new factors were introduced into the 6th assessment – overcrowding and cost burdening. These factors had already been rolled into the DOF’s household projections. The DOF explicitly recognized that regional household formation rates might be depressed (a symptom of overcrowding and cost-burdening) because of the affordable housing crisis. The household formation rate used by the DOF is higher than the actual rate experienced. As such it generates a higher housing target meant to relieve overcrowding and cost-burdening.

**PROJECTED HOUSING NEED: Six SoCal Counties**

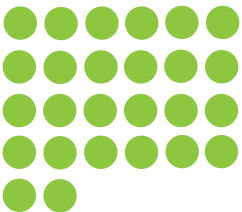
1 circle = 10,000 households

**Additional HH by 2030**

Home-owned  
(290,000)



Rentals (261,000)



**Projected Households already factors in overcrowding and cost-burdening**

From the Department of Finance

“The argument was that the Great Recession and the affordability crisis which impact recent trends in headship should not be allowed to solely dominate the projection, rather some return to underlying socio-cultural norms of homeownership/fewer roommates is a beneficial assumption”



**A DOUBLE COUNT**

Overcrowding Adjustment\*

(460,000)



Cost Burdening Adjustment\*\*

(118,000)



\* In addition to double counting, HCD incorrectly calculated the overcrowding factor. They assumed that for every house that was overcrowded another house would be required to relieve overcrowding. The more accurate analysis would be to assess the number of extra people to be housed and divide by the average household size.  
 \*\* HCD only applied cost-burdening adjustments to future households not existing households. It is unclear why cost-burdening would only be considered an issue for future households, as the data is for current households.

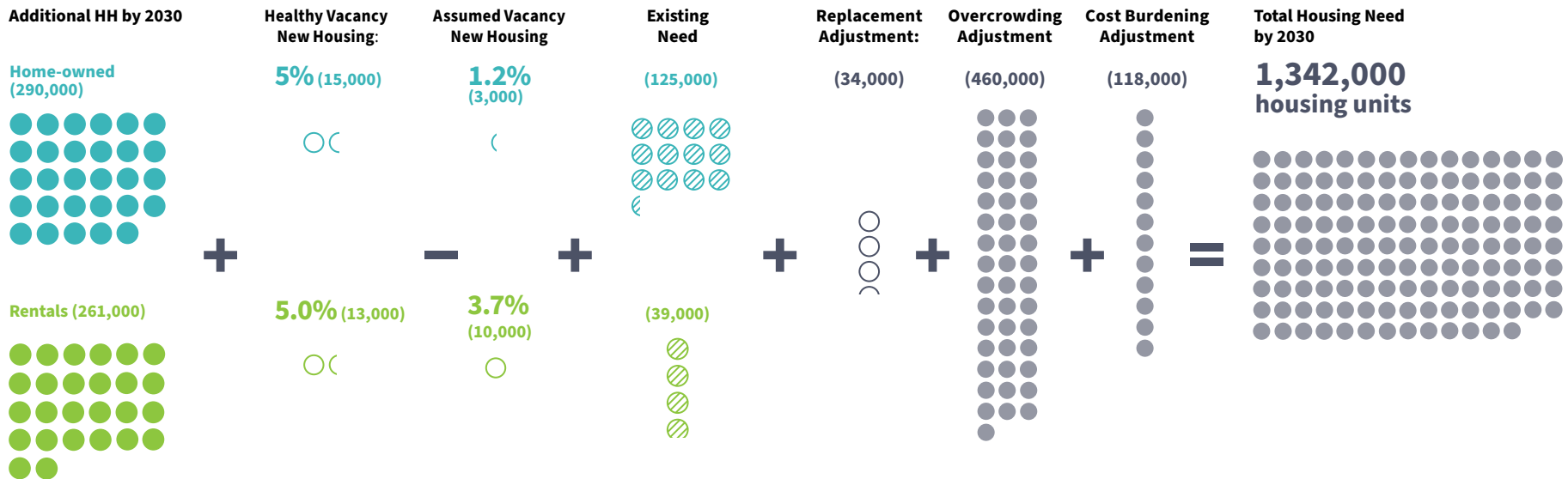
# The vacancy errors and double counting resulted in a doubling of the housing needs assessment for the six counties of SoCal.

## TYPICAL METHODOLOGY

1 circle = 10,000 households



## HCD 6TH CYCLE METHODOLOGY



Complete data tables: *RHNA Data and Models 6th cycle*, [www.embarcaderoinstitute.com](http://www.embarcaderoinstitute.com)

**References used in the analysis :**

**Dept. of Housing and Community Development (HCD)** <https://www.hcd.ca.gov>

**Regional Housing Needs Allocation and Housing Elements**

**Regional Housing Needs**

**Allocations for 6th Cycle Housing Elements:**

- Association of Bay Area Governments Regional Housing Need Determination Plan for the Sixth Housing Element Update
- Sacramento Area Council of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- Southern California Association of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- San Diego Association of Governments Regional Housing Need Determination and Plan for the Sixth Housing Element Update

**Allocations for 5th Cycle Housing Elements:**

- Association of Bay Area Governments (February 24, 2012)
- Sacramento Area Council of Governments (September 26, 2011)
- San Diego Association of Governments (November 23, 2010)
- Southern California Association of Governments (August 17, 2011)

**Annual Progress Reports**

Annual Progress Report APR: 5th Cycle Annual Progress Report Permit Summary (updated 7/30/2020)

**Allocations for Earlier Cycles and Housing Element**

- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06
- Regional Housing Needs Plan 2006 to 2013 SACOG February 2008
- 3rd and 4th Cycle RHNA allocations (data sent in personal communication with the Department of Housing and Community Development)

**Department of Finance Methodology for Household Forecasts**

- "Read Me" P4 Tables : Household Projections 2020 to 2030
- Association of Bay Area Governemnets Digital Library: RHNA Documents, Regional Housing Neeed Allocation Documents
- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06, Regional Housing Need Allocation p 2

**Other Housing Assessment Methodologies**

**"Mckinsey & Company:** A TOOL KIT TO CLOSE CALIFORNIA'S HOUSING GAP: 3.5 MILLION HOMES BY 2025", October 2016

**Jobs to Housing**

Employment Development Department, State of California, Employment Projections : Long Term Projections  
<https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html>

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
916) 263-2911 FAX: (916) 263-7453  
www.hcd.ca.gov



December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and



land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

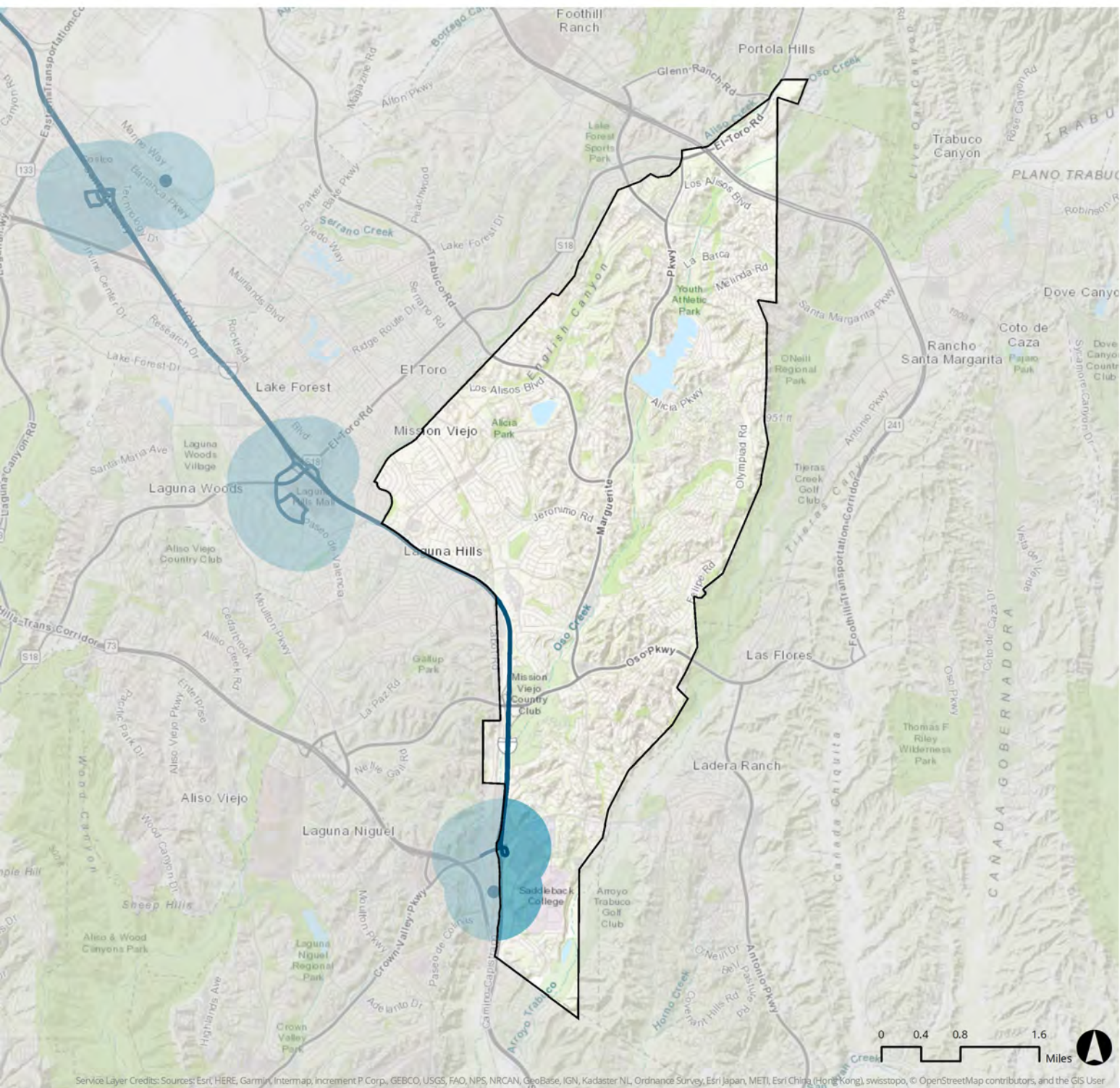
The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068





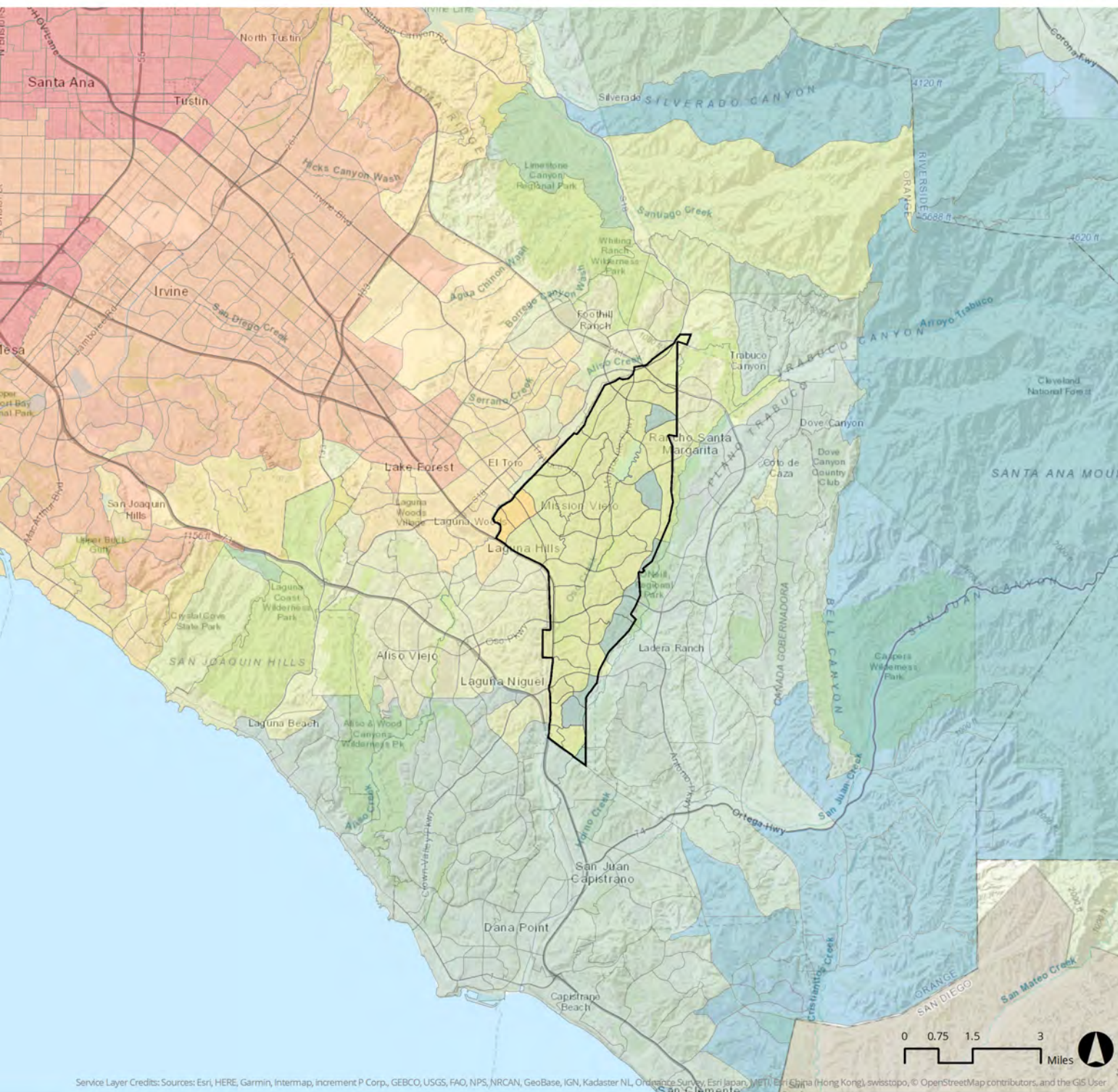
## Major Transit Stops and High Quality Transit Areas in City of Mission Viejo [Year 2045]

- Major Transit Stops
- ▬ High Quality Transit Corridors (HQTCS)
- High Quality Transit Areas (HQTAs)

Note: SCAG identifies Major Transit Stops and High Quality Transit Corridors (HQTCS), and their surrounding areas in one-half mile radius distance as specified in Section 21155.(b)(3). Major transit stops and HQTCS are extracted from 2045 plan year data of Connect SoCal. SCAG's High Quality Transit Area (HQTA) is within one-half mile from Major Transit Stops and HQTCS and developed based on the language in SB375; however, freeway transit corridors with no bus stops on the freeway alignment do not have a directly associated HQTA. The RHNA process, per Section 65584 et seq., specifies that SCAG's housing needs allocation plan shall further several objectives including those related to infill development and jobs-housing balance. To that end, SCAG's Regional Council-adopted 6th Cycle Final RHNA Methodology relies on a jurisdiction's forecasted 2045 population within HQTAs to allocate housing need.

Data Source: SCAG, County Transportation Commissions, 2020 | Map Created: 10/22/2020

Disclaimer: The information shown on this map reflect jurisdiction's input submitted during the Local Input and Envisioning Process for the City of Mission Viejo. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodologies and data, please refer to the SCAG Data/Map Book at [connectsoal.org/Pages/Local-Input-Process.aspx](https://connectsoal.org/Pages/Local-Input-Process.aspx) or contact [RTPLocalInput@scag.ca.gov](mailto:RTPLocalInput@scag.ca.gov).



## TAZ-level job accessibility in and around: City of Mission Viejo [Year 2045]

0% - 2.3%    2.4% - 7.8%    7.9% - 11.7%    11.8% - 15.5%    15.6% - 19.6%    19.7% - 32.3%

Note: These data represent the share of jobs in the SCAG region accessible by automobile commute in 30 minutes in 2045 during the peak AM commute (6-9am). Further detail on the job accessibility measure can be found in SCAG's Final RHNA Methodology. Note that since the SCAG region's total employment forecast for 2045 is 10,049,000 jobs, the number of jobs available can be measured by multiplying the percentage found on the map by this number. For example, a TAZ-level job accessibility measure of 10.0% means that 1,049,000 future jobs could be reached in 30 minutes.

Data Source: SCAG, 2020 | Map Created: 10/22/2020

Disclaimer: The data underlying the information shown on this map reflect jurisdiction's input submitted during the Local Input and Envision Connect SoCal. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methods of this map, please refer to the SCAG Data/Map Book at <https://www.connectsocial.org/Pages/Local-Input-Process.aspx> or contact RTPLocal@scag.org



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Karen Calderon, Associate Regional Planner, Compliance &  
(213) 236-1983, calderon@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Pico Rivera

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Pico Rivera (City) to reduce the Draft RHNA Allocation for the City by 3,251 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California’s policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL:**

The City of Pico Rivera requests a reduction of its RHNA allocation by 3,251 units (from 3,939 units to 688 units) based on the following issues:

1. Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029) - the RHNA allocation does not meet the housing objectives and is unfair as it assigns the City a disproportionately higher amount of lower income units, based upon a flawed methodology that is inconsistent with regional growth forecasts.
2. Distribution of household growth assumed for purposes of comparable Regional Transportation Plans - SCAG's RHNA methodology is inconsistent with the household growth projections determined in Connect SoCal Plan.
3. Sewer or water infrastructure constraints for additional development - adequate water supply capacity to accommodate the development of their RHNA allocation is not available.
4. Availability of land suitable for urban development or for conversion to residential use - the City is constrained due to flood risks and there is little vacant land suitable for residential uses and available sites may not meet AB 1397 requirements.
5. Changed circumstances - COVID-19 pandemic has affected the economy and housing dynamics resulting in a decrease need for housing.

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California’s Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*



**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal and recommend no change to the City of Pico Rivera's RHNA allocation. Regarding Issue 1, statute vests HCD with the authority to decide whether statutory objectives were met by the RHNA Methodology, and HCD made this determination. Also, the City is challenging the adopted RHNA Methodology rather than the application of the methodology. Additionally, the City's allocation of low-income units was conducted pursuant to the final RHNA methodology and in a fair and consistent manner across all local jurisdictions. Regarding Issue 2, the jurisdiction's RHNA allocation was assigned in a manner consistent with the development pattern in Connect SoCal. Regarding Issue 3, evidence from a utility service provider that would preclude the construction of new housing was not demonstrated. Issue 4 was not demonstrated to be an impediment to meeting Pico Rivera's RHNA allocation since AB 1397 does not preclude consideration of all non-vacant sites. Regarding Issue 5, evidence that COVID-19 reduces housing need for the entire RHNA planning period was not demonstrated. Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence was provided indicating that housing need within jurisdiction is disproportionately impacted in comparison to the rest of the SCAG region.

**BACKGROUND:****Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

**Total RHNA for the City of Pico Rivera: 3,939 units**

Very Low Income: 1,149 units  
Low Income: 562 units  
Moderate Income: 572 units  
Above Moderate Income: 1,656 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

**Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Pico Rivera. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

#### ANALYSIS:

***Issue 1: Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(1)].***

*The City contends SCAG failed to determine Pico Rivera's share of the regional housing need in accordance with the information described in the Final RHNA Methodology established and approved by SCAG, and in a manner that furthers, and does not undermine the five objectives listed in Government Code Section 65584 (d). Additionally, the RHNA allocation is unfair as it assigns the City a disproportionately higher amount of lower income units, based upon a flawed methodology that is inconsistent with regional growth forecasts.*

**SCAG Staff Response:** SCAG's adopted RHNA Methodology balanced a wide-range of policy and statutory objectives (i.e., the objectives set forth in Government Code section 65584(d)). For example, the methodology incorporates locally-envisioned growth from Connect SoCal, recognizes the importance of job and transit access in future housing planning, and demonstrates a commitment to social equity in the form of the social equity adjustment and the reallocation of residual housing need in lower-resourced jurisdictions to higher-resourced jurisdictions.

With respect to the statutory objectives, SCAG used objective measures to advance certain principles, but since local and regional conditions vary tremendously across the state and over time, there are few consistent quantitative standards which can be used to evaluate all aspects of the methodology. Ultimately, however, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met. On January 13, 2020, HCD found that SCAG's (then draft) 6th cycle methodology advanced all five statutory objectives of RHNA.

Regarding the amount of low income units assigned to the jurisdiction, a regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law, which included allocation by income categories in order to promote equity across the region. The RHNA methodology includes a minimum 150 percent social equity adjustment and an additional 10 to 30 percent added in areas with significant populations that are defined as very low or very high resource areas, to further the objectives of allocating a lower proportion of households by income and affirmatively furthering fair housing. A social equity adjustment ensures that jurisdictions accommodate their fair share of each income category. It does so by adjusting current household income distribution in comparison to county distribution. The result is that jurisdictions that have a higher concentration of lower income households than the county will receive lower percentages of RHNA for the lower income categories. As shown in Table 1, below, after the 150% equity adjustment, Pico Rivera’s Draft RHNA Allocation by income category is similar to the County’s distribution, and consistent with HCD’s regional determination by income category for the region.

Table 1: RHNA Allocation by Income Category

	<b>Very-low Income</b>	<b>Low Income</b>	<b>Moderate</b>	<b>Above Moderate</b>	<b>Total Units</b>
<b>Region</b>	26%	15%	17%	42%	1.34 million
<b>Los Angeles County</b>	26%	15%	16%	43%	813,082
<b>Pico Rivera</b>	28%	14%	15%	43%	3,939

However, an appeal citing RHNA methodology as its basis must appeal the application of the adopted methodology, not the methodology itself. Since the final calculation of income levels was conducted pursuant to the final RHNA methodology and in a fair and consistent manner across all local jurisdictions, SCAG staff does not recommend a reduction to the jurisdiction’s draft RHNA allocation based on this factor.

Regarding inconsistencies between RHNA and Connect SoCal’s regional growth forecasts, see SCAG Staff Response for Issue 2, below.

**Issue 2: Distribution of household growth assumed for purposes of comparable Regional Transportation Plans [Section 65584.04(e)(3)].**

*The City argues SCAG's RHNA methodology is inconsistent with the household growth projections determined in Connect SoCal. Specifically, the City’s household growth projected over the 2045 forecast period in Connect SoCal results in an annual household growth of 66.5 households. The RHNA forecast growth amortized over the 8-year planning period results in growth of 492 housing units per year, which is 7.5 times above the Connect SoCal forecast. Therefore, the RHNA allocation is inconsistent with the 2045 growth forecast in Connect SoCal, which undermines the validity of the*

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*assumptions in the Draft RHNA Allocations and Government Code Section 65584(d)(1) by failing to provide the distribution of units in an equitable manner.*

**SCAG Staff Response:** As described in Attachment 1, Pico Rivera’s RHNA Draft Allocation is comprised of projected and existing need components. The projected need component is primarily based on household growth in Connect SoCal, SCAG’s 2020-2045 Regional Transportation Plan which was fully adopted in September 2020. For Pico Rivera, this amount is 657 units. Small adjustments are made to account for future vacancy (16 units) and replacement need (23 units).

Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. As determined by HCD, a large share of the region’s housing need is based on factors other than future household growth and can be characterized as existing need. For Pico Rivera, this amounts to 3,283 units (83.3% of the City’s total need, see Attachment 1). These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e., “existing need”) and would not result in a change in regional population. SCAG’s RHNA methodology explicitly ensures that these units are allocated to jurisdictions across the region based on measures of transit and job accessibility such that future housing development can maximize the use of public transportation and existing infrastructure.

Ultimately, the Regional Transportation Plan/Sustainable Communities Strategy is a related, but separate process from the Regional Housing Needs Assessment. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. In contrast, the Connect SoCal Growth Forecast is an assessment of the reasonably foreseeable future pattern of growth given, among other factors described above, the availability of zoned capacity. For further discussion see Attachment 1 as well as Connect SoCal Master Response 1 at [https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial\\_public-participation-appendix-2.pdf](https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_public-participation-appendix-2.pdf)

In summary, Pico Rivera’s RHNA allocation is consistent with the distribution of household growth envisioned in Connect SoCal and maximizes the opportunity to match future housing unit growth with public transportation and existing transportation infrastructure. For this reason, SCAG staff does not recommend a reduction to its draft RHNA allocation based on this factor.

**Issue 3: Sewer or water infrastructure constraints for additional development [Section 65584.04(e)(2)(A)].**

*The City argues it does not have adequate water supply capacity to accommodate the development of their RHNA allocation. Pico Rivera has a finite amount of water it can draw from the Central Basin, controlled by the Department of Water Resources, and is not permitted to draw the additional water supply that would be needed to accommodate the City's RHNA allocation. Based on the City's 2015 Urban Water Management Plan, the City's RHNA allocation represents a dwelling unit growth that will exceed the City's available water supply totals by 2023. The City contends that a realistic estimate of future growth need should be directly tied to the realistic water capacity available within the City of Pico Rivera as described in the City's Urban Water Management Plan.*

**SCAG Staff Response:** For Government Code Section 65584.04(e)(2)(A) to apply in this case, the jurisdiction must be precluded from providing necessary infrastructure for additional development due to supply and distribution decisions made by a sewer or water provider other than the local jurisdiction. For the water constraints mentioned by the jurisdiction, it is not evident that the respective water provider has rendered a decision that would prevent the jurisdiction from providing necessary infrastructure to obtain the additional water supply necessary for its RHNA allocation. For this reason, SCAG staff does not recommend a housing need reduction based upon this planning factor.

**Issue 4: Availability of land suitable for urban development or for conversion to residential use [Section 65584.04(e)(2)(B)].**

*The entire City of Pico Rivera lies within the Whittier Narrows Dam's flood inundation area. Due to the high risk of flooding in the event of a Dam failure, Pico Rivera is extremely limited in areas where it can plan for future housing in a manner that is safe for future residents. The City contends that a realistic estimate of future growth need should be directly tied to the amount of available land within the City of Pico Rivera, suitable for urban development that is not subject to the risk of flooding.*

*The City of Pico Rivera further contends it is almost entirely built out, with little vacant land suitable for residential uses. AB 1397 requires land inventory sites be "available" and may only include non-vacant sites with realistic development potential (Govt Code Section 65583). Because much of the City's acreage may not meet AB 1397 requirements, it cannot be counted in the City's available land inventory for purposes of determining the City's RHNA allocation. Specifically, the City is developed with public facilities, open space, and critical infrastructure used for water conservation and flood management that cannot be used for residential development per the Army Corps. Government Code requires that 2021-2029 Housing Elements analyze the lease structures of potential candidate housing sites, which disqualifies most of the City's industrial areas. Commercial and retail areas are*

*also unlikely to be redeveloped as they provide employment for the City. To meet the RHNA allocation the City will need to rely on infill development, primarily in existing residential areas. Given the amount of available vacant land, it is unreasonable to assume the City will be able to demonstrate that the opportunity exists to develop the required 3,939 units on infill properties over the 8-year planning period, pursuant to the analysis required under AB 1397.*

**SCAG Staff Response:** Regarding the City's risk of flooding, per Government Code 65584.04(e)(2)(B), "the determination of land available suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding." While SCAG staff does not dispute that there may be areas at risk of flooding in the jurisdiction, the jurisdiction has not provided evidence that an agency or organization such as FEMA has determined that flood management infrastructure is inadequate to avoid flood risk in these areas. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's draft RHNA allocation.

Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality" (which includes the land use policies in its General Plan). 'Available land suitable for urban development or conversion to residential use,' as expressed in 65584.04(e)(2)(b), is not restricted to vacant sites; rather, it specifically indicates that underutilized land, opportunities for infill development, and increased residential densities are a component of 'available' land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

"In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land." (HCD Letter at p. 2).

As such, the City can consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City's 6th cycle RHNA allocation.

Indeed, AB1397, reiterates this concept and sets forth housing element site inventories which specifically include nonvacant sites. SCAG acknowledges that AB 1397 modifies the housing element update process in Government Code Section 65583 and requires stronger justification for using certain types of sites to meet RHNA need, particularly nonvacant sites. While these statutory changes have increased the extent of analysis or supportive policy required to demonstrate development likelihood, they do not preclude the consideration of non-vacant sites. For example,

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page 25 of HCD's June 10, 2020 Housing Element Site Inventory Guidebook<sup>1</sup> covering Government Code Section 65583.2 states:

*The inventory analysis should describe development and/or redevelopment trends in the community as it relates to nonvacant sites, i.e., the rate at which similar sites have been redeveloped. This could include a description of the local government's track record and specific role in encouraging and facilitating redevelopment, adaptive reuse, or recycling to residential or more intensive residential uses. If the local government does not have any examples of recent recycling or redevelopment, the housing element should describe current or planned efforts (via new programs) to encourage and facilitate this type of development (e.g., providing incentives to encourage lot consolidation or assemblage to facilitate increased residential-development capacity). The results of the analysis should be reflected in the capacity calculation described in Part C, above.*

Thus, statute permits, and HCD has provided guidance on how, several approaches may be taken in order to demonstrate site suitability.

While the City provides a breakdown of the existing zoning and general uses within the City (i.e. open space, industrial, commercial, etc.), the inability to develop residential uses was not demonstrated at a parcel-level. The City can consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, alternative zoning and density, and accessory dwelling units. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City's projected growth.

Note that while zoning and capacity analysis is used to meet RHNA need, they should not be used to determine RHNA need at the jurisdictional level. Per the adopted RHNA methodology, RHNA need at the jurisdictional level is determined by projected household growth, transit access, and job access. Housing need, both existing and projected need, is independent of zoning and other related land use restrictions, and in some cases is exacerbated by these very same restrictions. Thus, land use capacity that is restricted by factors unrelated to existing or projected housing need cannot determine existing or projected housing need. For these reasons, SCAG staff does not recommend a reduction to its draft RHNA allocation based on this factor.

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<sup>1</sup> [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf)

***Issue 5: Changed Circumstances [Government Code Section 65584.05(b)].***

*COVID-19 presents an unforeseen change in circumstance that affects the City's economy and housing dynamics. While the City acknowledges the long-term impacts of COVID-19 on housing is unknown, it provides statistics to show that an above average portion of the population is choosing to cohabitate with other households or is unable to make rent payments. Economic hardships on homeowners, renters, cities, and developers will likely lead to a decreased demand for housing, as well as a decreased ability for the private market to create housing. The City's financial ability to assist in lower income housing production also decreased. Additionally, California is experiencing historically low growth trends with a "Freddie Mac" report from February 2020 indicating that California's shortage of housing units is 820,000, considerably lower than the 1.34 million provided by HCD for the SCAG region alone. Therefore, an inflated RHNA allocation will result in Pico Rivera and California drastically and incorrectly reshaping the housing landscape as opposed to organically responding to market trends.*

**SCAG Staff Response:** SCAG recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment. However, these facts, as presented by the City, do not “merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.” (Govt. Code § 65584.05(b)(3)). Furthermore, Section 65584.05(b) requires that:

“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”

SCAG's Regional Council delayed the adoption of its 2020-2045 RTP/SCS by 120 days in order to assess the extent to which long-range forecasts of population, households, and employment may be impacted by COVID-19; however, the document's long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report<sup>2</sup> outlines the process for forecasting long-range employment growth which involves understanding national growth trends and regional competitiveness, i.e. the SCAG's region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts generally do not provide a basis for changes in the region's long-term competitiveness or the region's employment outlook for 2023-2045. As such, SCAG's assessment is that comparable data would not suggest long-range regional employment declines.

The COVID-19 pandemic has had various impacts throughout Southern California; however, it has not resulted in a slowdown in major construction nor has it resulted in a decrease in a demand for

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<sup>2</sup> See [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Demographics-And-Growth-Forecast.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Demographics-And-Growth-Forecast.pdf)



housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties. Demand for housing as quantified by the RHNA allocation is a need that covers an 8-year period, not simply for impacts that are in the immediate near-term. A temporary increase in co-habiting households, delayed rent payments due to financial hardships, or growth trends cannot be considered a decrease in housing need, since there is no evidence that these trends will persist for the entire RHNA planning period. Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in the appeal that indicates that housing need within jurisdiction is disproportionately impacted in comparison to the rest of the SCAG region. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's Draft RHNA Allocation.

In February 2020 national home lending agency Freddie Mac's Economic & Housing Research group prepared a national analysis of housing supply shortages titled "The Housing Supply Shortage: State of the States" (the Freddie Mac report). This information cannot now be considered for adjusting HCD's regional housing needs determination. The RHNA statute outlines a very specific process for arriving at a regional housing needs determination for RHNA. It also prescribes a specific timeline which necessitated the completion of the regional determination step by fall 2019 in order to allow enough time for the development of a methodology, appeals, and local housing element updates.

The defined timeframes are guided by the deadline for the housing element revisions for HCD's RHNA determination and SCAG's Final RHNA Allocation Plan. HCD, in consultation with each council of governments (COG), shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. Govt. Code § 65584(b). This "determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." Govt. Code § 65584.01(b). HCD begins the process 26 months prior to the scheduled revision so the data HCD relies on is the available provided by the COGs at that time. Similarly, the COG issues its survey for information to develop the RHNA allocation methodology up to 30 months prior to the scheduled revision. By necessity, the data used for these processes is data available at that time.

Without assessing the merits of the report, because the Freddie Mac report was not available during at the time HCD was determining regional housing need, it could not be considered then; and it cannot be considered now that the regional housing need has been determined. Furthermore, the Freddie Mac report is regional in nature and does not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was applied incorrectly to determine the jurisdiction's share of regional housing need. Because a regional study does not meet this criterion, these studies cannot be used to justify a particular

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jurisdiction's appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

In sum, it would be untenable to reopen the process anytime new data or materials become available, particularly when there is a codified process. If so, there would be no finality to the process and local government could not meet the deadlines for their housing element updates. Procedurally, SCAG cannot consider a regional study outside of the regional determination process nor should it apply a regional study to reduce an individual jurisdiction's draft RHNA allocation. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's draft RHNA allocation.

**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Allocation (City of Pico Rivera)
2. Appeal Form and Supporting Documentation (City of Pico Rivera)
3. Comments Received During the Comment Period (General)

## **Attachment 1: Local Input and Development of Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Pico Rivera had to provide information and local input on SCAG’s growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Pico Rivera’s Draft RHNA Allocation.

### **1. Local Input**

#### ***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG’s growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG’s Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

The local input data included SCAG’s preliminary growth forecast information. For the City of Pico Rivera, the anticipated number of households in 2020 was 16,778 and in 2030 was 17,526 (growth of 748 households). In May 2018, SCAG staff met with local jurisdiction staff to discuss the Bottom-Up Local Input and Envisioning Process and answer questions. Input was not received. The preliminary figures above were used by SCAG.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at: [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction’s Draft Data/Map Book at <http://scagrtpscs.net/Pages/DataMapBooks.aspx>

### ***b. RHNA Methodology Surveys***

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions' Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the Draft RHNA Methodology. The City of Pico Rivera submitted the following surveys prior to the adoption of the Draft RHNA Methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

### ***c. Connect SoCal Growth Vision and Additional Refinements***

Beginning in May 2018, SCAG's Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California's GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://www.connectsocial.org/Documents/DataMapBooks/Growth-Vision-Methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council's decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG's Scenario Planning Model Data Management Site (SPM-DM) at <http://spmdm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG received additional technical corrections from the City of Pico Rivera and incorporated them into the

Growth Vision. The City of Pico Rivera’s TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

**2. Development of the Final RHNA Methodology**

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG’s 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing (Govt. Code § 65584(d)).*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG’s Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes.*

*In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTA) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at:

<http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### **3. Draft RHNA Allocation for the City of Pico Rivera**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Pico Rivera received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the City of Pico Rivera as summarized in the data and calculations in the tables below.

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<b>Pico Rivera city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	617
Percent of households who are renting:	33%
Housing unit loss from demolition (2009-18):	23
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	1,762
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	20.99%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	2,109,000
Share of region's job accessibility (population weighted):	0.52%
Jurisdiction's HQTAs population (2045):	20,254
Share of region's HQTAs population (2045):	0.20%
Share of population in low/very low-resource tracts:	13.98%
Share of population in very high-resource tracts:	0.00%
Social equity adjustment:	150%

<b>Calculation of Draft RHNA Allocation for Pico Rivera city</b>	
Forecasted household (HH) growth, RHNA period:	617
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	16
Replacement Need	23
<b>TOTAL PROJECTED NEED:</b>	<b>657</b>
Existing need due to job accessibility (50%)	2171
Existing need due to HQTAs pop. share (50%)	829
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	283
<b>TOTAL EXISTING NEED</b>	<b>3283</b>
<b>TOTAL RHNA FOR PICO RIVERA CITY</b>	<b>3939</b>
Very-low income (<50% of AMI)	1149
Low income (50-80% of AMI)	562
Moderate income (80-120% of AMI)	572
Above moderate income (>120% of AMI)	1656

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population 20,254 living within HQTAs, the City of Pico Rivera represents 0.20% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.



Job accessibility is defined as the jurisdiction's share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region's workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal's travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Pico Rivera's median TAZ, it will be possible to reach 20.99% of the region's jobs in 2045 within a 30-minute automobile commute (2,109,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 283 units assigned to the Pico Rivera.

Please note that the above represents only a partial description of key data and calculations in the RHNA methodology.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**

*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*

*Appeals and supporting documentation should be submitted to [housing@scag.ca.gov](mailto:housing@scag.ca.gov).*

*Late submissions will not be accepted.*

Date:

10/22/20

Jurisdiction Subject to This Appeal Filing:

*(to file another appeal, please use another form)*

City of Pico Rivera

Filing Party (Jurisdiction or HCD)

Jurisdiction - City of Pico Rivera

Filing Party Contact Name

Luis Rodriguez

Filing Party Email:

lrodriguez@pico-rivera.org

**APPEAL AUTHORIZED BY:**

Name: Michael L. Garcia

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

Section 65584(d)(1) - The Draft RHNA allocation undermines this objective as it does not assign housing unit growth need in an equitable manner. The allocation is a marked increase in allocations from prior RHNA planning cycles and a disproportionately higher amount of lower income need to the community, based upon a flawed methodology that is inconsistent with regional growth forecasts at the regional, state and federal level.

**Brief Description of Appeal Request and Desired Outcome:**

See attached Appeal Letter for a full description of the appeal request.

The appeal is based on the following grounds: 1) Local Planning Factors- a variety of local factors directly impact future housing production; 2) Methodology to develop RHNA Allocations for Pico Rivera; and 3) Changed Circumstances impacting the City subsequent to the development of the RHNA Methodology.

The City of Pico Rivera is requesting a RHNA reduction from 3,939 units to 688

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced 3,251                      Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**

**(Numbers may be continued to accommodate additional supporting documentation):**

1. City of Pico Rivera Appeal of the Sixth Cycle Draft RHNA Allocation - 18 Pages
  
- 2.
  
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_



**Michael L. Garcia**  
Director

City of Pico Rivera  
**COMMUNITY AND ECONOMIC  
DEVELOPMENT DEPARTMENT**

6615 Passons Boulevard · Pico Rivera, California 90660

**(562) 801-4332**

Web: [www.pico-rivera.org](http://www.pico-rivera.org)

e-mail: [communitydevelopment@pico-rivera.org](mailto:communitydevelopment@pico-rivera.org)

**City Council**

Gustavo V. Camach  
Mayor  
Raul Eliz  
Mayor Pro Te  
Gregory Salcid  
Councilmemb  
Dr. Monica Sánche  
Councilmemb  
Brent A. Tercer  
Councilmemb

October 22, 2020

Southern California Association of Governments

Attn: Peggy Huang, Executive Director

900 Wilshire Blvd., Suite 1700

Los Angeles, CA 90017

**Subject: City of Pico Rivera Appeal of Draft Housing Unit Allocation for the Sixth Cycle Housing Element (2021-2029)**

Dr. Ms. Huang:

On behalf of our residents, in accordance with applicable Government Code provisions, the City of Pico Rivera (City) hereby submits its appeal to the Southern California Association of Governments (SCAG) of SCAG's Final Draft Housing Unit Allocation (Final Draft Allocation), released September 3, 2020, which is based on the Final Regional Housing Needs Assessment (RHNA) Methodology for the Sixth Housing Element Cycle (2021-2029) for the SCAG region (referred to herein as the Sixth Cycle) also adopted by the SCAG Board of Directors on that date.

A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). This appeal is consistent with, and not to the detriment of, the development pattern in the applicable sustainable communities strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein.

**INTRODUCTION**

The methodology used to determine the 6<sup>th</sup> Cycle RHNA allocation results in an increase in the number of housing units allocated to the City of Pico Rivera from 850 units for the 5th cycle Housing Element to a proposed 3,939 units. The proposed dwelling unit allocation increase is based on flawed methodologies that are in conflict with the determinations found within the Connect SoCal Plan and do not fully consider local planning factors unique to the City.

Pursuant to Government Code section 65584.05, Pico Rivera is exercising its right to file an appeal to modify its allocated share or another jurisdiction's share of the regional housing need included as part of SCAG's Draft Regional Housing Needs Assessment (RHNA) Allocation Plan.

Attachment: Appeal Form and Supporting Documentation (City of Pico Rivera) (Appeal of the Draft RHNA Allocation for the City of Pico Rivera)

**City of Pico Rivera**

SCAG RHNA Appeal 2021-2029

**Basis for the City of Pico Rivera Appeal**

A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable sustainable communities strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following grounds:

1. *METHODOLOGY - SCAG failed to determine Pico Rivera's share of the regional housing need in accordance with the information described in the Final RHNA Methodology established and approved by SCAG, and in a manner that furthers, and does not undermine the five (5) objectives listed in Government Code Section 65584(d). These objectives are:*
  - i. *Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*
  - ii. *Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*
  - iii. *Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*
  - iv. *Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*
  - v. *Affirmatively furthering fair housing.*
  
2. *LOCAL PLANNING FACTORS AND INFORMATION AFFIRMATIVELY FURTHERING FAIR HOUSING - SCAG failed to consider information submitted by Pico Rivera relating to certain local factors outlined in Govt. Code § 65584.04(e) and information submitted by the local jurisdiction relating to affirmatively furthering fair housing pursuant to Government Code § 65584.04(b)(2) and 65584(d)(5) [NO INFORMATION FOUND THAT WAS SUBMITTED]*
  
3. *CHANGED CIRCUMSTANCES - That a significant and unforeseen change in circumstance has occurred in Pico Rivera after April 30, 2019 and merits a revision of the information previously submitted by Pico Rivera. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.*

The City hereby submits its appeal of the Draft Allocation, pursuant to Govt. Code Section 65584. 05. (Govt. Code Section 65584. 05(b).) As described in the introduction, the City is basing its appeal on the following criteria.

<b>1</b>	<b>Methodology</b>	SCAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d).
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**(A) SCAG’s proposed methodology is inconsistent with the household growth projections determined in the Connect SoCal Plan.**

SCAG failed to adequately consider local household growth factors and utilized growth projections inconsistent with the Connect SoCal Plan.

SCAG’s Connect SoCal Plan, a 25-year plan, was formally adopted September 3, 2020. Appendix 1- Demographics and Growth Forecast of the Connect SoCal Plan<sup>1</sup>, list Pico Rivera’s household growth is forecasted to reach 18,500 in 2045. Comparatively, the 5-year estimates in the Census’ American Community Survey from 2018 for the City of Pico Rivera currently estimates 17,244 households.

**Table 1** shows a comparison between the annual household development projections in the Connect SoCal Plan and the City’s RHNA allocation. When the projected Connect SoCal forecast growth is projected over the forecast period, it results in an annual household growth of 66.5 households. The RHNA forecast growth amortized over the 8 year planning period results in growth of 492 housing unit per year. This results in an additional 426 housing units per year over the projected household growth in the Connect SoCal Plan. If RHNA development was achieved, the City would hit its projection growth needs identified in the Connect SoCal Plan in 4 years, approximately 26 years early.

**TABLE 1: Comparison of Household Growth Rates (Connect SoCal vs. RHNA)**

Connect SoCal Forecasted Households Units (2016-2045)	Connect SoCal Forecast Year	Average per year household units creation (2016-2045)	RHNA Estimate Total Growth Need	RHNA Forecast Year	Average per year household units creation (2021-2029)
1,900	2045	65.5	3,939	2029	492

The City contends that the household formation assumed in the RHNA far exceeds any reasonable projection for growth during the 2021-2029 Housing Element planning period. SCAG’s own 2045 growth forecast, stated in the Connect SoCal Plan is inconsistent and directly undermines the validity of the assumptions in the Draft RHNA Allocations

<sup>1</sup> Connect SoCal (2020 - 2045 Regional Transportation Plan/Sustainable Communities Strategy) Appendix 1, Table 14.

**City of Pico Rivera**

SCAG RHNA Appeal 2021-2029

More recently, a Federal Home Loan Mortgage Corporation (“Freddie Mac”) report (February 2020) indicates that all of California “has a shortage of 820,000 housing units,” which is considerably lower than the 1.34 million provided by State HCD for the SCAG region alone. Since the SCAG region is 47.8% of the State’s population per DOF’s May 2020 E-5 estimates, the SCAG regional allocation would be closer to 392,075 units. If the regional need assumed by SCAG of 1,341,827 units is revised to 392,075, the City would have a draft RHNA of 1,150 units rather than the 3,939 units for this upcoming 6th Housing Element Cycle.

The discrepancy demonstrates the RHNA allocation undermines Government Code Section 65584(d)(1) by failing to provide the distribution of units in an equitable manner. This is demonstrated by a household growth rate that is 7.5 times above Connect SoCal forecasts. The City contends that a realistic estimate of future growth need should be directly tied to realistic projections of household formation, consistent with SCAG’s own projections in the Connect SoCal Plan.

<b>2</b>	<b>Changed Circumstance</b>	A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to Section 65584. 04(b).
<i>Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.</i>		

**(A) The City of Pico Rivera does not have adequate water supply capacity to accommodate development of their 2021-2029 RHNA. The City receives water supply from the Central Basin groundwater Basin, which is controlled by the Department of Water Resources (DWR).**

Infrastructure Capacity

The City of Pico Rivera receives water service from two independent water purveyors. These are the Pico Rivera Water Authority (PRWA) and Pico Water District (PWD). In 2015, the City of Pico Rivera completed their Urban Water Management Plan (UWMP)<sup>2</sup>, which provides information on the water supply available within the City over the next 25 years and the anticipated demand based on census growth trends. The following information is from the City’s current UWMP regarding the supply capacity of the City’s larger water purveyor, PRWA.

The Urban Water Management Planning Act states that every urban water supplier shall include, as part of its plan, an assessment of the reliability of its water supplies. The water supply and demand assessment must compare the total projected water use with the expected water supply over the next 25 years in 5-year increments. This reliability assessment is required for normal, single dry-year and multiple dry water years. The City of Pico Rivera completed this assessment as part of their 2015 UWMP and the results are shown in the following section.

<sup>2</sup> <http://www.pico-rivera.org/civicax/filebank/blobdload.aspx?blobid=52378>

**City of Pico Rivera**

SCAG RHNA Appeal 2021-2029

The UWMP used the following growth assumptions based on 2010 US Census population counts for its future demand projections. The UWMP also assumed an average of 3.8 residents per dwelling unit and stated that PRWA’s service area is built-out and increased future densification will come from anticipated densification within existing residential areas. As shown in the table below, the City is anticipated to add 3,272 residents between 2020 and 2030, which equates to 327 residents per year and at the assumed rate of 3.8 residents per household, **86 dwelling units per year**.

**TABLE 2: UWMP – Population Assumptions**

	2015	2020	2025	2030	2035
PRWA Service Area	40,934	41,936	42,963	42,963	44,014
City of Pico Rivera	64,482	66,061	67,677	69,334	70,570
Compound Annual Growth Rate	0.40%	0.40%	0.40%	0.40%	0.40%

Notes: Derived by Atkins for 2015 UWMP Update based on 2010 US Census population counts within the City of Pico Rivera that reflects changes in population (a Citywide decline in between 2000 and 2010) due to a downturn in economic conditions

Based on actual water deliveries measures for the year 2015, PRWA had 8,959 residential accounts which used a total volume of 3,611 acre-feet (AF) of water as shown below. That is .403 AF per account, with the majority of accounts attributed to one dwelling unit.

**TABLE 3: UWMP – Water Deliveries (Actual, 2015)**

Water Use Sectors	2015 Metered	
	# of accounts	Volume (AF)
Single-family residential	8,959	3,611
Multi-family residential		
Commercial / Institutional/Governmental	432	945
Total	9,391	4,561

Source: DWR Water Report for PRWA

The table below shows projected demand and supply during normal years. The projected supply in this table is less than the projected demand, however the UWMP states that these assumptions do not hold true if increasing densification within PRWA’s service areas increased demand above 5,779 acre feet per year (AFY).

**TABLE 4: UWMP – Supply and Demand Comparison – Normal Year (AF)**

**Table 36 Supply and Demand Comparison — Normal Year (AF)**

Water supply sources	2020	2025	2030	2035
Groundwater	5,579	5,579	5,579	5,579
Recycled Water	200	200	200	200
Supply totals	5,779	5,779	5,779	5,779
Demand totals	5,365	5,364	5,388	5,412
Difference	414	415	391	367

Note: Application of GPCD used to determine projected demand over 25-year planning horizon.



**Conclusion**

Based on the information provided and the assumptions made in the City’s UWMP regarding project water deliveries (Table 5), the City’s RHNA allocation represents a dwelling unit growth that will exceed the City’s available water supply totals by 2023. Table 6 shows the City’s assumptions within the UWMP compared to the dramatically increased density that would result from development of the units in the City’s proposed RHNA allocation.

PRWD receives all of its water supply from the Central Basin groundwater basin, for which the Department of Water Resources (DWR) is the Watermaster. Pico Rivera has a finite amount of water it can draw from the Central Basin and is not permitted to draw the additional water supply that would be needed to accommodate the City’s RHNA. The discrepancy demonstrates the RHNA allocation undermines Government Code Section 65584(d)(2)(A) by failing to provide the distribution of units in an equitable manner. The City contends that a realistic estimate of future growth need should be directly tied to the realistic water capacity available within to the City of Pico Rivera as described in the City’s Urban Water Management Plan.

**TABLE 5: UWMP – Water Deliveries (Projected 2020, 2025, 2030, and 2035 (AF))**

Water Use Sectors	2020	2025	2030	2035
Single-family residential	3,463	3,461	3,545	3,632
Multi-family residential	269	269	275	282
Commercial / Institutional/Governmental	974	973	997	1,021
Landscape (Recycled Water)	200	200	200	200
Other	6	6	6	6
<b>Total</b>	<b>4,912</b>	<b>4,909</b>	<b>5,023</b>	<b>5,141</b>

Note: A one-percent increase per five years was applied to both the number of accounts and the total deliveries.

**TABLE 6: Comparison of Water Demand (UWMP vs. RHNA)**

Growth Assumption	Anticipated Dwelling Unit Growth per year (DU)	Projected 2020-2030 Increase in Water Deliveries for Residential (AF)	2030 Total Anticipated Demand Including All Uses (AF)	2030 Capacity
City of Pico Rivera UWMP (2015)	86	88	5,023	5,779
City’s 2021-2029 RHNA Allocation	492	1,982	6,917	5,779

**(B) Flood Inundation Area**

The entire City of Pico Rivera lies within the flood inundation area (See **Figure 1**) of the Whittier Narrows Dam (Dam). Flood risk for this structure under normal operations or as a consequence of an event such as an earthquake is classified as high by both the U.S. Army Corps of Engineers (Army Corp) Dam Safety Action Classification (DSAC) System, and the FEMA HAZUS program. The Dam has a risk characterization of “DSAC 1” by the Army Corps due to the risk of life loss of life with very high likelihood of failure of the

## City of Pico Rivera

### SCAG RHNA Appeal 2021-2029

Dam by a rare flood event. The Dam is the only DSAC 1 dam in the nation. The Army Corps prepared a Dam Safety Modification Study in May 2019 that proposed alternatives or risk management plans (RMPs) to reduce the potential for and consequences of catastrophic flooding resulting from failure of the Dam during rare to extremely rare flood events. The goal is to be ready to start construction on these safety modifications in 2021.

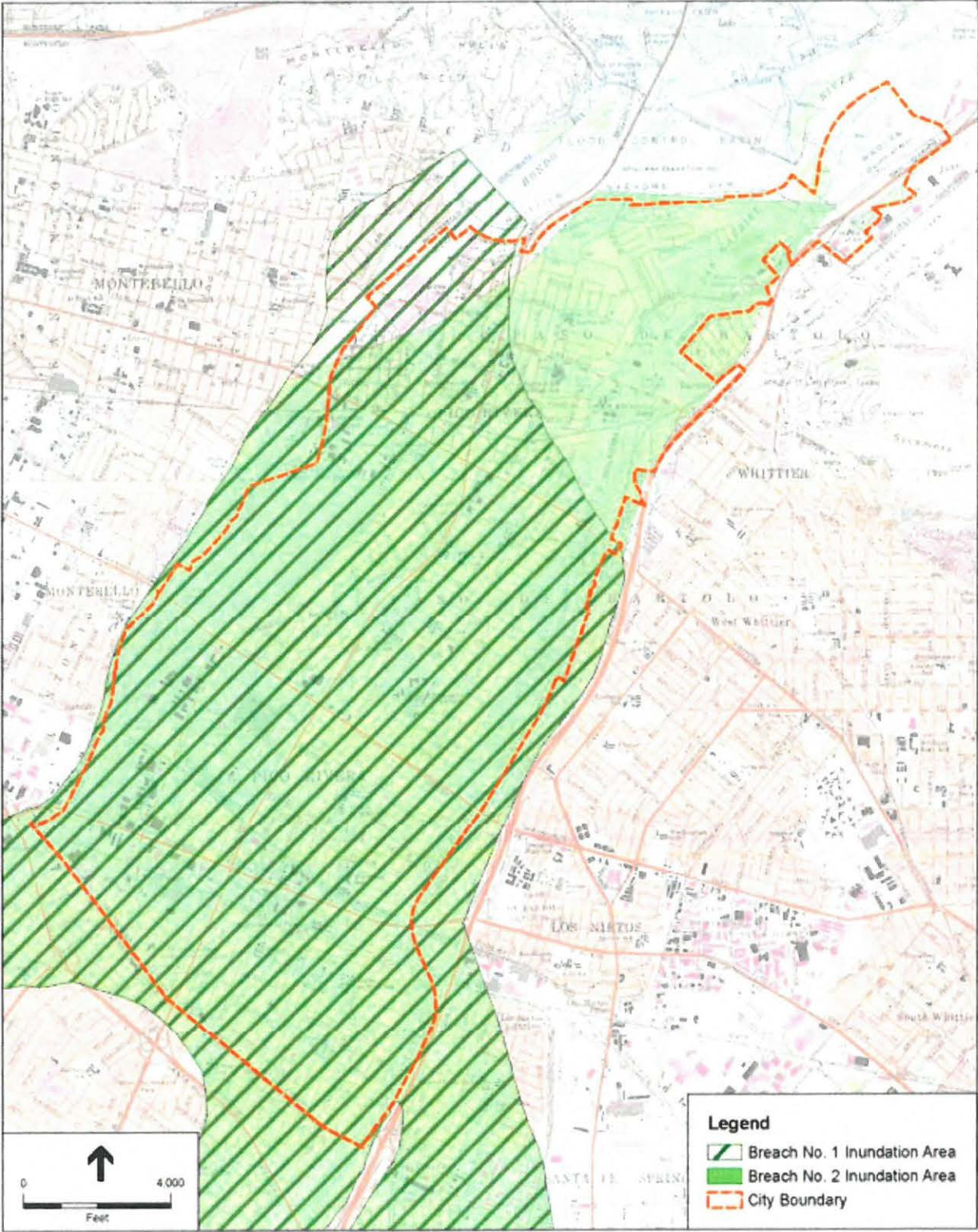
Potential Failure Modes (PFMs) are used to describe the manner in which the Dam could fail. The Army Corp report identified two PFMs that dominate the risk at the Dam and set the basis for plan formulation. They consist of backward erosion piping (BEP) in the foundation and overtopping. A third PFM, premature opening of the automatic spillway gates, is currently being addressed through operations and maintenance actions, and, accordingly, the RMPs developed for the Dam. If either of these two PFMs, or any other failures within the Whittier Narrows Dam structure, were to occur, there is the potential for significant flood damage encompassing the majority of the City of Pico Rivera.

### Conclusion

Due to the high risk of flooding in the event of a Dam failure, Pico Rivera is extremely limited in areas where it can plan for future housing in a manner that is safe for future residents. The discrepancy demonstrates the RHNA allocation undermines Government Code Section 65584(d)(2)(B) by failing to provide the distribution of units in an equitable manner.

The City of Pico Rivera contends that a realistic estimate of future growth need should be directly tied to the amount of available land within the City of Pico Rivera, suitable for urban development that is not subject to the risk of flooding, if flood management infrastructure fails.

FIGURE 1 – Pico Rivera Dam Inundation



<b>3</b>	<b>Changed Circumstances</b>	A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to Section 65584. 04(b).
<i>Availability of Land Suitable for Urban Development or for Conversion to Residential Use, the Availability of Underutilized Land, and Opportunities for Infill Development and Increased Residential Densities</i>		

The City of Pico Rivera is almost entirely built out, with little to no available vacant land to accommodate the number of housing units anticipated by the City’s draft RHNA allocation. The areas described within this section demonstrate that the realistic availability of land suitable for urban development or for conversion to residential uses is dramatically less than was considered when assigning the City’s RHNA allocation. As a built out City, Pico Rivera has little to no vacant land which means that the City will need to rely on infill development, primarily in existing commercial and residential areas. The information below shows that many of these areas may not meet the AB 1397 requirements as outlined below and therefore, cannot be counted in the City’s available land inventory for purposes of determining the City’s RHNA allocation for the 6<sup>th</sup> Cycle. These areas, and the total acreage allocated to each, are shown in Table 7 below.

**Table 7: Existing City Acreages**

Total City Acreage	Existing Open Space & Public Facilities	Existing Industrial	Existing Commercial	Existing SFR and PUD	Remaining Potentially Developable Area
4738	1603	764	222	2142	7
100%	34%	16%	5%	45%	<1%

Recently enacted AB 1397 modified Government Code section 65580,65583 and 65583.2. Generally, jurisdictions must demonstrate the following:

- Land Inventory Sites Must Be “Available” and May Only Include Non-Vacant Sites with Realistic Development Potential (Govt Code Section 65583).
- Sites in the Land Inventory Must Have Demonstrated Potential for Development (Govt Code Section 65583(a)(3))

This provision in state law requires the City to explicitly demonstrate the availability of vacant lands to accommodate future housing growth need.

**(a) Existing Public Facilities, Open Space, and Critical Infrastructure Areas**

There is approximately 1,603 acres of Public Facilities and Open Space within Pico Rivera. The majority of this land is critical water conservation and flood management infrastructure that serves not only the City, but neighboring cities within the region. Included in this are the Rio Hondo and San Gabriel Spreading Grounds, which serve as water storage/groundwater recharge facilities that conserve approximately 150,000 acre-feet of local, imported, and reclaimed water annually.

Open space within Pico Rivera is primarily situated around the San Gabriel River, including the Pico Rivera Bicentennial Park and Sports Arena. These spaces are not able to be utilized for residential buildings per the Army Corps, and serve as vital flood overflow areas that help to prevent further damage to the surrounding areas.

As this is critical infrastructure for the region, it cannot be anticipated to redevelop within the planning period. **Figure 2** shows the location and size of the Public Facilities and Open Space areas within Pico Rivera.

**(b) Existing Industrial Areas**

There is approximately 764 acres of heavy and light industrial uses within Pico Rivera, including a number of parcels within an entitled specific plan area. Many of these buildings were built within the last 20 years and contain lease structures that span 99 years. The Government Code requires that 2021-2029 Housing Elements analyze, to the extent possible, the lease structures of potential candidate housing sites. Lease structures found to exceed the planning period are not considered as sites that can realistically be expected to redevelop for residential uses within the planning period. **Figure 3** shows the location and size of the existing industrial areas within Pico Rivera.

**(c) Existing Commercial Areas**

There is approximately 222 acres of commercial/retail land within Pico Rivera. Much of the existing commercial and retail lands in the city are built out and highly utilized. As the primary generator of employment in the City, these lands possess some of the most successful and viable investments within the City. Redevelopment of these parcels of these sites to accommodate the RHNA allocations is highly unlikely as these are some of the primary job-creating uses within the City. **Figure 4** shows the location and size of the existing commercial areas within Pico Rivera.

**(d) Existing Non-Vacant Residential and Planned Unit Development (PUD) Areas**

There is approximately 1,913 acres of single-family residential land within Pico Rivera. As shown in **Figure 5**, the majority of existing residential land consists of currently developed properties. There is little to no vacant land currently available to provide additional opportunities for residential development. Therefore, future residential development must be accommodated on infill, reuse and redevelopment of these existing residential properties.

Figure 2 – Pico Rivera Public Facilities and Open Space Areas

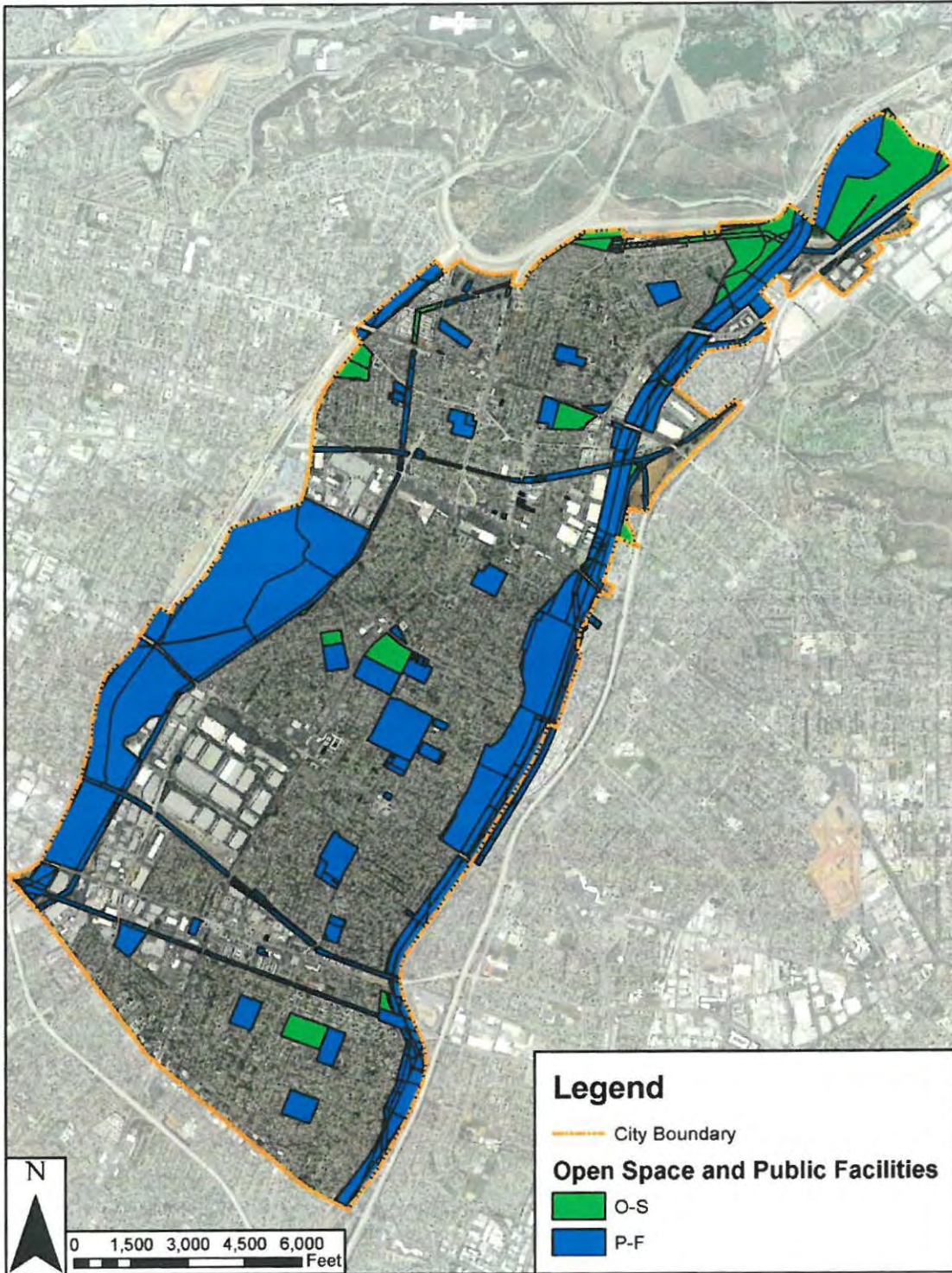


Figure 3 – Pico Rivera Industrial and Specific Plan Areas

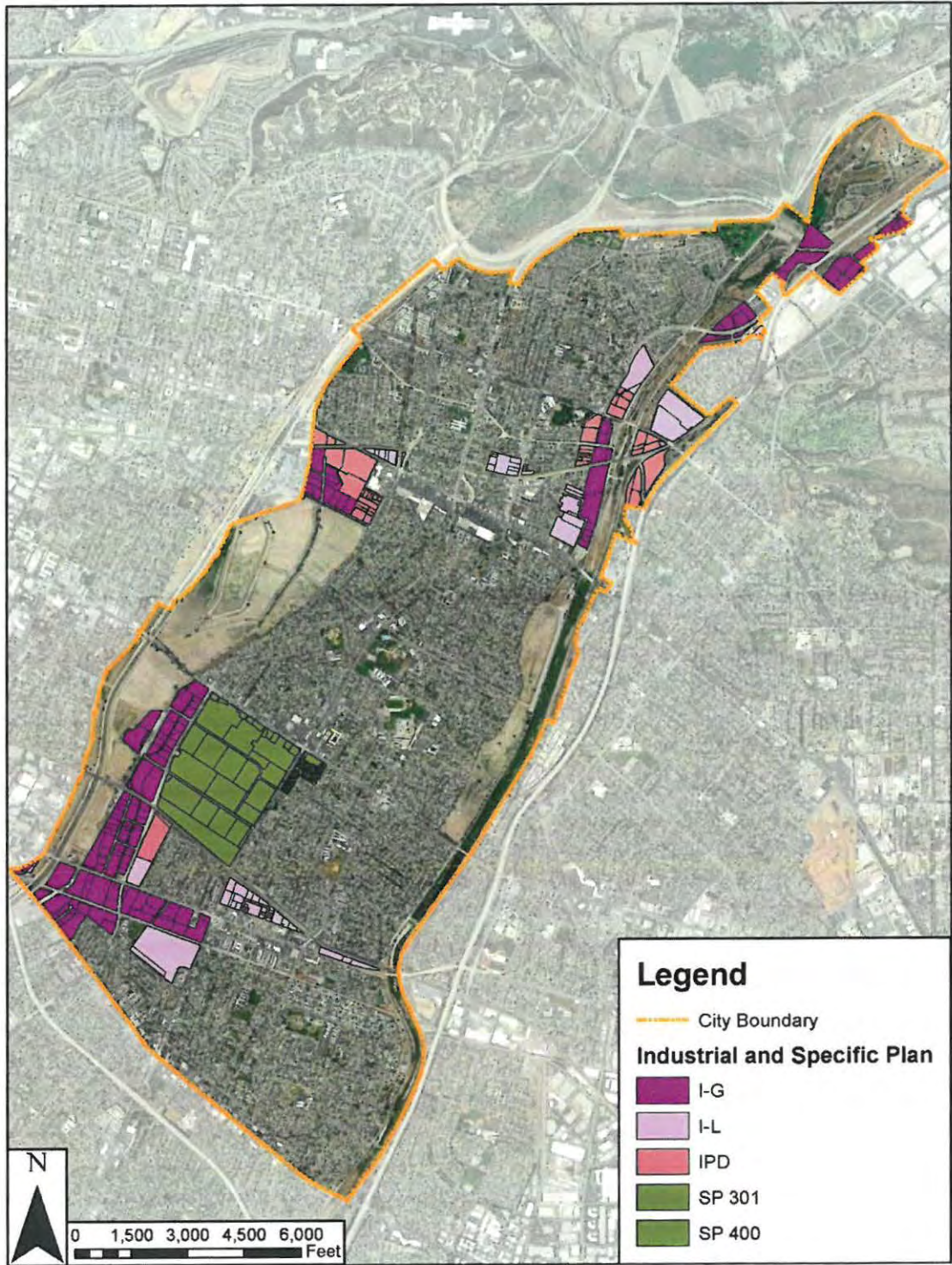


Figure 4 – Pico Rivera Commercial Areas

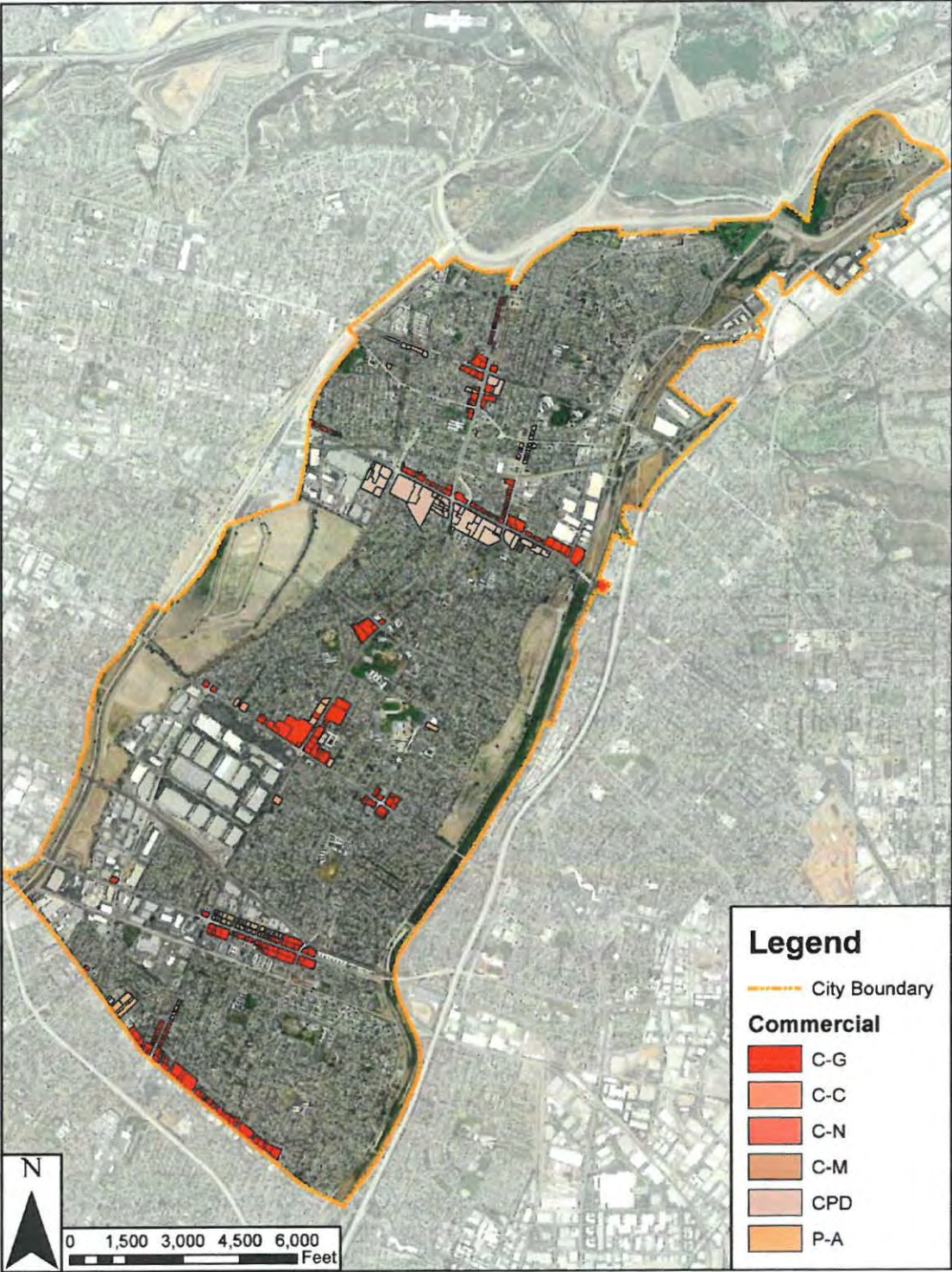
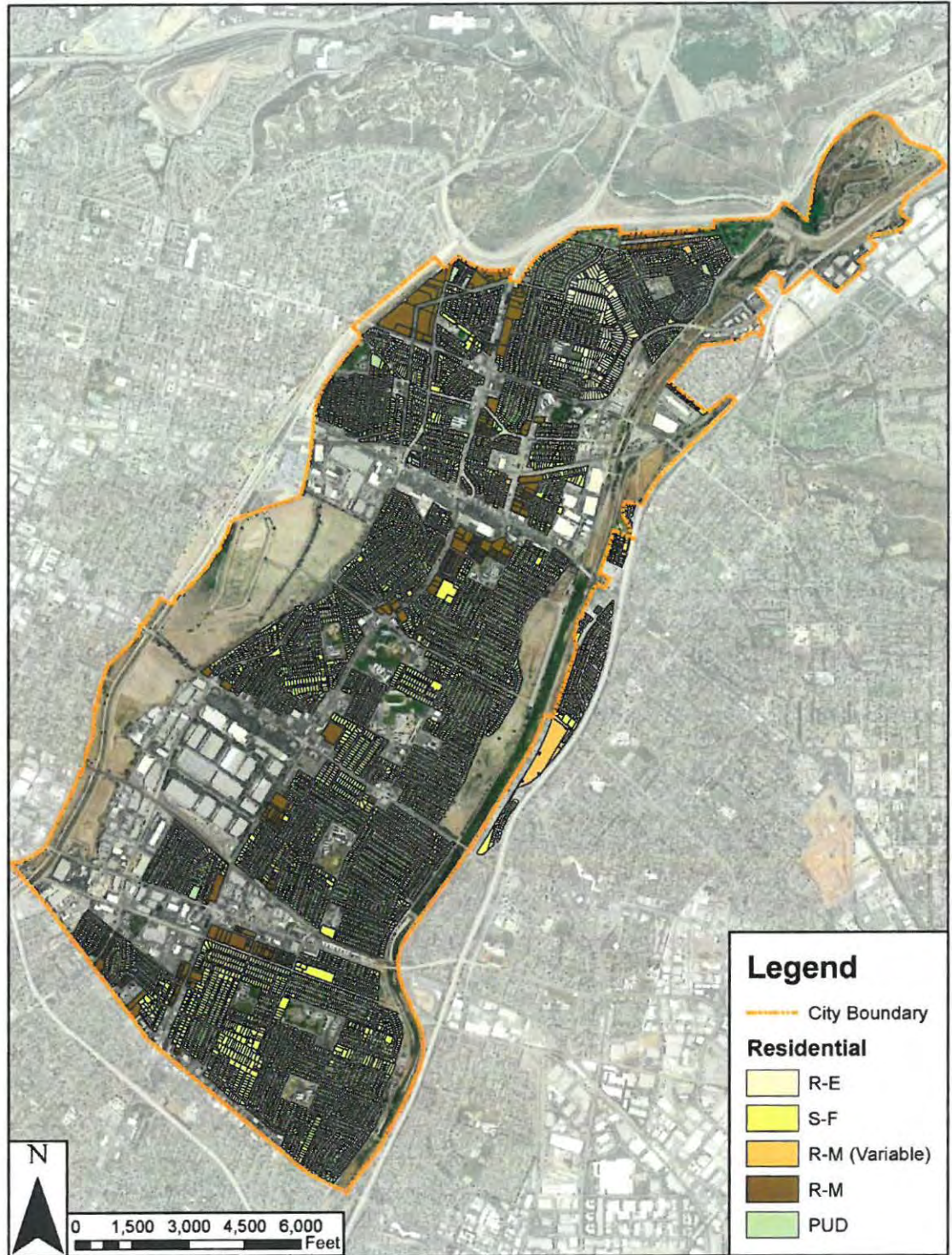




Figure 5 – Pico Rivera Nonvacant Residential and PUD Areas



**(e) Available Vacant Land**

**Table 7** demonstrates the available vacant land within the City across all zoning classifications. As shown, the City has approximately 32.7 acres of vacant land, only 2.24 of which is zoned within residential areas that are not within Planned Residential Unit Development (PUD) areas. The majority of this land is within Industrial Planned Development (IPD) areas that is not suitable for the development of residential uses. The majority of these parcels do not meet the size requirements for adequate sites within AB 1397.

**Table 7: City of Pico Rivera Vacant Lands Inventory**

Zoning Classification	Size (Ac)
Single-Family Residential (SF)	1.61
Multiple-Family Residential (RM)	0.63
General Commercial (CG)	4.27
Community Commercial(CC)	0.54
Commercial Manufacturing (CM)	0.60
Light Industrial (IL)	1.68
Open Space (OS)	0.04
Public Facilities (PF)	4.09
Professional and Administrative (PA)	0.65
Commercial Planned Development (CPD)	0.62
Planned Residential Unit Development (PUD)	3.25
Industrial Planned Development (IPD)	14.72
<b>Total</b>	<b>32.70</b>

**(f) Comparison of Densities Versus RHNA Growth Allocation**

As described in **Table 8**, the City must transition up to 131 acres of existing developed high value land to accommodate future growth need. Therefore, the City must demonstrate that the opportunity exists to develop the required 3,939 units on infill properties over the 8-year planning period. It is unreasonable to assume the City will be able to justify this extent of sites, pursuant to the analysis required under AB 1397 and given the amount of available vacant land as demonstrated in section 3(e).

**Table 8: Comparison of Densities Versus RHNA Growth Allocation**

Density Range	RHNA Allocation	Acreage Needed to Accommodate Growth
30 Dwelling Units/Acre	3,939 units	131.3 acres
60 Dwelling Units/Acre	3,939 units	65.7 acres
100 Dwelling Units/Acre	3,939 units	39.4 acres

<b>4</b>	<b>Changed Circumstances</b>	A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to Section 65584. 04(b).
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## City of Pico Rivera

SCAG RHNA Appeal 2021-2029

**(A) The novel coronavirus (COVID-19) presents an unforeseen changed circumstance that has severely impacted the City's financial status and impacted the development capacity of the private market to create housing within Pico Rivera.**

On March 4, 2020, the Los Angeles County Board of Supervisors and the Department of Public Health, which acts as the City of Pico Rivera's de facto Healthy agency, declared a local and public health emergency in response to the spread of the novel Coronavirus (COVID-19) within Los Angeles County. On the same day, California Governor Gavin Newsom declared a state of emergency in the State of California due to COVID-19's public health threat.

The relative impacts of COVID-19 on the existing and future housing needs within Pico Rivera are not known at this time, but it may influence short-term and long-term housing policy and program considerations within the community. The City acknowledges the substantial impact that this pandemic has had and will continue to have on the local economy, the ability to develop housing within Pico Rivera, and the City's financial ability to assist in lower income housing production.

Per July 2020 research completed by the Pew Research Center<sup>3</sup> found that around one-in-ten adults ages 18 to 29 (9%) say they moved (either permanently or temporarily) due to the coronavirus outbreak. This was due in part to job losses and the shutdown of college housing.

Additionally, data from Zillow<sup>4</sup> made the following findings related to local housing trends:

- More than 32 million adults lived with a parent or grandparent as of April, up 9.7% from the same period a year ago and the highest level on record.
- More than 80% of those who recently moved back in with their parents are Gen Zers who pay an estimated \$726 million in rent each month. Those payments, about 1.4% of the total rental market, could be at risk if moves home become permanent.
- The same study identified that the Los Angeles rental market may stand to lose up to 0.9% of the total rental market in lost rent.

Lastly, a joint UCLA-USC Report<sup>5</sup> found that:

- About 16% of tenants report paying rent late each month from April through July.
- About 10% did not pay rent in full for at least one month between May and July.
- About 2% of renters are three full months behind on rent. This translates to almost 40,000 households in a deep financial hole.
- Late payment and nonpayment are strongly associated with very low incomes (households earning less than \$25,000 annually) and being Black or Hispanic.
- This crisis is particularly acute in the Los Angeles region and other high-cost cities, where an existing affordable housing crisis and an economic slowdown resulting from mitigation efforts to curb the pandemic intersect to threaten the stability of many households.

While the long-term impacts of COVID-19 on local and regional housing trends is unknown, it is clear that a larger than normal segment of the population is leaving their housing situation to join with another household or is unable to make rent payments due to financial hardships. As the region continues to

<sup>3</sup> <https://www.pewresearch.org/fact-tank/2020/07/06/about-a-fifth-of-u-s-adults-moved-due-to-covid-19-or-know-someone-who-did/>

<sup>4</sup> <https://www.zillow.com/research/coronavirus-adults-moving-home-27271/>

<sup>5</sup> <https://news.usc.edu/175065/los-angeles-tenants-covid-19-pandemic-rent-usc-study/>

**City of Pico Rivera**

SCAG RHNA Appeal 2021-2029

battle with controlling the spread of COVID-19, the continued economic hardships presented by the virus on homeowners, renters, cities, and developers will likely lead to a decreased demand for housing and a higher percentage of co-habiting households.

**Conclusion**

Due in part to the COVID-19 pandemic, the state of California is experiencing population growth rates at historically low levels. Recent downward revisions by the Department of Finance illustrates the rate of population growth rate throughout California is slowly and a faster rate anticipated. In the last three years, the state has experienced the lowest population growth rates on record since 1900. Population growth is directly tied to household formation. The flattening of the population growth curve is contrary to the rate of growth identified in the Final Draft RHNA allocation. Furthermore, according to Freddie Mac’s February 2020 report, “The Housing Supply Shortage: State of the States,” their research indicates that “...California has a shortage of 820,000 housing units. But history suggests that California’s shortage may be overestimated if interstate migration is considered.”<sup>6</sup>

COVID-19 presents an unforeseen circumstance which will likely result in Pico Rivera and the State of California as a whole drastically and incorrectly reshaping the housing landscape in an effort to meet RHNA needs as opposed to organically in response to market trends. The impacts to the economy of the City and consequently to the housing market are profound and should be a consideration when evaluating realistic development potential over the 8-year RHNA planning period.

**CONCLUSION**

If the City developed at a pace consistent with the Connect SoCal Plan, the City would be on target to produce **524 units** for the 6<sup>th</sup> RHNA Cycle 2021-2029, at a rate of **65.5 units** per year. However, the City believes that a feasible growth rate of **86 units** per year can be achieved, and is consistent with the water supply assessment documented in its Urban Water Management Plan (UWMP) 2015-2040. This would achieve a growth of **688 units** for the same 8-year period. Without enough water, the City cannot physically achieve to produce the RHNA allocated amount of 3,939 units for the 6<sup>th</sup> Cycle. Therefore, the City has determined that a total equitable RHNA allocation is based on the following reductions in the current draft allocations:

<b>Government Code Requirements</b>	<b>Requested RHNA Reduction</b>
<b>Section 65584(d)(1)</b> - <i>Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.</i>	
<b>Reason</b> - The Draft RHNA allocation undermines this objective as it does not assign housing unit growth need in an equitable manner. The allocation is a marked increase in allocations from prior RHNA planning cycles and a disproportionately higher amount of lower income need to the community, based upon a flawed methodology that is inconsistent with regional growth forecasts at the regional, state and federal level.	-3,251
<b>Total</b>	<b>-3,251</b>

<sup>6</sup> Freddie Mac, “The Housing Supply Shortage: State of the States” February 2020, Page 6.

**City of Pico Rivera**  
SCAG RHNA Appeal 2021-2029

The table below summarizes the City of Pico Rivera’s recommended RHNA allocation by income category: The recommended 6th Cycle RHNA allocations acknowledges the need to accommodate future growth in the City, pursuant to consistently applied regional growth forecasts.

<b>Income Category</b>	<b>Draft SCAG RHNA Allocation</b>	<b>Pico Rivera Recommended RHNA Allocation</b>
Very Low	1,148 Units (29%)	200 Units (29%)
Low	562 Units (14%)	96 Units (14%)
Moderate	572 Units (15%)	103 Units (15%)
Above Moderate	1,657 Units (42%)	289 Units (42%)
<b>TOTAL</b>	<b>3,939 Units</b>	<b>688 Units</b>



**Michael L. Garcia**  
**Community and Economic Development Director**  
**City of Pico Rivera**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
916) 263-2911 FAX: (916) 263-7453  
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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director





# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach's position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach's input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068





Southern California Association of Governments  
Remote Participation Only  
January , 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)  
**From:** Kevin Kane, Senior Regional Planner,  
(213) 236-1828, kane@scag.ca.gov

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**Subject:** Appeal of the Draft RHNA Allocation for the City of Irvine

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Irvine to reduce the draft RHNA allocation for the City of Irvine by 8,259 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California’s policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Irvine requests a reduction of its RHNA allocation by 8,259 units (from 23,554 units to 15,295 units) on twelve issues:

- 1) Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021 – 2029)
  - a. Location of and population within HQTAs
  - b. Residual reallocation pursuant to the AFFH factor\*
- 2) Existing or projected jobs-housing balance
- 3) Sewer or water infrastructure constraints for additional development
- 4) Availability of land suitable for urban development or for conversion to residential use
- 5) Lands protected from urban development under existing federal or state programs
- 6) County policies to preserve prime agricultural land
- 7) Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
- 8) The rate of overcrowding
- 9) Housing needs generated by the presence of a university campus within a jurisdiction
- 10) Loss of units during a state of emergency,
- 11) The region’s greenhouse gas (GHG) emissions targets
- 12) Changed circumstances
- 13) Affirmatively furthering fair housing\*

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California’s Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

\* The AFFH factor is not checked on the appeal request form but is addressed in the appeal.

Other: The City contests the regional determination of 1.34 million units, consistency with the RTP/SCS as well as the achievability of the RHNA allocation.

The City of Irvine organized its appeal into the following five categories, but SCAG's response to the issues raised follows the appeal request form (Issues 1 through 13 identified above as well as other issues not considered bases for appeal):

1. "Appeal one" relates to application of the adopted Final RHNA Methodology, specifically:  
(A) contestation of the population within a high-quality transit area (HQTAs) and the reallocation of the so-called "residual" need.  
(B) Affirmatively Furthering Fair Housing (AFFH) which was not included in Irvine's appeal request form but centers on the reallocation of residual housing need based on AFFH.
2. "Appeal two" is based on the local planning factors (Issues 2 through 11 above) which Irvine contends were not sufficiently considered.
3. "Appeal three" cites changed circumstances (Issue 12), primarily related to job losses and other observed changes stemming from the COVID-19 pandemic.
4. "Appeal four" contests the regional determination of 1.34 million housing units, which is not a basis for appeal.
5. "Appeal five" relates to the issue of consistency between the RHNA and SCAG's Sustainable Communities Strategy (SCS)—which along with the Regional Transportation Plan (RTP) form Connect SoCal. While this is not a basis of appeal, it is substantively similar to arguments raised in Irvine's "Appeal Two" related to the local planning factors of RTP consistency and regional GHG emissions (Issues 7 and 11).

#### **RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal(s) and recommend no change to the City of Irvine's RHNA allocation. In Issue 1a, the location and population of HQTAs were correctly identified pursuant to the adopted, Final RHNA Methodology. In Issue 1b, the residual reallocation at issue is part of the adopted, Final RHNA Methodology and cannot be changed through an appeal. With respect to Issues 2 through 11, Irvine has not demonstrated that SCAG failed to consider any of the local planning factors listed and has not demonstrated that additional residential development is precluded in other areas of the city not subject to the variety of constraints identified. With respect to Issue 12, given the long-range nature of our planning process and Irvine's failure to demonstrate how changed circumstances uniquely impact the city such that its housing need is reduced, a reduction is not recommended.

With respect to other issues including the regional determination of 1.34 million units, consistency with the RTP/SCS as well as the achievability of the RHNA allocation, these are not bases for appeal

and Irvine does not demonstrate the existence of any policy inconsistency which would impact the local planning factors cited.

## **BACKGROUND:**

### **Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Irvine: 23,554 units  
    Very Low Income: 6,379 units  
    Low Income: 4,225 units  
    Moderate Income: 4,299 units  
    Above Moderate Income: 8,651 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

### **Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Irvine. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

## **ANALYSIS:**

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**Issue 1a: Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)**  
**[Government Code section 65584.05 (b)(2)] – HQTA location and population.**

*The City of Irvine contends that SCAG’s assessment of 2045 HQTAs and population in 2045 HQTAs were inaccurate. The basis for this issue is that the methodology was not properly applied, pursuant to Government Code section 65584.05(a)(2):*

*“The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.”*

*Irvine claims that three of the four stops which associated with 2045 HQTAs, which are relied upon in the RHNA methodology’s assessment of existing housing need are not in the Connect SoCal project list and therefore should not be considered HQTAs. Furthermore, Irvine contests SCAG’s measurement of 2045 forecasted population within its HQTA areas, contending that it should be lower.*

**SCAG Staff Response:** SCAG’s final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make any changes to HCD’s regional housing needs assessment. Only improper application of the methodology is grounds for an appeal. An example of an improper application of the adopted methodology might be a data error which was identified by a local jurisdiction.

With respect to the statutory objectives<sup>1</sup>, SCAG used objective measures to advance certain principles, but since local and regional conditions vary tremendously across the state and over time, there are few consistent quantitative standards which can be used to evaluate all aspects of the methodology. Ultimately, however, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met.

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing (Govt. Code § 65584(d)).

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As described in Attachment 1: Local Input and Development of Draft RHNA Allocation, the Final RHNA Methodology was adopted by the Regional Council on March 5, 2020 and describes the various policy factors whereby housing unit need is to be allocated across the region—for example, anticipated growth, access to jobs and transit, and vacancy. The methodology makes extensive use of locally reviewed input data and describes data sources and how they are calculated in detail. On January 13, 2020, the Final RHNA Methodology was found by HCD to further the five statutory objectives in large part due to its use of objective factors and as such cannot consider factors differently in one jurisdiction versus another.

#### HQTA Location

SCAG appreciates the City of Irvine’s input into SCAG’s HQTA definition which was provided through SCAG’s Technical Working Group (TWG) in October 2019. This input resulted in the removal of freeway-running transit corridors with no bus stops on the freeway alignment from consideration as high-quality transit corridors (HQTC). This modification to the definition explicitly retained the areas surrounding the station-stop areas as those are proximate to high-quality transit service consistent with the HQTC definition in CA Pub. Res. Code § 21155(b). Ultimately, this led to a sharper regional definition for areas which are serviced by high quality transit and coincidentally led to a substantially lower HQTA population within the City of Irvine.

Irvine’s appeal now argues that the three freeway-running BRT station areas within its boundaries (Alton Parkway, Jeffrey Road, and Spectrum Center) should be excluded from the SCAG definition because they are not included in the Connect SoCal project list, because OCTA did not first consult with the City of Irvine before providing information regarding these transit service improvements to SCAG, and due to various land-use constraints in the 0.5-mile radius areas surrounding these stops.

First, SCAG’s definition of high-quality transit corridors is found in Appendix A of Connect SoCal’s Transit Technical Report (attached) and indicates that:

*Planned HQTCs and major transit stops are future improvements that are expected to be implemented by transit agencies by the RTP/SCS horizon year of 2045. These are assumed by definition to meet the statutory requirements of an HQTC or major transit stop. SCAG updates its inventory of planned major transit stops and HQTCs with the adoption of a new RTP/SCS, once every four years.*

The nature of bus services is that routes and service frequency can change periodically, thus a CTC’s estimate of future transit service frequency is the best estimate available at a given point in time—in this instance, the point in time required to complete Connect SoCal. Future year HQTCs and HQTAs are an important component of regional planning and facilitate the achievement of



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statutory goals including RHNA objectives to promote infill, encourage efficient development patterns, achieve the region's GHG emissions targets, and improve the balance between jobs and housing.

OCTA's 2018 and most recent Long Range Transportation Plan (LRTP) includes both the I-5 and SR-55 BRT projects, and their LRTP was developed with stakeholder engagement. In reviewing public comment records, Irvine did not appear to submit any written comments to OCTA on the Draft 2018 LRTP. OCTA staff were clear in stating that the LRTP is intended to be an input to SCAG's RTP update. OCTA I-5 BRT has 15-min AM and PM peak headways beginning in 2027 per the OCTA LRTP and is coded in the 2045 Plan. Both I-5 and SR-55 BRT projects are included in RTP Project ID 2160008. Both routes are in the HQTc maps of the Connect SoCal Transit Technical Report (attached).

Irvine states that the I-5 and SR-55 BRT station stops are conceptual and not yet been studied or deemed feasible. For the RTP purposes this is not an issue – it is understood that further project-level planning and environmental studies would be performed in accordance with state and federal law and SCAG relies on CTCs to provide these assumptions. SCAG is required to make assumptions about RTP projects' scope and timeline to support modeling and emissions analysis needed for the conformity determination. SCAG's Final RHNA Methodology explicitly made use of Final Connect SoCal data points such as HQTAs which are a vetted, well-established, well-understood mechanism for linking areas of current and potential future growth with transit access with the objective of reducing GHG emissions among other outcomes. SCAG's definition of an HQTa is described above and has been subject to extensive discussion and public review.

Irvine also identifies constraints to residential development in the areas surrounding these station-stops. However, the RHNA methodology in no way specifies where, within a jurisdiction's boundaries housing should be promoted. The methodology uses objective, region-wide factors to determine one jurisdiction's housing need versus another. It is the role of the local jurisdictions' housing element to decide where units allocated to the jurisdiction through the RHNA process are accommodated. Even still, the RHNA methodology uses TAZ-level growth forecast information provided by the City of Irvine to assess future population in HQTAs so as to assess future HQTa population as equitably as possible region-wide. Per Attachment 1, following additional review opportunities, SCAG directly used the local input TAZ growth distribution for the City of Irvine as the basis for this measure and any constraints to development in these station areas would have been amply considered during that process.

The Regional Council decided to include planned HQTAs following this definition as a component of the RHNA methodology. The evidence submitted by the City of Irvine does not suggest that these three stations should be excluded from consideration as HQTcs and therefore an HQTa. As such,

the inclusion of these stations does not indicate a misapplication of the adopted final RHNA methodology.

### HQTA Population

Irvine also contends that the HQTA population should be lower, suggesting that SCAG may not have “prorated” TAZ populations based on which portions of TAZs are inside of HQTAs versus outside of HQTAs. Irvine totals all the TAZs which lie completely or partially with HQTA boundaries and indicates a total population of 43,719 which is slightly lower than the HQTA population of 43,855 used by SCAG (note that Irvine’s appeal incorrectly states that this figure is 43,892).

In order to estimate the population of each city which lies within each HQTA boundary, SCAG uses small area forecast data provided through the Bottom-Up Local Input and Envisioning Process. While the transportation analysis zone (TAZ) geography is more commonly used, SCAG’s forecast contains a higher degree of accuracy and is associated with local general plans down to the parcel level. In addition, TAZs contain an average of 2,000 residents across the region and as such are not sufficiently accurate for measuring anticipated population within a precisely defined HQTA. Thus, SCAG relies on forecasted population from Connect SoCal in Scenario Planning Zones (SPZs) to associate with HQTA boundaries using area-weighted interpolation. As SPZs are approximately 1/10<sup>th</sup> the size of TAZs, this is the most accurate method that could be devised to estimate future populations in bespoke areas across a large region using locally reviewed input data.

The attached map of Irvine’s HQTA areas by population and overlays this information with the HQTAs within the city. 150 SPZs lie fully within HQTA boundaries. An additional 127 SPZs lie partially within HQTA boundaries—this population is proportionally allocated to HQTAs based on how much of each SPZ’s land area is within HQTA boundaries. The sum results in 43,855 people being assessed as within HQTA boundaries in Irvine. These data are equivalent to the small-area population forecast data in Connect SoCal’s Growth Vision (discussed further in Attachment 1), which for Irvine matches the data provided by the City during the Bottom-Up Local Input and Envisioning Process. These data have been continuously available to local jurisdictions for review through the Scenario Planning Model (SPM).

It is important to have regionally standardized approaches in all parts of the RHNA methodology in order to ensure that housing units are allocated fairly and consistently, and this approach is part of the adopted Final RHNA Methodology. Irvine has not provided evidence to suggest that the process underlying the adopted Final RHNA Methodology for arriving at HQTA population is in any way flawed or incorrectly applied. As such, SCAG staff does not recommend a reduction in the City’s draft RHNA allocation based on this issue.

**Issues 1b and 13:** Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029) [Government Code section 65584.05 (b)(2)] -- residual reallocation pursuant to the AFFH factor.

*Irvine contends that the residual reallocation distribution component of the RHNA methodology, which relates to Disadvantaged Communities (DACs) and requirements to affirmatively further fair housing (AFFH), was based on a failure to adequately consider information for the methodology pursuant to Government Code section 65584.05(b)(2):*

*“The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.”*

*Note that Irvine does not base its appeal on Affirmatively Furthering Fair Housing, which is an allowable appeal basis. Specifically, Irvine contends that:*

- *TCAC/HCD data relied upon for this part of the RHNA methodology were not intended for this purpose and their accuracy in capturing local conditions is questionable,*
- *The manner in which “Residual need” is redistributed within a county was not adequately vetted prior to its adoption by the Regional Council,*
- *The City of Santa Ana’s draft RHNA allocation is based on projected growth figures which are outdated which impacts Irvine’s RHNA allocation (these issues have also been raised in Irvine’s separate appeal of Santa Ana’s draft RHNA allocation), and*
- *The redistribution of residual need portion of the RHNA methodology is contrary to Sustainable Communities Strategy goals, e.g. promoting job and transit access.*

**SCAG Staff Response:** First, the SCAG Regional Council took action on both the Draft and Final RHNA methodology pursuant to properly noticed agendas and every member of the Regional Council, in addition to a significant number of members of the public, had ample opportunity to place on the record, both in writing and in person, their relevant input for the Regional Council’s consideration. For example, no less than fourteen (14) letters were acknowledged on the record and these were made available for public and SCAG review prior to the Regional Council’s action on the draft methodology, all in compliance with applicable law. It should also be noted that the draft methodology was reviewed by HCD and was found to further statutory objectives of RHNA on January 13, 2020. On March 5, 2020, SCAG Regional Council adopted the draft methodology as the final methodology.

Further, for the draft methodology, many members of the public offered oral testimony on the issue both in support of the original staff recommendation and in support of the alternative draft

RHNA methodology that was ultimately approved after a robust discussion among the Regional Council, with staff offering input and answering questions as requested. Both methodologies had been presented in the staff report that was published in the November 7<sup>th</sup>, 2019 Regional Council meeting agenda in advance of the meeting in accordance with applicable law. Finally, members of the Regional Council were given wide opportunity to offer input and comments during the course of the discussion and consideration of the item.

The November 7<sup>th</sup> Regional Council action was preceded by more than nine months of preparatory work and the regional planning process is necessarily complex and multi-faceted. That there are competing interests and priorities is not new. Since the start of the RHNA process in October 2018, SCAG staff has been committed to a fair and transparent process from the very beginning.

The RHNA methodology is a complex balance of several regional objectives ranging from job-housing balance to affirmatively furthering fair housing. Ultimately, AFFH is a RHNA objective and the residual reallocation is part of the adopted final RHNA methodology—it is not an addition afterward, nor is it an optional element. Government code 65584.04(i) vests authority to assess whether a methodology furthers the statutory objectives in HCD. In HCD’s 1/13/2020 letter (attached), HCD finds that SCAG’s RHNA methodology furthers all five statutory objectives, stating,

*“HCD applauds the inclusion of the affirmatively furthering fair housing adjustment factor in the methodology. This factor directs more lower income RHNA to higher opportunity areas and reduces allocations in segregated concentrated areas of poverty, as defined in the HCD/TCAC Opportunity Maps, which evaluate access to opportunity, racial segregation, and concentrated poverty on 11 dimensions, which are all evidence-based indicators related to long term life outcomes.”*

This quotation makes clear that this adjustment was critical in securing HCD’s finding that the RHNA methodology furthers the AFFH objective of RHNA. While Irvine notes “limitations” to this data source, such an argument is not unique to this, or any other data source. Not only had the 2019 opportunity mapping data been part of previous proposed variations of the methodology, but these data went through an extensive development and public review process during their development by the California Fair Housing Task Force (see <https://www.treasurer.ca.gov/ctcac/opportunity.asp>). and vetting through TCAC and HCD. The RHNA methodology uses several robust, vetted data sources which are agreed upon in advance and are able to equitably assess conditions between one jurisdiction and another. The City does not provide evidence regarding any error in how Irvine’s local conditions were reflected in this dataset, and changes cannot be made to the adopted RHNA methodology through the appeals process.

Irvine also contends that Santa Ana’s growth forecast is outdated, which results in a higher draft RHNA allocation for the City of Irvine, and that there was insufficient time to identify this issue in

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advance of the adoption of the RHNA methodology. The Bottom-Up Local Input and Envisioning Process, described in Attachment 1, afforded equal opportunity for Santa Ana, Irvine, and 195 other local jurisdictions to provide growth forecast information in the same manner between 2017 and 2018. Specific issues related to Santa Ana will be discussed in more detail during the time allotted to discuss the appeals on Santa Ana's draft RHNA allocation.

The City contends that it is bearing the burden of other jurisdictions; however, the residual reallocation is part of the adopted Final RHNA Methodology—not a step which is “added” afterward but is a plan to allocate need based on regional considerations. Irvine further contends that Orange County is singled out regarding the residual reallocation; however, the methodology is consistent in its application across counties and does not include any specific exemptions or treatments for Orange County.

Irvine's contention that the residual need component of the Final RHNA Methodology is inconsistent with the Sustainable Communities Strategy (SCS) portion of Connect SoCal is flawed. The RHNA methodology is a complex balance of several regional objectives ranging from jobs-housing balance to AFFH. Ultimately, AFFH is one of the RHNA objectives described in Government Code 65584(d) and the residual reallocation is part of the adopted Final RHNA Methodology. It furthers the AFFH objectives by ensuring that RHNA allocations are not concentrated in jurisdictions with lower opportunity scores, reallocating them to jurisdictions with higher opportunity scores. Irvine asserts that this is to the detriment of SCS goals and thus injures the SCS consistency described in Government Code 65584.04(m)(1), which is a finding which SCAG must make following the adoption of the final RHNA allocation. The reason for this assertion is that DAC jurisdictions may not receive allocation on those bases, compromising other statutory objectives and the SCS consistency described in. However, the residual reallocation at issue is made to non-DAC jurisdictions *on the basis* of their job and transit access levels.

Since the residual reallocation is part of the adopted RHNA methodology which was found by HCD to further AFFH, and since Irvine has not identified an error in how the methodology was applied, SCAG staff does not recommend a reduction based on this issue.

**Issue 2:** Existing or projected jobs-housing balance [Government Code section 65584.04(e)(1)].

Government Code section 65584.04(e)(1) provides that to the extent that sufficient data is available, the following factor shall be included in developing the methodology that allocates regional housing needs:

*“Each member jurisdiction’s existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.”*

The City contends that its job centers are regional in nature and that employees may live in adjacent jurisdictions. Requiring the City to find adequate sites for both the aggregate total of the RHNA allocation and the various income levels may require employment centers to be rezoned, and these job losses would negatively impact Irvine’s jobs and housing relationship.

**SCAG Staff Response:** Irvine does not provide evidence to indicate that SCAG failed to consider the jurisdiction’s jobs and housing relationships to merit a reduction in its Draft RHNA Allocation. In recognition of the fact that in the SCAG region only 20% of workers live and work in the same jurisdiction, the RHNA methodology is based on access to jobs. This is consistent with Irvine’s contention that living in an adjacent jurisdiction to one’s workplace may in fact be beneficial. Despite having a very large employment base, Irvine ranks only 28<sup>th</sup> amongst larger cities in the region based on the job access measure used in the methodology (17.45% of 2045 regional employment accessible—see Attachment 1 for details). Irvine’s 2020 projected employment-to-households ratio in Connect SoCal is 2.73, which is far higher than the 1.37 ratio for the SCAG region and is the 2<sup>nd</sup> highest amongst the region’s larger cities<sup>2</sup>.

In its appeal the City notes that job losses from rezoning employment centers for housing would negatively impact the city’s jobs-housing relationships; however, since the city’s employment base exceeds its households by a wide margin, it is unclear from the appeal how additional housing stock would negatively impact this relationship. Therefore, SCAG staff does not recommend a reduction based on this issue.

**Issues 3 and 4:** Sewer or water infrastructure constraints for additional development [Section 65584.04(e)(2)(A)] and availability of land suitable for urban development or conversion to residential use [Section 65584.04(e)(2)(B)].

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<sup>2</sup> Above 50,000 population, per 2019 DOF estimates

Government Code section 65584.04(e)(2) provides that to the extent that sufficient data is available, the following constraints shall be included in developing the methodology that allocates regional housing needs:

*“(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.*

*“(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.”*

*The City contends that the majority of land suitable for urban development in the City is entitled through development agreements that allow units to be constructed in phases and that nearly all planning areas have met the maximum number of units and there is no vacant land available. Also, the City has areas identified as Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which limit development.*

**SCAG Staff Response:** For Government Code Section 65584.04(e)(2)(A) to apply in this case, the jurisdiction must be precluded from providing necessary infrastructure for additional development due to supply and distribution decisions made by a sewer or water provider other than the local jurisdiction. It is not evident from Irvine’s appeal that a water provider has rendered a decision that would prevent the city from providing necessary infrastructure.

With respect to Government Code Section 65584.04(e)(2)(B), SCAG “may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality” (which includes the land use policies in its General Plan). “Available land suitable for urban development or conversion to residential use,” as expressed in 65584.04(e)(2)(B), is not restricted to vacant sites; rather, it specifically indicates that underutilized

land, opportunities for infill development, and increased residential densities are a component of “available” land. As indicated by HCD in its December 10, 2020 comment letter (HCD Letter):

“In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.” (HCD Letter at p. 2).

As such, the City can and must consider other opportunities for development besides vacant land. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. Alternative development opportunities should be explored further and could possibly provide the land needed to zone for the City’s projected growth. Note that while zoning and capacity analysis is used to meet RHNA need, they should not be used to determine RHNA need at the jurisdictional level. Per the adopted RHNA methodology, RHNA need at the jurisdictional level is determined by projected household growth, transit access, and job access. Housing need, both existing and projected need, is independent of zoning and other related land use restrictions, and in some cases is exacerbated by these very same restrictions. Thus, land use capacity that is restricted by factors unrelated to existing or projected housing need cannot determine existing or projected housing need.

While Irvine notes that development agreements typically take place in phases and cannot be modified by the City and that other areas are protected natural areas, these factors do not constitute evidence that additional residential development in any of the myriad forms permitted for inclusion in housing elements is not possible in all other areas of the city.

SCAG recognizes there are many environmental (e.g., NCCP/HCP protections) and other constraints to development on portions of the land in the City of Irvine. However, this does not preclude additional residential development (i.e. infill) outside of such constrained areas. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, alternative zoning and density, and accessory dwelling units. On June 10, 2020, HCD released extensive guidelines for housing element site inventories.<sup>3</sup> A wide range of adequate sites are detailed including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Specifically, page 32 of the guidelines indicates that “In consultation with HCD, other alternatives may be considered such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.”

Market conditions and the cost to develop and construct the allocated new housing units within a jurisdiction should not be considered by SCAG as a justification for a RHNA reduction since the RHNA Allocation does not provide a building quota or mandate. The City is not responsible for

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<sup>3</sup> See [https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf)



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obtaining land or developing housing, it is only required to plan and zone for its determined housing need. Based on the above, SCAG staff does not recommend a reduction based on this issue.

***Issue 5: Lands protected from urban development under existing federal or state programs [Section 65584.04(e)(2)(C)].***

*Government Code section 65584.04(e)(2)(C) provides that to the extent that sufficient data is available, the following constraint shall be included in developing the methodology that allocates regional housing needs:*

*“Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.”*

*The City contends that certain areas of Irvine are protected from development by the regional NCCP and the City of Irvine Open Space Initiative (City Resolution 88-1).*

***SCAG Staff Response:*** See also response to Issues 3 and 4 above. It is presumed that planning factors such as lands protected by federal and state programs have already been accounted for prior to the local input submitted to SCAG since such factors are required to be considered at the local level. No evidence was submitted that these areas have changed since the most current input provided prior to October 2018.

In addition, while the City of Irvine has indicated it cannot accommodate units in these specific areas, no evidence has been provided that the jurisdiction cannot accommodate its RHNA allocation in other areas. The presence of protected open space alone does not reduce housing need nor does it preclude a jurisdiction from accommodating its housing need elsewhere.

Furthermore, while SCAG commends the City’s commitment to conservation and habitat protection, the City’s decision to join the regional NCCP and to implement City Resolution 88-1, does not constitute evidence that additional residential development in any of the myriad of forms permitted for inclusion in housing elements (as discussed above in Response to Issues 3 and 4) is not possible in all other areas of the city. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction’s RHNA allocation based on this factor.

***Issue 6: County policies to preserve prime agricultural land [Section 65584.04(e)(2)(D)].***

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Government Code section 65584.04(e)(2) provides that to the extent that sufficient data is available, the following factor shall be included in developing the methodology that allocates regional housing needs:

*“(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.”*

*The City contends that its General Plan Conservation and Open Space Element includes Objective L-10 that encourages the maintenance of agriculture in undeveloped areas of the City until the time of development and in areas no available for development.*

**SCAG Staff Response:** See also response to Issues 3, 4 and 5 above. The City cites an objective in its general plan which encourages maintenance of agricultural areas until the time of development and in areas not available for development. However, a city’s general plan objective would not fit the statutory criteria of a county policy to preserve prime agricultural land within an unincorporated area, nor does Irvine’s appeal indicate why the City’s housing need would in any way be impacted by county policies governing unincorporated areas. Also, no local ballot measure is presented. Therefore, SCAG staff does not recommend a reduction based on this issue.

**Issues 7 and 11:** *Distribution of household growth assumed for purposes of comparable Regional Transportation Plans [Government Code section 65584.04(e)(3)] and the region’s greenhouse gas (GHG) emission targets [Government Code section 65584.04(e)(12)].*

*Irvine contends there to be an inconsistency between the Regional Housing Needs Assessment and Sustainable Communities Strategy. This is not a basis for an appeal; however, issues raised are common to two factors that are bases for appeal. Government Code section 65584.04(e) provides that to the extent that sufficient data is available the following factors shall be included in developing the methodology that allocates regional housing needs:*

*“(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.*

...

*(12) The region’s greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.”*

*Irvine argues that the RHNA methodology is inconsistent with the growth patterns of Connect SoCal largely due to its inclusion of an “existing need” of 836,857 units—a housing unit total which is not reflected in the household forecast of Connect SoCal and cites vehicle miles traveled (VMT) per capita statistics to illustrate longer commutes for City of Irvine residents.*

**SCAG Staff Response:** While Connect SoCal is required under state planning law to identify areas sufficient to house the 8-year RHNA need pursuant to Government Code Section 65080(b)(2)(B)(iii), the RHNA allocation of housing need is a distinct process set forth under state housing law, Government Code Section 65584 *et seq.* The RHNA requirements address the mandate to plan for housing units to further statutory objectives. The RHNA establishes “minimum housing development capacity that cities and counties are to make available via their land use powers to accommodate growth within a planning period.”<sup>4</sup>

The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. Actual housing production depends on a variety of factors external to the identification of need through RHNA—local jurisdictions frequently have sufficient zoned capacity but actual housing construction depends on market and other external forces. For example, per HCD’s Annual Progress Reports covering new unit permits through 2018, the region’s low and very-low income permits totaled 19,328 units (2,494/year) compared to the RHNA allocation of 165,579 units (21,365/year).

In contrast, the Connect SoCal Growth Forecast is an assessment of the reasonably foreseeable future pattern of growth given regional factors such as births, deaths, migration, and employment growth as well as local factors, which includes the availability of zoned capacity.<sup>5</sup>

Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. They reflect additional latent housing needs in the current population (i.e., “existing need”) and do not result in a change in regional population.

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<sup>4</sup> Concurrence in Senate Amendments, AB 1771 (Bloom), as amended August 24, 2018 Comments at p.4 (Original Committee Reference: H. & C.D.).

<sup>5</sup> For details, see Connect SoCal’s Demographics and Growth Forecast Technical Report at [https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial\\_demographics-and-growth-forecast.pdf](https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_demographics-and-growth-forecast.pdf)

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Ultimately it is this difference between these processes which accounts for the difference between the reasonably foreseeable household growth rate included in Connect SoCal and the development capacity target which RHNA envisions for the City of Irvine.

Following adoption of SCAG's Final RHNA allocation, local jurisdictions must update their housing elements (as needed) to provide sufficient zoned capacity for the total 6th Cycle allocation pursuant to state guidelines. Updated housing elements are due in October 2021. Pursuant to Government Code Section 65583(c)(1)(A), local jurisdictions will have until January 2025 to complete any necessary rezoning to accommodate their RHNA allocation. Until this planning work is done at the local level, it would be speculative for Connect SoCal to make assumptions about potential development levels and patterns that includes the 6th Cycle "existing need." Once this process is complete, in future RTP/SCS development processes SCAG will re-evaluate the reasonably foreseeable future growth pattern, including the potential impact of any policy changes made in response to the 6<sup>th</sup> cycle RHNA allocations.

An additional key difference is that the RHNA process only permits SCAG to allocate jurisdiction-level totals (by income category), whereas the RTP/SCS requires SCAG to model future transportation patterns and Greenhouse Gas (GHG) impacts, which requires an estimate of *where* within the jurisdiction future growth may occur. As such, the RHNA process requires adapting Connect SoCal's key policy direction in order to ensure that *development patterns* are generally consistent across the two processes. For example, Connect SoCal achieves its jobs-housing balance objectives in part by envisioning a set of 72 individual job centers across the region; however, this relies on within-jurisdiction prediction of the location of development. The final RHNA process adapts this concept by developing a measure of job accessibility at the jurisdiction-level—using Connect SoCal data—to ensure consistent strategic and policy direction. Similarly, half of existing need is allocated on the basis of the jurisdiction's share of the region's population in a HQTAs in 2045 as defined in Connect SoCal and discussed above. This consistent strategic and policy direction results in the Final RHNA Methodology and Draft RHNA Allocation's consistency with the development patterns in the SCS, pursuant to Government Code section 65584.04(m)(1):

"It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy."

For further discussion see Attachment 1 as well as Connect SoCal Master Response 1 at [https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial\\_public-participation-appendix-2.pdf](https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_public-participation-appendix-2.pdf)

Relatedly, the California Air Resources Board (CARB) GHG emissions reduction target of 19% by 2035 was achieved by Connect SoCal which, per the above, has sufficient policy alignment and consistency in development patterns with the RHNA methodology—in part due to the existing need measures of job and transit access which assign housing units on the basis of key drivers of regional GHG reduction potential. While Irvine cites VMT per capita statistics based on standards within the city, this analysis does not address regional GHG emissions which are the appeal basis in Government Code section 65584.04(e)(12) and are achieved through the RHNA methodology's aforementioned policy alignment with Connect SoCal.

Since the City of Irvine has not provided evidence to suggest that its Draft RHNA Allocation was based on a failure to consider these local planning factors, SCAG staff does not recommend a reduction on these bases.

**Issue 8:** *The rate of overcrowding [Section 65584.04(e)(7)].*

*Government Code section 65584.04(e)(7) provides that to the extent that sufficient data is available, “the rate of overcrowding” shall be included as a factor in developing the methodology that allocates regional housing needs.*

*The City contends that the definition of “overcrowding” has not been clearly established and recommends that SCAG determine a definition rather than use the US Census Bureau’s definition of one person per room.*

**SCAG Staff Response:** Irvine argues that there is lack of clarity in the Census Bureau’s definition of overcrowding. However, no explicit measure of overcrowding at the jurisdictional-level is used, nor is required to be used, in SCAG’s adopted final RHNA methodology. Irvine does not provide any evidence to suggest a reduction in the City’s housing need is merited on the basis of any measure of overcrowding. Therefore, SCAG staff does not recommend a reduction based on this issue.

**Issue 9:** *Housing needs generated by the presence of a university campus within a jurisdiction [Section 65584.04(e)(9)].*

*Government Code section 65584.04(e)(9) provides that to the extent that sufficient data is available, the following factor shall be included in developing the methodology that allocates regional housing needs:*

*“The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.”*

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*The City contends that that there are three colleges or universities within its boundaries and that the COVID-19 pandemic has disrupted in-person instruction in many instances. The City suggests that fewer students and faculty may need housing on or near campus.*

**SCAG Staff Response:** While the City argues that fewer students and faculty may need housing on or near campus, it does not provide evidence from these colleges/universities or other sources which would indicate how and to what extent this change will reduce housing need within the household population of the City of Irvine (i.e. outside of dormitories or school-provided housing and thus under the purview of Connect SoCal’s household growth forecast and RHNA), particularly over the 8-year planning horizon of RHNA. The City simply speculates that “it is a very realistic possibility that restrictions on the percentage of students permitted to attend in person classes may not be lifted for years to come, dramatically impacting the number of students and faculty needing on campus or near campus housing.” Therefore, SCAG staff does not recommend a reduction based on this issue. See also the Response to Issue 12, regarding changed circumstances and COVID-19 below.

**Issue 10:** *Loss of units during a state of emergency [Government Code section 65584.04(e)(11)].*

*Government Code section 65584.04(e)(11) indicates that to the extent that sufficient data is available the following factor shall be included in developing the methodology that allocates regional housing needs:*

*“The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.”*

*The City contends that there has been a major wildfire in or near Irvine every decade since the 1980s.*

**SCAG Staff Response:** Irvine does not provide any evidence to suggest that wildfire risk either was not sufficiently considered in SCAG’s development of the RHNA methodology or otherwise may merit a reduction of housing needs in the City of Irvine. Therefore, SCAG staff does not recommend a reduction based on this issue.

**Issue 13:** Changed circumstances [Government Code section 65584.05(b)(3)].

*Government Code section 65584.05(b)(3) provides that to the extent that sufficient data is available, the following factor shall be included in developing the methodology that allocates regional housing needs:*

*“A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.”*

*Irvine primarily contends that job losses stemming from COVID-19 merit a reconsideration of long-range employment forecasts. Irvine also notes that the rise in telecommuting and a purported shift in desire for more open space and less dense living are also changed circumstances resulting from COVID-19 which will continue following the pandemic. The city contends that reliance on existing 2045 employment projections in the current RHNA methodology is thus flawed.*

*Irvine cites a City resolution encouraging long-term telecommuting, high regional unemployment rates currently experienced, instances of corporate campuses being eliminated, decreases in passenger air travel, and potential reduction in in-person education at colleges and universities in Irvine. In addition to providing statewide unemployment statistics, the City indicates that 2,490 jobs have been lost in Irvine since July 2020.*

**SCAG Staff Response:** While SCAG staff recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment, these facts, as presented by the City, “do not “merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04” (Government Code section 65584.05(b)(3)). Furthermore, section 65584.05(b) requires that,

*“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”*

While the City or Irvine provides several anecdotes related to COVID-19’s economic and social impacts, comparable data following this standard is not provided by the City of Irvine.

SCAG’s Regional Council delayed the adoption of the 2020 RTP/SCS by 120 days in order to assess the impact of COVID-19; however, the document’s long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report outlines the process for forecasting long-range employment growth

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which involves understanding national growth trends and regional competitiveness, i.e., the SCAG's region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts generally do not provide a basis for changes in the region's long-term competitiveness or the region's employment outlook for 2023-2045. As such, SCAG's assessment is that comparable data would not suggest long-range regional employment declines.

The COVID-19 pandemic has had various impacts throughout Southern California; however it has not resulted in a slowdown in major construction nor has it resulted in a decrease in a demand for housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties. Demand for housing as quantified by the RHNA allocation is a need that covers an 8-year period, not simply for impacts that are in the immediate near-term. Irvine does not provide evidence suggesting that any of the other potential COVID impacts listed (e.g. job losses, telecommuting increases, a desire for open space, lower in-person college enrollment, etc.) reduce housing need in any way.

Moreover, impacts from COVID-19 are not unique to any single SCAG jurisdiction and no evidence has been provided in Irvine's appeal that indicates that housing need within the City is disproportionately impacted in comparison to the rest of the SCAG region by these potential changes. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's draft RHNA allocation.

***Other:*** *HCD's regional determination of 1.34 million housing units, achievability and RTP/SCS consistency.*

*Irvine contends that HCD's regional determination of 1.34 million housing units violates state law.*

*Irvine also argues that "achievability" is a standard.*

*Irvine argues there to be an inconsistency between the Regional Housing Needs Assessment and Sustainable Communities Strategy.*

**SCAG Staff Response:**

Regional Determination

SCAG's final regional determination of approximately 1.34 million units was issued by HCD on October 15, 2019 per state housing law. The regional determination is not a basis for appeal per adopted RHNA Appeals Procedures as it is not within the authority of the Appeals Board to make any changes to HCD's regional housing needs determination.



SCAG's development of a consultation package to HCD regarding the regional housing needs determination took place during the first half of 2019. During this time SCAG extensively reviewed a wide range of reports which commented on housing needs in the state and region, including studies from USC, UCLA, UC-Berkeley, the California Legislative Analyst's Office, Beacon Economics, McKinsey, the Center for the Continuing Study of the California Economy, and others. These studies covered a wide range of approaches and methodologies for understanding housing need in the region and state. On March 27, 2019 SCAG convened a panel of fifteen experts in demographics, economics, and housing planning to assess and review the region's housing needs in the context of SCAG's regional determination.

Notwithstanding the merits of the various approaches toward estimating regional housing need, state statute outlines a very specific process for arriving at a regional housing needs determination for RHNA. It also prescribes a specific timeline which necessitated the completion of the regional determination step by fall 2019 in order to allow sufficient time for the development of a methodology, appeals, and local housing element updates.

The defined timeframes are guided by the deadline for the housing element revisions for HCD's RHNA determination and SCAG's Final RHNA Allocation Plan. HCD, in consultation with each council of governments (COG), shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. Govt. Code § 65584(b). This "determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." Govt. Code § 65584.01(b). HCD begins the process 26 months prior to the scheduled revision so the data HCD relies on is the available provided by the COGs at that time. Similarly, the COG issues its survey for information to develop the RHNA allocation methodology up to 30 months prior to the scheduled revision. By necessity, the data used for these processes is data available at that time.

During both the consultation process and the filing of SCAG's formal objection to HCD's regional determination, SCAG extensively reviewed the issues brought up in these recent reports including a variety of indicators of housing backlog such as cost burden, overcrowding, demolition, and vacancy. In addition, SCAG has a well-developed program for forecasting population and household growth in the region which is conducted with the advice and collaboration of the state Department of Finance's forecasting staff. SCAG assessed the relationship between the measures used and not used in its analyses in order to avoid overlap ("double counting").

While the RHNA statute prescribes specific requirements for HCD in determining the regional housing need (e.g., the determination shall be based on population projects produced by the Department of Finance and regional population forecasts used in preparing regional transportation

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plans), it allows HCD to accept or reject information provided by SCAG with respect to the data assumptions from SCAG's growth forecast or to modify its own assumptions or methodology based on this information. Following SCAG's formal objection filed on September 18, 2019, HCD did not materially change the regional determination following SCAG's formal objection filed on September 18, 2019, and there are no further mechanisms provided for in statute to contest their decision. Nevertheless, SCAG has a statutory obligation to complete the remaining steps required in the RHNA process—namely the adoption of a Final RHNA Methodology, conducting an appeals process, and issuing final RHNA allocations.

A report by Freddie Mac's Economic & Housing Research Group titled "The housing supply shortage: State of the states" was released in February 2020, and a slide deck titled "Double counting in the latest housing needs assessment" was placed on the Embarcadero Institute's website during 2020 (last update September 2020). Notwithstanding the merits (or lack thereof) of these studies, in order for such materials to have been considered by HCD, they would have had to have been submitted by June of 2019 as discussed above. Furthermore, as discussed above, SCAG's consultation package to HCD regarding the regional determination contained an extensive quantitative assessment of overcrowding, vacancy, and cost burden factors and a discussion of the issue of double-counting.

Additionally, these studies are regional in nature and do not provide information on individual jurisdictions. For an appeal to be granted on the incorrect application of RHNA methodology, arguments and evidence must be provided that demonstrate the methodology was incorrectly applied to determine the jurisdiction's share of regional housing need. Because a regional study does not meet this criterion, these studies cannot be used to justify a particular jurisdiction's appeal. Moreover, any reduction would have to be redistributed to the region when in theory, all jurisdictions would be impacted by the regional study.

In sum, it would be untenable to reopen the process anytime new data or materials become available, particularly when there is a codified process. If so, there would be no finality to the process and local government could not meet the deadlines for their housing element updates. Procedurally, SCAG cannot consider a regional study outside of the regional determination process nor should it apply a regional study to reduce an individual jurisdiction's draft RHNA allocation. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction's draft RHNA allocation.

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### Achievability

While an objective of the RHNA statute is to facilitate the eventual construction of new housing units to meet housing needs, achievability of this objective is not a basis for appeal. Citing its inclusionary housing program, Irvine estimates that 127,580 sites would be needed to accommodate the very low income RHNA allocation. However, the ability to count lower income RHNA sites in the housing element is set forth by HCD, not Irvine's estimate. As described above, HCD's site inventory guidelines describe a wide range of alternative options for accommodating housing need identified in the RHNA. Therefore, SCAG staff does not recommend a reduction based on this issue.

### Consistency between RHNA and the SCS

While the consistency between the RHNA and the SCS is not a basis for appeal, the issues raised by the City are addressed in the responses to Issues 7 and 11 above. Staff does not recommend a reduction based on this issue.

### **FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

### **ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Methodology (City of Irvine)
2. Irvine Appeal and Supporting Documentation
3. Connect SoCal - Map of HQTCS
4. Irvine - SPZs in HQTAs (SCAG Map)
5. Map of HQTAs in the City of Irvine (2045)
6. Connect SoCal Transit Technical Report Appendix (including HQTIC/HQTA definitions)
7. HCD Review of SCAG Draft RHNA Methodology (Jan 13, 2020)
8. Comments Received during the Comment Period

## **Attachment 1: Local Input and Development of the Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Irvine had to provide information and local input on SCAG's growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Irvine's Draft RHNA Allocation.

### **1. Local input**

#### ***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG's growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG's Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Irvine, the anticipated number of households in 2020 was 103,382 and in 2030 was 112,404 (growth of 9,022 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Irvine to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction's Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>.

**b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions’ Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the draft RHNA methodology. The City of Irvine submitted the following surveys prior to the adoption of the draft RHNA methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

**c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG’s Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California’s GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://www.connectsocial.org/Documents/DataMapBooks/Growth-Vision-Methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council’s decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG’s Scenario Planning Model Data Management Site (SPM-DM) at <http://spmdm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG

received additional technical corrections from the City of Irvine and incorporated them into the Growth Vision in December 2019. Based on these corrections, the City of Irvine's TAZ-level data utilized in the Connect SoCal Growth Vision matches input provided during the Bottom-Up Local Input and Envisioning Process.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing. (Govt. Code § 65584(d).)*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*“This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTA) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### 3. Draft RHNA Allocation for the City of Irvine

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Irvine received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the City of Irvine as summarized in the data and calculations in the tables below.

<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e. “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<b>Irvine city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	7443
Percent of households who are renting:	52%
Housing unit loss from demolition (2009-18):	-
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	19,055
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	17.45%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	1,754,000
Share of region's job accessibility (population weighted):	2.10%
Jurisdiction's HQTAs population (2045):	43,855
Share of region's HQTAs population (2045):	0.43%
Share of population in low/very low-resource tracts:	5.76%
Share of population in very high-resource tracts:	40.34%
Social equity adjustment:	150%



<b>Calculation of Draft RHNA Allocation for Irvine city</b>	
Forecasted household (HH) growth, RHNA period:	7443
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	247
Replacement Need	-
<b>TOTAL PROJECTED NEED:</b>	<b>7690</b>
Existing need due to job accessibility (50%)	8776
Existing need due to HQTAs pop. share (50%)	1794
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	5294
<b>TOTAL EXISTING NEED</b>	<b>15864</b>
<b>TOTAL RHNA FOR IRVINE CITY</b>	<b>23554</b>
Very-low income (<50% of AMI)	6379
Low income (50-80% of AMI)	4225
Moderate income (80-120% of AMI)	4299
Above moderate income (>120% of AMI)	8651

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 43,855 living within HQTAs, the City of Irvine represents 0.43% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific

jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Irvine's median TAZ, it will be possible to reach 17.45% of the region's jobs in 2045 within a 30-minute automobile commute (1,754,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 5,294 units assigned to the City of Irvine.

Please note that the above represents only a partial description of key data and calculations which result in the draft RHNA allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: \_\_\_\_\_ Jurisdiction Subject to This Appeal Filing:  
*(to file another appeal, please use another form)*  
\_\_\_\_\_

Filing Party (Jurisdiction or HCD)  
\_\_\_\_\_

Filing Party Contact Name \_\_\_\_\_ Filing Party Email: \_\_\_\_\_

**APPEAL AUTHORIZED BY:**

Name: \_\_\_\_\_

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

**Brief Description of Appeal Request and Desired Outcome:**

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced \_\_\_\_\_ Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**  
**(Numbers may be continued to accommodate additional supporting documentation):**

- 1.
- 2.
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_



October 26, 2020

Mr. Kome Ajise, Executive Director  
Southern California Association of Governments (SCAG)  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017

**Subject: City of Irvine Regional Housing Needs Assessment Appeal Letter**

Dear Director Ajise:

In accordance with Government Code Section 65504.05, subdivisions (b)(1), (b)(2) and (b)(3), the City of Irvine submits this appeal for a revision of the share of the regional housing need proposed to be allocated to the City of Irvine under the Regional Housing Needs Assessment (RHNA) methodology adopted for the 6<sup>th</sup> Cycle. The City of Irvine appreciates and encourages the Southern California Association of Governments Regional Housing Needs Assessment Appeal Board to review the appeal outlined below because a revision of the draft allocation is necessary to further—and not undermine—the intent of the statutorily mandated objectives listed in Government Code Section 65584, subdivision (d) (“Section 65584(d)” and “Section” refers to the Government Code unless otherwise noted).

With the issuance of the draft allocation, there were failures not only (1) to adequately consider the information submitted as part of the methodology, but also (2) to determine the share according to information and the methodology established, pursuant to Section 65584.04, subdivision (b). These failures ultimately undermine—instead of further—the intent of the objectives in Section 65584(d). As required by Section 65504.05, subdivision (b), this appeal is consistent with—and not to the detriment of—the development pattern in the applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Government Code Section 65080.

**SUMMARY OF THE APPEAL**

The City of Irvine is requesting a reduction of **8,259 total units** from the draft RHNA allocation or 23,554 on the grounds outlined below. This revision is necessary to further the objectives in Section 65584(d) for the following reasons, which will be explained in greater detail throughout the attached body of this appeal (Attachment A):

- The draft allocation does not increase the housing supply and mix of housing types in an equitable manner;
- The draft allocation does not promote infill development and socioeconomic equity, encourage efficient development patterns, and will result in the inability to achieve the region’s greenhouse gas reduction targets;

- The draft allocation does not promote an improved intraregional relationship between jobs and housing.

## CONCLUSION


The City of Irvine respectfully requests the total RHNA be reduced by 8,259 units and that SCAG modify the allocations to address the following outstanding issues:

1. Grounds for Appeal #1: Methodology
  - a. HQTAs Errors: reduction of 1,500 units
  - b. Residual Allocation Redistribution due to Disadvantaged Community component of the RHNA Methodology, specifically outdated growth forecast information: reduction of 2,759 units
2. Grounds for Appeal #2: Local Planning Factors and Information Furthering Fair Housing (AFFH): reduction of 1,500 units
3. Grounds for Appeal #3: Changed Circumstances: reduction of 2,500 units
4. Grounds for Appeal #4: Regional Determination of 1.34 Million Housing Units Violates State Law
5. Grounds for Appeal #5: Inconsistency Between Regional Housing Needs Assessment and Sustainable Communities Strategy

Finally, the City of Irvine is requesting errors in the underlying data included in the RHNA methodology and the change in circumstances associated by the global COVID-19 pandemic be addressed to ensure there is an equitable distribution of affordable units throughout the SCAG region. The City of Irvine is a model in providing affordable housing in the region and even with the requested revision will still be responsible for accommodating one of Orange County's highest RHNA allocation.

Respectfully Submitted,

  
Honorable Christina L. Shea  
Mayor

  
Honorable Michael C. Carroll  
Vice Mayor and SCAG District 14 Regional Council Member

Attachment A: City of Irvine Regional Housing Needs Assessment Appeal Documentation

City of Irvine RHNA Appeal Letter  
October 26, 2020  
Page 3

cc (via email):

City Council  
Marianna Marysheva, Interim City Manager  
Jeff Melching, City Attorney  
Pete Carmichael, Director of Community Development Department  
Timothy Gehrich, Deputy Director of Community Development Department  
Kerwin Lau, Manager of Planning Services  
Mark Steuer, Director of Public Works and Transportation  
Jaimee Bourgeois, Deputy Director of Transportation  
SCAG RHNA Subcommittee/RHNA Appeals Board  
Honorable Peggy Huang, Chair RHNA Subcommittee  
Honorable Wendy Bucknum, Orange County Representative RHNA Subcommittee

Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

## Attachment A: City of Irvine Regional Housing Needs Assessment Appeal Documentation

In accordance with Government Code Section 65504.05, subdivisions (b)(1), (b)(2) and (b)(3), the City of Irvine submits this appeal for a revision of the share of the regional housing need proposed to be allocated to the City of Irvine under the Regional Housing Needs Assessment (RHNA) methodology adopted for the 6<sup>th</sup> Cycle. The City of Irvine appreciates and encourages the Southern California Association of Governments Regional Housing Needs Assessment Appeal Board to review the appeal outlined below because a revision of the draft allocation is necessary to further—and not undermine—the intent of the statutorily mandated objectives listed in Government Code Section 65584, subdivision (d) (“Section 65584(d)” and “Section” refers to the Government Code unless otherwise noted).

With the issuance of the draft allocation, there were failures not only (1) to adequately consider the information submitted as part of the methodology, but also (2) to determine the share according to information and the methodology established, pursuant to Section 65584.04, subdivision (b). These failures ultimately undermine—instead of further—the intent of the objectives in Section 65584(d). As required by Section 65504.05, subdivision (b), this appeal is consistent with—and not to the detriment of—the development pattern in the applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Government Code Section 65080.

### **SUMMARY OF THE APPEAL:**

The City of Irvine is requesting a reduction of **8,259 total units** from the draft RHNA allocation or 23,554 on the grounds outlined below. This revision is necessary to further the objectives in Section 65584(d) for the following reasons, which will be explained in greater detail throughout the body of this appeal:

- The draft allocation does not increase the housing supply and mix of housing types in an equitable manner;
- The draft allocation does not promote infill development and socioeconomic equity, encourage efficient development patterns, and will result in the inability to achieve the region’s greenhouse gas reduction targets;
- The draft allocation does not promote an improved intraregional relationship between jobs and housing.



**City of Irvine Grounds for Appeal #1: Failure to Adequately Consider Information for the Methodology (Government Code Section 65584.05, subd. (b)(1)).**

1. A. Three of the four stops associated with 2045 High Quality Transit Area (HQTA) are contingent on two transportation projects NOT included in the adopted Connect SoCal Project List. The State Route 55 Bus Rapid Transit (BRT) and Interstate 5 Bus Rapid Transit (BRT) are NOT projects in either the financially constrained project list or the strategic project list. Therefore, these three station stops should NOT be included in any calculations for 2045 population within a half mile of the HQTA since they are NOT projects and inclusion of the stations stops would be inconsistent and in conflict with the adopted Connect SoCal plan. (Attachment 1: Final Project List for Connect SoCal)
- B. 2045 High Quality Transit Area (HQTA) population factor for existing need is based on conceptual stops, not fully vetted by the City of Irvine.
- C. HQTA population for 2045 was not prorated to accurately reflect the population within the half mile radius of a HQTA stop. The 2045 population for Irvine's one HQTA (Irvine Transportation Center) should be prorated to reflect the percentage of the geographic unit (Traffic Analysis Zone or Scenario Planning Zone) within the half mile radius ONLY. (Attachments 2-10)

HQTA Population for Existing Need Allocation: 1,794 units

**City of Irvine requests reduction of: 1,500 units (combination of 1.A. - 1.C.)**

1. A.
  - For several years, SCAG has developed a measure called High Quality Transit Areas (HQTAs) which are areas within a half-mile of transit stations and corridors with at least a fifteen (15) minute headway during peak hours for bus service. HQTAs are based on state statutory definitions of high-quality transit corridors (HQTCS) and major transit stops. For the development of Connect SoCal (2020 Regional Transportation Plan/Sustainable Communities Strategy), freeway-running HQTCS have been excluded from HQTAs to better reflect the level of service they provide to nearby areas. However, SCAG, in coordination with the Orange County Transportation Authority (OCTA), made the decision to include the conceptual station stops associated with these freeway-running HQTCS, even though they have not yet been studied or deemed feasible.

SCAG identified four HQTAs in the City of Irvine.

1. The Irvine Transportation Center: The Irvine Station, located in the Spectrum area of the City, is a growing transportation hub in South Orange County. As the busiest station in Orange County serving over a million commuters annually, the Irvine Transportation Center is currently served by Amtrak and Metrolink passenger rail services, as well as being a hub for express, local and rail-feeder bus services operated by the Orange County Transportation Authority (OCTA).
2. Alton Parkway BRT stop: According to information provided to City of Irvine staff in September 2019, this stop was identified by the OCTA without consultation with the City of Irvine and would be established to support the non-existent, but possible

future bus rapid transit on State Route 55. There is currently no off-ramp from SR 55 at Alton Parkway to support a station stop. The SR 55 BRT project is **NOT** included in the adopted Connect SoCal project list, either as a financially supported project or unfunded, strategic project. **As such, this HQTA should be removed from the RHNA methodology.**

3. Jeffrey Road Park and Ride BRT stop: According to information provided to City of Irvine staff in September 2019, this stop was identified by OCTA without consultation with the City of Irvine and would be established to support the non-existent, but possible future bus rapid transit on Interstate 5. The Interstate 5 BRT project is **NOT** included in the adopted Connect SoCal project list, either as a financially supported project or as an unfunded, strategic project. **As such, this HQTA should be removed from the RHNA methodology.**
  4. Spectrum Center BRT stop: According to information provided to City of Irvine staff in September 2019, this stop was identified by OCTA without consultation with the City of Irvine and would be established to support the non-existent, but possible future bus rapid transit on Interstate 5. The Interstate 5 BRT is **NOT** included in the adopted Connect SoCal project list, either as a financially supported project or as an unfunded, strategic project. **As such, this HQTA should be removed from the RHNA methodology.**
- On numerous occasions throughout the development of the RHNA methodology, the City of Irvine expressed verbal and written disagreement with the inclusion of HQTA stops associated with Bus Rapid Transit (BRT) routes that are hypothetical and in the earliest of planning stages. At the time the methodology was developed, the Orange County Transportation Authority (OCTA) had not vetted the proposed BRT station stops along the Interstate 5 corridor with the City of Irvine and the BRT station stop along State Route 55 had been introduced with concern expressed by City of Irvine staff. The HQTA stops at Alton Parkway, the Jeffrey Road Park and Ride, and Spectrum Center were provided to SCAG staff by OCTA without consultation with the City of Irvine.

The City disagrees with and disputes the use of a BRT route and proposed station stops that are not only conceptual at this time, but may also be infeasible, in the methodology for the RHNA. As stated above, neither the SR 55 BRT project nor the Interstate 5 BRT project are listed as a project for Orange County in the Connect SoCal project list adopted by the Regional Council on September 3, 2020. Inclusion of the three station stops associated with these two projects is inconsistent and in conflict with the Connect SoCal plan.

1. B.
  - Even if the SR 55 BRT and Interstate 5 BRT routes were included in the adopted Connect SoCal plan, the stops were never vetted or discussed with the City of Irvine prior to their incorporation into the RHNA methodology. Constraints associated with the three BRT related station stops are outlined below:

- a. State Route 55 BRT: OCTA has conceptually proposed the incorporation of Direct Access Ramps (DAR) as part of the future Alton Parkway Overcrossing project to accommodate a BRT stop in the Irvine Business Complex (IBC). The Alton Parkway Overcrossing project is led by the City of Santa Ana, with 50 percent of construction funding to come from City of Irvine. The Alton Parkway Overcrossing has been designed but does not have adequate funding for construction, and may not for quite some time. This funding shortfall is exacerbated particularly in light of the change of circumstances associated with the COVID-19 pandemic. In addition, the inclusion of this DAR is inaccurate because it is not a part of the project, has not been demonstrated to be geometrically feasible, and has no identified funding. Furthermore, the BRT and proposed station stop in the vicinity of Alton Parkway would primarily support non-residential uses in the IBC, such as Edwards Lifesciences, one of the City's largest employers. The half mile radius around the Alton Parkway station stop is not zoned and will not be zoned to support a residential population given that it is within the flight path of John Wayne Airport (JWA). In general, residential development is not considered an acceptable use within the 65 CNEL noise contour, within certain safety zones for approaching/departing flight paths, and similar limits to residential use tied to federal restrictions under an active (here, very active) flight path and airport. Additional height restrictions also vary depending on project location. Any future residential project within a half mile radius of the proposed stop would be found inconsistent with the Airport Environs Land Use Plan for JWA and would result in safety and noise concerns for the future residents. According to the Final OC Transit Vision Report (January 2018), the proposed BRT stop at Alton Parkway is considered to have a relatively low BRT stop score.
- b. Interstate 5 BRT Stop - Existing Jeffrey Park and Ride: OCTA has proposed a BRT stop at the existing Caltrans park and ride adjacent to the I-5 at Jeffrey Road on/off-ramps. The park and ride would not support future residential development as it is surrounded by the under construction Innovation Office Park, Interstate 5, and an existing utility corridor that will feature the extension of the Jeffrey Open Space Trail (JOST). Two neighborhood commercial centers are located on the north side of Jeffrey Road, but these commercial centers are part of *no* plan to be converted to residential use. According to the Final OC Transit Vision Report, the proposed BRT stop at the Jeffrey Park and Ride is considered to have a relatively low BRT stop score.
- c. Interstate 5 BRT Stop - Spectrum Center: The Irvine Spectrum Center BRT stop is highly conceptual and an exact location is not known and has not been provided to the City of Irvine at any time during the development of the RHNA methodology. Existing residential population is limited in this area and no new residential growth is expected. According to the Final OC Transit Vision Report, the proposed BRT stop at the Spectrum Center is considered to have a relatively low BRT stop score. As noted below in detail, there was a failure to have the 2045 population prorated to reflect what percentage of a TAZ or SPZ was included in the half mile radius of the conceptual HQTA stop.

1. C.
  - After researching the 2045 population growth forecast utilized for the existing need calculation, it appears that SCAG did not prorate the population of the land that is actually located within a half mile of the HQTAs. The City of Irvine has conducted a review of the Traffic Analysis Zones (TAZ) located within a half mile of the HQTAs stops included by SCAG staff in the methodology, and, without prorating, the population is equal to the one used in the RHNA methodology. In many cases, only a very small percentage of the land within a TAZ or even a Scenario Planning Zone (SPZ), if that was the level of geography utilized, is within that half mile radius of the HQTAs. Yet, the *entire* 2045 estimated population for that geographic unit is included in the calculation, and this is most notable in the areas around the Irvine Transportation Center (ITC) and the conceptual Spectrum HQTAs. Regrettably, there was a lack of transparency in the methodology, as jurisdictions are not able to access ALL the input data because it is not clearly traceable in models, and there are multiple formulas and models that need to be run to determine all of this.
    - Irvine Transportation Center: As noted above, the Irvine Transportation Center is the only HQTAs stop that exists in the City of Irvine today and is the ONLY HQTAs stop projected for the year 2045 (according to the adopted Connect SoCal Project List). It is currently served by Amtrak and Metrolink passenger rail services, as well as being a hub for express, local and rail-feeder bus services operated by OCTA. Based on review of the 2045 population data included in the RHNA methodology background information, the 2045 population was NOT prorated to reflect the actual percentage of the TAZ or SPZ located within the a half mile of the ITC. SCAG must prorate the 2045 population to accurately reflect the percentage of population that will be located within a half mile of the ITC.
    - The City of Irvine estimates approximately 15% of TAZ 1223, the only TAZ projected to have residential population, is within ½ mile radius of the ITC. Therefore, only 15% of the projected 7,456 population should be included in the calculation for Irvine’s HQTAs share of existing need.
  - In conclusion, the City of Irvine has identified three areas of inconsistency and concern with the HQTAs component of the existing need calculation. Due to the complexity of the RHNA estimator tool, and because it is impossible for a jurisdiction to determine whether the impact of the requested corrections to the HQTAs component is accurate, the City of Irvine is estimating the HQTAs component of the existing need should be reduced by approximately 1,500 units. At a minimum, SCAG should recalculate the 2045 population within an HQTAs for the City of Irvine to exclude any 2045 population associated with the Alton Parkway HQTAs, the Jeffery Road Park and Ride HQTAs, and the Spectrum Center HQTAs; and
  - Prorate the 2045 population associated with the Irvine Transportation Center HQTAs to accurately reflect the percentage of the population located within a half mile of the HQTAs stop.

## 2. Residual Allocation Redistribution due to Disadvantaged Community component of the RHNA Methodology

Net residual factor for existing need: 5,294

**City of Irvine requests reduction by 2,759**

According to the approved RHNA methodology, two factors were included in the determination of a jurisdiction's existing need. For extremely disadvantaged communities (hereafter "DACs") the residual need was identified. The residual need is defined as total housing need in excess of household growth between 2020 and 2045. DACs are jurisdictions with more than half of the population living in high segregation and poverty or low resource areas as defined by the California Tax Credit Allocation Committee (TCAC)/ HCD Opportunity Index Scores. According to the methodology for the 2020 TCAC/HCD Opportunity Index Scores and Map (June 2020), "the opportunity mapping is a way to measure and visualize place-based characteristics linked to critical life outcomes. Opportunity maps can be used to inform how to target investments and policies in a way that is conscious of the independent and inter-related effects that research has shown places on economic, educational, and health outcomes." However, "Opportunity mapping also has limitations. For example, maps' accuracy is dependent on the accuracy of the data behind them. Data may be derived from self-reported surveys of subsets of the area's population and sometimes may not be recorded or reliable in some areas. Further, even the most recent publicly available datasets typically lag by two years, meaning they may not adequately capture conditions in areas undergoing rapid change." The TCAC/HCD Opportunity Maps and corresponding Opportunity Index Scores are designed to identify high-opportunity areas for the investment of private capital into the development of affordable rental housing for low income Californians. It is not the purpose of the TCAC/HCD Opportunity Index Scores to identify disadvantaged communities (DACs) for the purposes of calculating the RHNA.

- The residual existing need was then reallocated by Orange County to non-DAC jurisdictions within the same county based on the formula (50% transit accessibility and 50% job accessibility). The redistribution of the DAC residual at the county level was not vetted at the RHNA Subcommittee or the CEHD and was introduced days before the vote at the Regional Council. Had the DAC residual been redistributed at the SCAG regional level, the impact would not have been as significant to non-DAC jurisdictions within the county. There are five jurisdictions in Orange County that qualify for the DAC protection of the 2020-2045 household growth (Anaheim, La Habra, Orange, Santa Ana, and Stanton), resulting in 44,452 units that are redistributed to non-DAC Orange County jurisdictions. Over 23,000 of these units are redistributed from a single jurisdiction, the City of Santa Ana. The City of Irvine receives a total of 5,294 units from the five Orange County DACs. The City of Irvine receives 52 percent of its net residual factor for existing need from the City of Santa Ana (2,759 units). The City of Irvine requests the net residual factor for existing need be reduced by 2,759 units based on the information outlined below.

- Utilizing the RHNA methodology approved by the SCAG Regional Council, the City of Santa Ana would have received an allocation of 26,255 units. However, SCAG added an exception for jurisdictions that are considered a disadvantaged community (DAC) utilizing information from the TCAC.
- The City of Santa Ana's RHNA allocation of 3,087 housing units is being capped to the household growth between 2020 and 2045 per the adopted RHNA methodology.
- The remaining 23,168 units (the residual) are being redistributed to other non-DAC Orange County jurisdictions. The DAC redistribution to the county of origin was added to the methodology days before the adoption by the Regional Council. The impact of the DAC redistribution on jurisdictions within the county of origin was not adequately vetted by jurisdictions and the true impact of the methodology were not realized until after the plan was adopted by the Regional Council. According to the November 7, 2019 Regional Council report for the RHNA methodology (page 56), SCAG staff states: "Staff was also asked by several members of the Regional Council to analyze for Board consideration the merits of the staff recommendation versus a substitute motion that was defeated in a 4-3 vote during the October 7, 2019, RHNA Subcommittee." It should be noted that the substitute motion that was proposed by Subcommittee Member Rusty Bailey on October 7, 2019 did NOT contain any component even remotely close to the DAC residual; it simply asked for the elimination of the household growth component (local input) between 2030 and 2045.
- This alternative methodology from Member Bailey was not considered at the October 17, 2019 Community, Economic and Human Development (CEHD) meeting where the CEHD unanimously approved the original methodology recommended by the RHNA Subcommittee. If this component of the final November 7, 2019 methodology had been known, the City of Irvine would have raised the concern with the outdated growth forecast for the City of Santa Ana at that time.
- SCAG staff received a copy of the letter from Member Bailey proposing an alternative methodology on November 1, 2019 and ultimately, this became the proposed SCAG staff RHNA methodology. The City of Irvine still expresses concern with the quick turn around and analysis of Member Bailey's methodology, which was outlined in the Regional Council staff report released for public review on the day SCAG received the letter from Member Bailey. From the November 7, 2019 Regional Council agenda: "the RHNA methodology considers many factors across the complex regional geography of Southern California, and as such, **changes to a single factor may have unintended consequences that should be considered and addressed.** However to be responsive to the request **and for discussion purposes**, staff conducted preliminary analysis of the defeated motion (Bailey substitute motion from RHNA Subcommittee). In conducting the analysis, staff modified the Recommended Draft Methodology as follows to reflect the desire to eliminate the use of Household Growth between 2030 and 2045:
  - The Existing Needs allocation factors were changed to only rely on "transit accessibility" and "jobs accessibility" factors (for the year 2045) with 50% of existing need assigned to each. The share of existing need allocated based Household Growth between 2030 and 2045 was eliminated.

- The cap on RHNA allocation to a jurisdiction’s 2045 Household Growth was eliminated for all jurisdictions except those in Disadvantaged Communities (DACs). Caps were retained in DACs and assigned within county as a measure to guard against gentrification in job and transit-accessible disadvantaged areas per HCD requirements. Removing caps reduces the impact of the “residual” redistribution to approximately 7 percent of total regional housing need, compared to 12 percent in the Recommended Draft Methodology.”
- Had this component been introduced at ANY of the previous RHNA Subcommittee meetings related to the development of the methodology or the CEHD meeting of October 17, 2019, the City of Irvine and other impacted jurisdictions would have raised their concern with the outdated growth forecast for the City of Santa Ana and would have insisted that updated information be provided based on the information Santa Ana had provided adjacent jurisdictions through interagency review.
- Furthermore, the RHNA estimator calculator was not posted until November 19, 2019, well after the adoption of the RHNA methodology. With no Regional Council meetings scheduled for the remainder of the 2019 calendar year, the first opportunity for jurisdictions to express their concerns with the DAC residual redistribution or discuss an issue with the outdated growth forecast information utilized to cap the RHNA allocation for the DACs was February 6, 2020. Again, the City of Irvine vehemently emphasizes that, *IF* the City of Irvine (and other cities) had been made aware of the DAC residual redistribution component added to the RHNA methodology at the last moment and immediately prior to the November 7, 2019 Regional Council meeting, public comments on this matter would have been made verbally and in writing to all decision making committees.
- The projected household growth for the City of Santa Ana is outdated and does not reflect the reality of projects under construction, approved, or currently under review. According to the City of Santa Ana project website, there are over 10,000 units under construction, approved, or currently under review that will be completed during the 6<sup>th</sup> Cycle RHNA timeframe. (Attachments 11-12)
- This does not include the additional units that would be permitted when the City’s General Plan is adopted. According to the City of Santa Ana General Plan Environmental Impact Report, the “No Project/Existing General Plan” results in the potential for more than 18,000 units than the growth projections in the adopted Connect SoCal (2020 RTP/SCS. The proposed General Plan Update would result in the potential for 31,515 more units than the “2020 RTP/SCS Consistency Alternative”. The General Plan Update is tentatively scheduled for review by the Santa Ana Planning Commission in October 2020 and the City Council in November 2020.
- The City of Irvine recommends the City of Santa Ana’s RHNA should be updated to reflect the total number of units identified on the City’s website. A comprehensive list of projects that should be included in the revised growth forecast is attached. The residual should be readjusted to reflect the revised RHNA.
- Within Orange County, the City of Santa Ana has the second highest share of the region’s job accessibility in Orange County and the highest share of the region’s HQT population in Orange County.

- Failing to update Santa Ana’s RHNA allocation to reflect the units that are being constructed, approved or nearing approval within Santa Ana, prior to redistributing the residual units to other jurisdictions that have significantly lower shares of the region’s HQTAs and job accessibility population, is contrary to many of the preferred policies of the state, the California Air Resources Board, HCD, and the recently approved Connect SoCal (2020 RTP/SCS). Specifically, the redistribution is in conflict with the following:
  - As it relates to the adopted Connect SoCal plan, this includes focusing growth near destinations and existing transit options, promoting diverse housing choices, reducing vehicle miles travelled, and reducing greenhouse gas emission reductions. SCAG’s Growth Vision: “aims to increase mobility options and reduce the need for residents to drive by locating housing, jobs and transit closer together. To help the region achieve sustainable outcomes, Connect SoCal’s Forecasted Development Pattern focuses within jurisdictions near destinations and mobility options, in line with the policies and strategies of the Growth Vision.”<sup>1</sup> SCAG’s forecasted development pattern for the SCS relies on new housing development to be focused in “priority growth areas” and to avoid housing developments in areas with “growth constraints.”<sup>2</sup> The redistribution of growth from the City of Santa Ana to other jurisdictions within Orange County that may not have a “priority growth area”, transit, or be near jobs is in conflict with and contradicts the SCAG Growth Vision.
  - Senate Bill 375 (Chapter 728, Statutes of 2008): Requires SCAG to prepare and adopt a sustainable communities strategy that sets forth a forecasted regional development pattern which, when integrated with the transportation network, measures and polices, will reduce greenhouse gas emissions from automobiles and light-duty trucks.

**City of Irvine Grounds for Appeal #2: Failure to Determine the City of Irvine’s Share of the Regional Need in Accordance with Information Described in, and Methodology Established, in a Manner that Furthers and Does Not Undermine the Intent of the Objectives in Section 65584(d) (Government Code Section 65584.05, subd. (b)(2)).**

SCAG failed to consider information submitted by the local jurisdiction relating to certain local factors outlined in Government Code Section 65584.04, subdivision (e), and information submitted by the local jurisdiction relating to affirmatively furthering fair housing (AFFH) pursuant to Government Code Section 65584.04, subdivision (b)(2) and 65584, subdivision (d)(5), as described below.

**City of Irvine requests reduction of 1,500 units**

The information submitted by the local jurisdictions relating to certain local factors outlined in Government Code Section 65584.04, subdivision (e), and information submitted by the local jurisdictions relating to affirmatively furthering fair housing pursuant to Government Code Sections 65584.04, subdivision (b)(2) and 65584, subdivision (d)(5), were utilized on the projected need portion of the methodology, but were NOT applied to the existing need. It is important to note that SCAG only

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<sup>1</sup> Connect SoCal, Sustainable Communities Strategy Technical Report, Page 28

<sup>2</sup> Connect SoCal, Sustainable Communities Strategy Technical Report, Page 17-19



applied these absolute and variable growth constraints to the projected need portion of the RHNA (approximately 1/3 of the total RHNA). SCAG has attempted to focus the remaining approximately 2/3 of the total RHNA into priority growth areas, but completely ignored the sustainable community strategy (SCS) growth constraints for approximately 836,000 RHNA housing units. This is in direct conflict with Government Code Section 65080, subdivision (b)(2)(B) and Government Code Section 65584.04, subdivision (m), which require that Connect SoCal and RHNA be consistent with one another.

a. *Each jurisdiction's existing and projected jobs and housing relationship.*

The City of Irvine has always strived to be a complete community that offers the opportunity to live, work, and play in the same jurisdiction. The City of Irvine has two major job centers, the Irvine Business Complex (IBC) and the Irvine Spectrum, which are regional in nature and are situated on the city border with other Orange County jurisdictions. An employee working in the IBC may decide to live in Newport Beach, Costa Mesa, or Santa Ana because it is closer to the employment center than living in Portola Springs or Orchard Hills in more distant areas that are nonetheless still within the City of Irvine, thus reducing vehicle miles travelled and greenhouse gas emissions. Employees working in Irvine are encouraged to live within the city they work in, but it is not requirement and it shouldn't be dictated by the State or SCAG. In fact, living in an adjacent jurisdiction to the employment center may result in a shorter commute, possibly providing the employee an opportunity to walk or bike to work. Additionally, if the City is required to find adequate sites for both the aggregate total of the RHNA allocation and the various income levels, the employment centers may need to be rezoned. These job losses would negatively impact Irvine's jobs and housing relationship.

b. *The opportunities and constraints to development of additional housing in each jurisdiction, including the following:*

*Legal Criteria: Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply distribution decision made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period; and The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.*

- City's Reasons for Failing to Meet this Legal Criteria: The majority of land suitable for urban development in the City of Irvine is entitled through development agreements that allow units to be constructed in phases. In addition, nearly all planning areas have met the maximum number of units and there is no vacant land available. Nearly all the residential units in Irvine are less than 50 years old, with the majority of these units constructed since the mid-1990s. Out of the 114,093 units, 59,031 units have been built from 2000-present. The housing stock is new and would not be available for redevelopment or repurposing. The neighborhoods are primarily single family neighborhoods that will not be redeveloped. Furthermore, the City of Irvine has areas identified as Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which areas are protected and not suitable or permitted for urban development.
- The City does not have the ability to modify development agreements that are legal documents without the participation of the land owner;

- Legal Criteria: *Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters that a jurisdiction that prohibits or restricts conversion of non-agricultural uses.*
- City's Reasons for Failing to Meet this Legal Criteria: In the mid-1990s, the City of Irvine joined the regional Natural Community Conservation Plan (NCCP). The NCCP created a regional network of land reserves to protect entire communities of native plants and animals, while allowing development to move forward in other areas. The majority of the NCCP lands are also identified in the Habitat Conservation Plan (HCP) that is the mechanism by which the Federal government permitted the City of Irvine land use and conservation program. In addition, the City of Irvine has identified additional areas of locally preserved open space under the City of Irvine Open Space Initiative that permanently protects specific areas from development.

Specifically, on June 7, 1988, in the General Municipal Election, Irvine voters overwhelming approved Initiative Resolution 88-1, titled "An Initiative Resolution of the City of Irvine Directing the Amendment of the Conservation and Open Space Element and the Land Use Element of the Irvine General Plan." The Open Space Initiative reflected the following principal objectives:

- To consolidate important conservation and open space areas into large contiguous areas that may be integrated into local and regional open space areas;
- To establish a network of open space spines, linking the consolidated conservation and open space areas; and
- To assure the preservation of conservation and open space areas through a phased dedicating and compensating development opportunities program, acceptable to the City and owner of the land involved, which transfers development opportunities from conservation and open space areas and consolidates them in appropriate development areas.

It was further outlined in the Memorandum of Understanding Implementing Initiative Resolution 88-1 between the City of Irvine and the Irvine Company, whereby the Irvine Company agreed to convey to the City open space lands – in the form of Preservation Areas – in exchange for development rights in other areas of Irvine. These Preservation Areas that comprise the Irvine Open Space Preserve are dedicated to the City in perpetuity as protected open space. The deeds include language that restricts the use of the land solely for infrastructure, resource conservation, habitat enhancement and passive recreation purposes such as hiking. In other words, these lands cannot ever be sold, leased or used for any commercial, office, industrial, or residential purposes.

- Legal Criteria: *County policies to preserve prime agricultural land, as defined pursuant to Government Code Section 56064, within an unincorporated area, and land within an unincorporated area zoned or designated for agricultural protection or preservation that*

*is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to non-agricultural uses.*

- City’s Reasons for Failing to Meet this Legal Criteria: The City of Irvine General Plan Conservation and Open Space Element includes Objective L-10 that encourages the maintenance of agriculture in undeveloped areas of the City until the time of development and in areas not available for development.
- c. *The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.*

The growth forecast for the City of Irvine included in the adopted 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), known as Connect SoCal, is inconsistent with the City’s existing General Plan and Zoning Code. However, the RHNA allocation deviates from local input and greatly exceeds the existing General Plan and Zoning Code. Accommodating the RHNA allocation for all income levels will create a significant impact on the jurisdiction. This will place a tremendous strain on the existing transportation infrastructure. There is limited existing or future plans for public transportation in the City of Irvine as the County transportation committee (OCTA) has reduced or eliminated public transit throughout much of Irvine and south Orange County.

- d. *The rate of overcrowding.*

Although the 2018 Department of Finance figures show an average of 3.1 persons per household in Irvine, the City does not track the number of occupants per dwelling unit. The City is concerned that the definition of “overcrowding” has not been clearly established. Therefore any jurisdictional responses to this question would not be an accurate comparison. The City recommends that SCAG determine a consistent and perhaps more appropriate definition of overcrowding rather than using the US Census definition of one person per room. The current Census definition would determine that a married couple in a studio apartment would be overcrowded or that a family of six would be overcrowded if living in a three-bedroom home. Census does not take into consideration multi-generational housing, which is a growing trend in the City. None of these extreme examples would constitute overcrowding except under the current Census definition.

- e. *The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.*

The City of Irvine is home to Irvine Valley College, Concordia University, and the University of California, Irvine. Irvine Valley College is a two-year public community college and is part of the South Orange County Community College District. Prior to March 2020, the majority of the students attending Irvine Valley College lived locally and commuted to class. Concordia University is a private four year university with a total student population of 4,123 (1,334 undergraduate). Concordia currently has 256 dormitory units with 1,024 beds and another 74 dormitory units with 296 beds have been entitled through discretionary approval. The University of California, Irvine (UCI) has an approved long range development plan (LRDP) that has a maximum of 22,000 beds and over 2,000 dwelling units for faculty and staff. With all colleges and universities, the COVID-19 pandemic has required instruction to be held remotely for the remainder of the 2020 calendar year and it is unknown how long digital learning will continue into the future. It is a very realistic possibility that restrictions on the percentage of students

permitted to attend in person classes may not be lifted for years to come, dramatically impacting the number of students and faculty needing on campus or near campus housing.

- f. *The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis. For purposes of these guidelines, this applies to loss of units during a state of emergency occurring since October 2013 and have not yet been rebuilt or replaced by the time of the development of the draft RHNA methodology, or November 7, 2019.*

Historically, there have been a significant number of wildfires in and surrounding the City of Irvine. The City has seen a major wildfire within or near its borders every decade since the 1980s. Fortunately, the City of Irvine has not experienced any devastation from these fires, but it serves as a constant reminder that the hillside terrain and open space that surrounds the City of Irvine makes it a constant threat to potential wildfires. (Attachment 13)

- g. *The region's greenhouse gas emissions targets provide by the State Air Resources Board pursuant to Section 65080, to be met by SCAG's Connect SoCal Plan.*

The City of Irvine has limited public transit opportunities and the conversion of office to additional residential as a way to meet the RHNA would likely increase the number of vehicle miles traveled (VMT) within the region, which could potentially conflict with AB 32 and SB 375 goals.

The City of Irvine initiated a review of the proposed RHNA allocation (required site inventory to address all income levels) and the impact to the vehicle miles travelled for the City. Based on this preliminary review, the impact of the RHNA as a "project" and it would result in 19.78 VMT/capita vs. 14.88 VMT/capita (threshold) with potential need to mitigate a VMT impact amount 24.8% through mitigation strategies. The majority of the units were hypothetically located near the Irvine Transportation Center (ITC) or within the Irvine Business Complex (IBC) that is serviced by the iShuttle, Irvine's locally serving transit. Both of these areas are near the City's two large job centers, the Spectrum and the IBC and it does not take into consideration the possible reduction in nonresidential uses to accommodate the dwelling units. The detailed report is included as Attachment 14.

Furthermore, the California Air Resources Board (CARB) has established goals of reducing GHGs in the SCAG region by 19% by 2035 beginning October 1, 2018. Previously, the targets were to reduce GHGs by 13% by 2035. This 6% target reduction increase could potentially limit housing production within the City as these target adjustments result in increased housing production costs. Specifically, according to the local Building Industry Association (BIA), the cost to construct high density, multifamily residential on developed land in Orange County and Los Angeles County is extremely costly and may result in limited to no housing production. The principle is supported by several sections of the state's RHNA methodology process (such as Government Code Sections 65584, subd. (a)(3), 65584, subd. (d)(2), and 65584, subd. (d)(3).)

- h. *Information based upon the issues, strategies, and actions that are included, as available in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by*

*any city or county or the California Department of Housing and Community Development, and in housing elements.*

The City of Irvine identified several other factors in the RHNA Local Planning Factor Survey submitted in April 2019 that limit residential development. Areas of the Great Park Neighborhoods will be developed, but are limited to non-residential development due to soil contamination that has not been cleaned to residential standards. For residential to be possible, extensive remediation would be required. Remediation plans can be cost-prohibitive in worst case scenarios, but often add significant cost to housing development in most cases. Additionally, there are other areas within the City such as Rancho San Joaquin that have limitations on what portions of the site could be converted to residential due to active methane gas emissions from a previous landfill site.

The City of Irvine recommends that SCAG consider other planning factors such as potential impacts from natural disasters (i.e., earthquakes, fires, floods, liquefaction, landslides, dam inundation, etc.) History of natural disasters or recent fire events should also be taken into consideration.

*i. Information not considered: Achievability*

Per California State Law, the City of Irvine must prepare a housing element update that identifies adequate sites for both the aggregate RHNA allocation AND each of the income level categories (Assembly Bill 1397; Chapter 375, Statutes 2017). In addition, the City must also allocate additional units to ensure that there is no net loss per Senate Bill 166; Chapter 367, Statutes 2017). The City of Irvine received the following draft allocation:

Draft RHNA Allocation	23,554
Very Low	6,379
Low	4,225
Moderate	4,299
Above Moderate	8651

The City of Irvine has one of the most progressive inclusionary housing programs in Orange County and as a result, the City has constructed 4,608 affordable housing units, the most in Orange County. Eighty percent of the affordable units are extremely low, very low, and low. The City’s inclusionary housing program requires 15% of all units be set aside as affordable utilizing a 5%/5%/5% split for very low, low, and moderate income levels. Therefore, to meet the very low income levels using Irvine’s existing inclusionary housing program would need to identify sites for at least 127,580 units:

Total Allocation to Meet All Income Levels	127,580
Very Low	6,379
Low	6,379
Moderate	6,379
Above Moderate	108,443

As previously noted, the majority of land suitable for urban development in the City of Irvine is entitled through development agreements that allow units to be constructed in phases. In addition, nearly all planning areas have met the maximum number of units and there is no vacant land available that is not permanently protected open space. Nearly all the residential units in Irvine are less than 50 years old, with the majority of these units constructed since the mid-1990s. Out of the 114,093 units, 59,031 units have been built from 2000-present. The housing stock is new and would not be available for redevelopment or repurposing. The City incorporated in 1971 and while a number of units were constructed prior to incorporation, it has taken nearly fifty years to construct 114,093 units. The City is now being asked to more than double the existing housing inventory and find adequate sites for 127,580 new, additional units to be able to accommodate the very low income RHNA allocation. For the City to actually construct enough units to meet the RHNA allocation, Irvine would need to construct almost 16,000 units each year. Any allocation that is disproportional AND is not attainable, does not further the statutory requirements and is patently flawed.

While some argue the RHNA is a hypothetical planning exercise, it should be noted that jurisdictions are evaluated through HCD's RHNA Annual Progress Report (APR). Jurisdictions that are not meeting their RHNA goal for construction of affordable housing are subject to streamlined housing approvals for certain housing projects under Senate Bill 35 (Chapter 366, Statutes 2017).

Additionally, if the City of Irvine is unable to identify adequate sites to meet both the total need and the need by each income category, the City will not be able to have a certified Housing Element. If the City is unable to have a certified Housing Element, we will be ineligible to receive Senate Bill 2 Permanent Local Housing Allocation funding in the amount of approximately \$4.5 million over a five year period.

**City of Irvine Appeal Grounds for Appeal #3: A Significant and Unforeseen Change in Circumstances Has Occurred that Merits a Revision of the Information Submitted for the Methodology (Government Code Section 65584.05, subd. (b)(3)).**

A significant and unforeseen change in circumstances has occurred in the City after April 30, 2019 that merits a revision of the information previously submitted by the local jurisdiction.

- **The City of Irvine is requesting a reduction of 2,500 units.** In March 2020, the Southern California region came to a halt due to the COVID-19 pandemic. Seven months later, the majority of the counties in the SCAG region are in the purple tier or widespread category where many of the non-essential indoor business operations are closed. Orange County recently moved into the red tier or substantial category where some non-essential indoor business operations are closed. The California Department of Public Health (CDPH) requires working remotely in the red tier and continues to encourage teleworking in the orange tier (moderate) and yellow tier (minimal). What these unprecedented times have demonstrated is that telecommuting can be a viable, flexible work option. The interest in working remotely is not going to end once the pandemic is behind us, and while the long term impacts of the COVID-19 pandemic will not be known immediately, there are indications that the pandemic will have long term

impacts on how work will be reimagined. On October 13, 2020, the City of Irvine unanimously approved a Resolution encouraging long-term telecommuting, where possible, for the City and its businesses. This is an opportunity to proactively make adjustments that benefit the City's residents (less traffic, improved air quality), employees (increased productivity, higher employee satisfaction), businesses (reduced operational costs, improved recruitment and retention) and our environment (reduced greenhouse gas emissions, reduced fuel usage).

- According to an article published in the Orange County Register on September 16, 2020, Los Angeles-Orange County's joblessness rate of 16.8% is the highest in the United States. Major corporations are rethinking how they will do business and there have been articles written about Google and REI. Both corporations have recently completed new campuses, but are looking to sell the campuses due to changes resulting from COVID-19. (see articles for Google and REI). The Orange County Business Council recently released the 2020-21 Orange County Community Indicators Report that included a special section on COVID-19 and the potential long term impacts. According to the report "the COVID-19 pandemic has dramatically impacted economies and workplaces at all levels, both regionally and globally. While many believed the economy would rebound into a quick recovery, continued levels of unemployment and financial distress suggest the recovery will likely take years."
- Reliance on the 2045 employment to determine the existing need in the RHNA methodology is flawed. It will be argued that the impacts of COVID-19 can be addressed in future iterations of Connect SoCal (2024 and 2028) and the 7<sup>th</sup> Cycle RHNA (2028), but the damage to a jurisdiction will be done by that point in time. Jurisdictions will have been forced into modifying their General Plans and Zoning to accommodate the unrealistic and unachievable RHNA allocations for the 6<sup>th</sup> Cycle.
- On September 28, 2020, John Wayne Airport (JWA) posted the statistics for August 2020. This is only one month of data reflecting the impact of COVID-19 on a local economy that relies on commercial aircraft operations. In August 2020, JWA served 266,986 passengers, a decrease of 71.7% when compared with the August 2019 passenger traffic count of 942,385. The loss of revenue associated with airline travel has had a tremendous impact on the operating budgets of the jurisdictions surrounding JWA. Based on information provided by the California Employment Development Department (EDD) in the Worker Adjustment Retraining Notification (WARN report), the City of Irvine has suffered a loss of 2,490 jobs from July 2020 to present. According to the WARN report, statewide job losses since March have been catastrophic:
  - July 2019: 2,720 jobs
  - August 2019: 3,927 jobs
  - September 2019: 6,825 jobs
  - October 2019: 5,119 jobs
  - November 2019: 4,483
  - December 2019: 2,343
  - January 2020: 5,949 jobs
  - February 2020: 6,016 jobs
  - March 2020: 44,922 jobs

- April 2020: 240,362 jobs
  - May 2020: 130,152 jobs
  - June 2020: 56,596 jobs
  - July 2020: 33,088 jobs
  - August 2020: 32,875 jobs
  - September 2020: 49,021 jobs
  - October 2020: 12,701 jobs
- There will be long term impacts to the local colleges and universities if complete distance learning is continued into the near future or even modified to allow a percentage of students learning on campus. The University of California, Irvine and Concordia University both offer on-site student housing for undergraduates and graduate students that might be enough to house the existing on campus student population and faculty.
  - Additionally, numerous articles have documented a shift in the desire for there to be more housing that allows residents to have open space and is less dense. Below are the links to ongoing news articles regarding the long term impacts of COVID-19.
    - <http://www.freddiemac.com/research/insight/20200227-the-housing-supply-shortage.page>
    - <https://calmatters.org/commentary/dan-walters/2020/07/california-local-housing-shortage-crisis/>
    - <https://padailypost.com/2020/04/16/economic-slowdown-is-a-new-factor-in-determining-housing-quotas/>
    - <https://www.citywatchla.com/index.php/cw/los-angeles/20136-a-powerful-lesson-from-the-pandemic-trickle-down-city-planning-does-not-work>
    - <https://www.ocregister.com/2019/12/10/can-southern-california-build-1-34-million-homes-in-a-decade/>
    - <https://uccs.ucdavis.edu/events/2020-July-15-Blumenberg>
    - [https://calmatters.org/commentary/rethinking-work-and-life-in-lessons-learned-from-covid-19/?utm\\_campaign=CHL%3A%20Daily%20Edition&utm\\_medium=email&\\_hsmi=88358094&\\_hsenc=p2ANqtz--mmjM\\_srt2o0plbA-HD570CcmAgf2UTTAX-K0guxe8Rb5OTBIGQ1YXa0xrCkoOF6xBlkRcm0iMwr79tNV2MXByD8JD7w&utm\\_content=88358094&utm\\_source=hs\\_email](https://calmatters.org/commentary/rethinking-work-and-life-in-lessons-learned-from-covid-19/?utm_campaign=CHL%3A%20Daily%20Edition&utm_medium=email&_hsmi=88358094&_hsenc=p2ANqtz--mmjM_srt2o0plbA-HD570CcmAgf2UTTAX-K0guxe8Rb5OTBIGQ1YXa0xrCkoOF6xBlkRcm0iMwr79tNV2MXByD8JD7w&utm_content=88358094&utm_source=hs_email)
    - [https://www.hostcompliance.com/sharing-econ-post-covid-planners?mkt\\_tok=eyJpIjoiTIRka09UQTVOVFEyTW1RdyIsInQiOiJvMXgrVGVEieXQ4SjFcl2UrtZ4Mms4aXFQTXNCQVh0cINSNUpdnd3F5VW1iRjVTRlI4Q0VINWpoREVVQ1ROVEwwTUtEekFUbfIWWWTUrUUUzdndYcFN0UFFPUmRxnYt0bmR4ZTRyVjlsNjNkQ1h2ZU1UcmtWYW1JbW9QdzdjaHhyTzAifQ%3D%3D](https://www.hostcompliance.com/sharing-econ-post-covid-planners?mkt_tok=eyJpIjoiTIRka09UQTVOVFEyTW1RdyIsInQiOiJvMXgrVGVEieXQ4SjFcl2UrtZ4Mms4aXFQTXNCQVh0cINSNUpdnd3F5VW1iRjVTRlI4Q0VINWpoREVVQ1ROVEwwTUtEekFUbfIWWWTUrUUUzdndYcFN0UFFPUmRxnYt0bmR4ZTRyVjlsNjNkQ1h2ZU1UcmtWYW1JbW9QdzdjaHhyTzAifQ%3D%3D)
    - <https://www.cp-dr.com/articles/cpdr-news-briefs-may-12-2020>
    - [http://www.newgeography.com/files/Policy\\_Delusion.pdf](http://www.newgeography.com/files/Policy_Delusion.pdf)
    - <https://ternercenter.berkeley.edu/news/affirmatively-furthering-fair-housing-in-california>
    - [http://www.scag.ca.gov/Documents/scag-COVID-19-Transportation\\_Impacts.pdf?utm\\_medium=email&utm\\_campaign=SCAG%20Update%20August%2012&utm\\_content=SCAG%20Update%20August%2012+CID\\_58f8861a62362ccce09f7628b1bbb022&utm\\_source=SCAG%20Campaign%20Monitor&utm\\_term=new%20study](http://www.scag.ca.gov/Documents/scag-COVID-19-Transportation_Impacts.pdf?utm_medium=email&utm_campaign=SCAG%20Update%20August%2012&utm_content=SCAG%20Update%20August%2012+CID_58f8861a62362ccce09f7628b1bbb022&utm_source=SCAG%20Campaign%20Monitor&utm_term=new%20study)
    - <https://www.forbes.com/sites/retailwire/2020/08/18/rei-sells-its-headquarters-others-should-take-notice/#70f53e273166>
    - <https://www.wsj.com/articles/rei-built-an-iconic-hq-because-of-covid-19-the-outdoor-retailer-wants-to-sell-it-11597263188https://www.msn.com/en-us/money/companies/google-abandons-plan-to-rent-dublin-office-for-2000-workers/ar-BB18NsOQ>



- <https://www.barrons.com/news/google-abandons-dublin-office-plan-for-up-to-2-000-staff-01599562531>

**City of Irvine Grounds for Appeal 4: Regional Determination of 1.34 Million Housing Units Violates State Law (Government Code Section 65584.01, subd. (a)).**

- State housing law is very clear on how to calculate the regional determination. “If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region...”
- SCAG regional population forecast for its Regional Transportation Plan (RTP) differs from the Department of Finance (DOF) projection by **1.32%** which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG’s population projections.
- However, HCD cites two reasons for not using SCAG’s total regional population forecast:
  1. The total household projection from SCAG is 1.96% lower than DOF’s household projection.
  2. The age cohort of under 15-year old persons from SCAG’s population projections differ from DOF’s projections by 15.8%
- The City of Irvine responds, however, that HCD’s interpretation is incorrect for the following two reasons:
  1. The law clearly states that the 1.5% range is based on the total regional **population** forecast not the regional **household** projection forecast.
  2. The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.
- While state housing law provides a significant level of discretion to HCD over many of the factors used for the regional determination (*e.g.*, vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments), there is no discretion granted HCD on this numeric issue. Therefore, while the City of Irvine supported the arguments SCAG outlined in its September 18, 2019 objections letter, the City also recognizes that state law grants HCD the final determination for those factors. Notwithstanding, had HCD adhered to Section 65584.01, subdivision (a) as clearly stated, the City estimates that the regional determination should have been approximately 133,000 housing units lower, or no more than approximately 1.2 million housing units.
- Among the other factors used by HCD to establish the regional determination, the City contends that HCD incorrectly applied the vacancy rate for the SCAG region and double-counted a significant number of units needed to accommodate overcrowded and cost burdened households. This is the result of “Double Counting,” as described by a recent study from the Embarcadero Institute, “*Double Counting in the Latest Housing Needs Assessment*” (September 2020). The report demonstrates that the total regional housing need for the SCAG region should actually be approximately 651,000 housing units and not 1.34 million housing units. Other reputable sources, including the Freddie Mac report, “*The Housing Supply Shortage: State of the*

*States*” (February 2020), also demonstrate that HCD’s calculation of 1.34 million housing units is significantly overinflated. This new and credible data should at a minimum be explored if not incorporated into the final allocation.

- . On October 1, 2020, SCAG President Rex Richardson verbally confirmed his intent to reconvene the SCAG RHNA Litigation Study Team. To date, the SCAG RHNA Litigation Study Team has not been reconvened, but it is our hope that the President’s RHNA Litigation Study Team could deliberate on options to require State HCD to:
  1. Consider this and other new information from credible agencies;
  2. Justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and
  3. Justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

**City of Irvine Grounds for Appeal #5: Inconsistency Between Regional Housing Needs Assessment and Sustainable Communities Strategy (Government Code Sections 65080, subd. (b)(2) and 65584, subs. (a) & (d)).**

- State law requires that SCAG, “prepare a sustainable communities strategy”, which shall, among many other things, “identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584.” Government Code 65584 clearly establishes that the eight-year projection of regional housing need includes both “existing **and** projected” housing need.
- Additionally, California housing law states that, “it is the intent of the Legislature that housing planning shall be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan (RHNA) shall be consistent with the development pattern included in the sustainable communities strategy.” This point is further emphasized in the law regarding RHNA appeals: “An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy...”
- Previous iterations of the RTP/SCS (2008 and 2012) were amended after the adoption of the final RHNA to ensure the consistency between the RHNA and SCS.
- Beginning in October 2018, SCAG began an in-depth public review process for the 6<sup>th</sup> Cycle RHNA. In August 2019, SCAG released three RHNA methodology options for public review based on various factors discussed at the RHNA Subcommittee meetings between February and June 2019.
- Between August 1 and September 13, 2019, SCAG conducted four public hearings and received over 250 written comments. Based on the comments received, SCAG prepared a recommended RHNA methodology that met all five RHNA objectives and was consistent with the development pattern in the draft SCS.
- This RHNA methodology was recommended by the RHNA Subcommittee and unanimously supported by the CEHD Committee in October 2019.
- However, on November 7, 2019, a new RHNA methodology, which was inconsistent with the development pattern in the SCS, was introduced by Riverside Mayor Rusty Bailey and endorsed by Los Angeles Mayor Eric Garcetti and approved by a split vote of the Regional Council without any adequate public review or in depth analysis of the new methodology.

- SCAG is now attempting to fit a square peg into a round hole by claiming that the eight-year projection of the regional housing need<sup>3</sup> only applies to RHNA’s “projected need” and does not apply to RHNA’s “existing need”<sup>4</sup> despite the fact that state housing law clearly defines RHNA as “existing and projected need”<sup>5</sup>. SCAG states that “HCD identifies the ‘existing need’ as 836,857 units...”<sup>6</sup> This response is completely misleading and patently false. In fact, HCD has never differentiated between existing and projected need. A careful read of HCD’s letter<sup>7</sup> demonstrates that it was actually SCAG (not HCD) that established an “existing need” of 836,857 and that HCD was simply acknowledging that this was SCAG’s approach to the RHNA methodology. Moreover, HCD has never differentiated between existing need and projected need in any region in the state; HCD has only provided a total housing need.
- In their calculations, HCD projected a total of 6,801,760 households in the SCAG region by October 2029 (see Figure 1).<sup>8</sup> HCD added in several adjustment factors (vacancy, overcrowding, replacement, and cost burden) and subtracted the current occupied households. However, even if one were to try and differentiate projected and existing need based on this data, it is clear that at least 551,499 housing units (projected households less occupied housing units) would need to be attributed to “projected need”. The only two new factors to be considered with RHNA this cycle are overcrowding and cost burden. Therefore, if one were to differentiate existing need and projected need, the existing need would more likely be 577,422 housing units and a projected need of 764,405 housing units. In other words, SCAG’s “eight-year projection of the regional housing need” in Connect SoCal is underestimated by 259,435 housing units.

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<sup>3</sup> Government Code 65080(b)(2)(B)

<sup>4</sup> Connect SoCal, Public Participation and Consultation, Appendix 2 (Comments and Responses), Master Response No. 1: Regional Housing Needs Assessment

<sup>5</sup> Government Code 65584 et al.

<sup>6</sup> Connect SoCal, Public Participation and Consultation, Appendix 2 (Comments and Responses), Master Response No. 1: Regional Housing Needs Assessment, Page iv

<sup>7</sup> January 15, 2020 letter from HCD to SCAG regarding RHNA methodology

<sup>8</sup> October 15, 2019 letter from HCD to SCAG establishing the final regional determination of 1.34 million housing units

Figure 1: October 15, 2019 Regional Determination from HCD

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need				
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>			20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029			-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>			20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>
		20,079,930		6,801,760
	under 15 years	3,292,955	n/a	n/a
	15 – 24 years	2,735,490	6.45%	176,500
	25 – 34 years	2,526,620	32.54%	822,045
	35 – 44 years	2,460,805	44.23%	1,088,305
	45 – 54 years	2,502,190	47.16%	1,180,075
	55 – 64 years	2,399,180	50.82%	1,219,180
	65 – 74 years	2,238,605	52.54%	1,176,130
	75 – 84 years	1,379,335	57.96%	799,455
	85+	544,750	62.43%	340,070
4.	<b>Projected Households (Occupied Unit Stock)</b>			6,801,760
5.	+ Vacancy Adjustment (2.63%)			178,896
6.	+ Overcrowding Adjustment (6.76%)			459,917
7.	+ Replacement Adjustment (.50%)			34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)			-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>				<b>1,341,827</b>

- As a result, 81 jurisdictions in the SCAG region have been assigned a RHNA allocation that exceeds SCAG’s 2045 growth totals. In fact, among those jurisdictions the average percentage increase of RHNA above SCAG’s 2045 jurisdictional growth totals is 233% with some jurisdictions being assigned a RHNA over 1000% higher than SCAG’s 2045 jurisdictional growth totals.<sup>9</sup> In contrast, the other 116 jurisdictions are receiving a RHNA on average that is 42% lower than their 2045 jurisdictional growth totals. This result is not supportable under Sections 65080, subdivision (b)(2)(B) and 65584, subdivision (a) and (d).

**CONCLUSION**

The City of Irvine respectfully requests the total RHNA be reduced by 8,259 units and that SCAG modify the allocations to address the following outstanding issues:

- Grounds for Appeal #1: Methodology
  - HQTA Errors: reduction of 1,500 units
  - Residual Allocation Redistribution due to Disadvantaged Community component of the RHNA Methodology, specifically outdated growth forecast information: reduction of 2,759 units
- Grounds for Appeal #2: Local Planning Factors and Information Furthering Fair Housing (AFFH): reduction of 1,500 units
- Grounds for Appeal #3: Changed Circumstances: reduction of 2,500 units

<sup>9</sup> Nine jurisdictions were projected to have no growth by 2045 and were not included in this average percentage increase

4. Grounds for Appeal #4: Regional Determination of 1.34 Million Housing Units Violates State Law
5. Grounds for Appeal #5: Inconsistency Between Regional Housing Needs Assessment and Sustainable Communities Strategy

Finally, the City of Irvine is requesting errors in the underlying data included in the RHNA methodology and the change in circumstances associated by the global COVID-19 pandemic be addressed to ensure there is an equitable distribution of affordable units throughout the SCAG region. The City of Irvine is a model of providing affordable housing in the region and even with the requested revision will still be responsible for accommodating one the Orange County's highest RHNA allocation.

Attachments:

1. Final Project List for Connect SoCal
2. City of Irvine High Quality Transit Area (HQT) Traffic Analysis Zone (TAZ) 2045 Population Data
3. Irvine Transportation Center HQT ½ mile radius map
4. Irvine Transportation Center HQT Extended TAZ map
5. Future Alton Parkway HQT ½ mile radius map
6. Future Alton Parkway HQT Extended TAZ map
7. Jeffrey Park and Ride HQT ½ mile radius map
8. Jeffrey Park and Ride HQT Extended TAZ map
9. Spectrum Center HQT ½ mile radius map
10. Spectrum Center HQT Extended TAZ map
11. City of Santa Ana Major Development Project Map/HQT
12. City of Irvine Major Development Project List
13. City of Irvine Major Fire History Map
14. Preliminary VMT Analysis of Proposed RHNA Allocation
15. City of Irvine Comment on RHNA – May 6, 2019
16. City of Irvine Comment Letter on RHNA – October 4, 2019
17. City of Irvine Comment Letter on RHNA – February 20, 2020
18. Orange County Mayors' Letter on RHNA - September 18, 2020

Cc: City Council  
Marianna Marysheva, Interim City Manager  
Jeff Melching, City Attorney  
Pete Carmichael, Director of Community Development Department  
Timothy Gehrich, Deputy Director of Community Development Department  
Kerwin Lau, Manager of Planning Services  
Mark Steuer, Director of Public Works and Transportation  
Jaimee Bourgeois, Deputy Director of Transportation  
SCAG RHNA Subcommittee/RHNA Appeals Board  
Honorable Peggy Huang, Chair RHNA Subcommittee  
Honorable Wendy Bucknum, Orange County Representative RHNA Subcommittee

## 2045 City of Irvine Population for SCAG Identified High Quality Transit Areas (HQTAs) – Half Mile Radius of SCAG Identified HQTA

Irvine Transportation Center (Existing HQTA):

Irvine (ITAM) Traffic Analysis Zone (TAZ)	Orange County (OCTAM) Traffic Analysis Zone (TAZ)	Relationship to ½ mile radius of High Quality Transit Area	2045 Population <sup>1</sup> <u>Not Prorated</u>
971	1229	Population would need to be prorated	0
956	1229		0
936	1229		0
609	1229		0
975	1223	Population would need to be prorated	7,456
610	1223		-
926	1223		-
611	1223		-
947	1223		-
949	1223		-
386	1244	Population would need to be prorated	0
337	1249	Population would need to be prorated	0
339	1249		0
860	1249		0
338	1249		0
965	1261	Population would need to be prorated	0
925	1261		0
612	1261		0
613	1261		0
340	1261		0
322	1261		0
321	1261		0
343	1261		0
863	1261		0
864	1261		0
341	1264	Population would need to be prorated	0
859	1264		0
342	1264		0
920	1281	Population would need to be prorated	0

<sup>1</sup> Orange County Projections 2018

**Future Alton Parkway Exit (State Route 55) (HQTA does NOT exist, SR 55 Bus Rapid Transit NOT a project in the adopted Connect SoCal Plan)**

<b>Irvine (ITAM) Traffic Analysis Zone (TAZ)</b>	<b>Orange County (OCTAM) Traffic Analysis Zone (TAZ)</b>	<b>Relationship to ½ mile radius of High Quality Transit Area</b>	<b>2045 Population<sup>2</sup></b>
396	1161	Population would need to be prorated	0
400	1161		0
408	1161		0
413	1161		0
404	1161		0
399	1161		0
395	1160	Population would need to be prorated	0
398	1160		0
402	1160		0
407	1169	Population would need to be prorated	0
412	1169		0
418	1169		0
415	1169		0
424	1169		0
423	1169		0
691	807	City of Santa Ana	
692	807		
690	807		
689	800	City of Santa Ana	

<sup>2</sup> Orange County Projections 2018

**Jeffrey Park and Ride (Interstate 5): (HQTA does NOT exist, Interstate 5 Bus Rapid Transit NOT a project in the adopted Connect SoCal Plan)**

<b>Irvine (ITAM) Traffic Analysis Zone (TAZ)</b>	<b>Orange County (OCTAM) Traffic Analysis Zone (TAZ)</b>	<b>Relationship to ½ mile radius of High Quality Transit Area</b>	<b>2045 Population<sup>3</sup></b>
155	1200	Population would need to be prorated	0
156	1206	Population would need to be prorated	0
154	1190	Population would need to be prorated	0
824	1186	Population would need to be prorated	4,005
827	1186		-
826	1177	Population would need to be prorated	7,428
110	1177		-
109	1177		-
97	1165	Population would need to be prorated	3,544
96	1165		-
95	1165		-
98	1165		-
148	1174	Population would need to be prorated	1,991
142	1174		-
146	1174		-
149	1174		-
143	1170	Population would need to be prorated	2,808
152	1185	Population would need to be prorated	2,510
151	1185		-
150	1185		-

<sup>3</sup> Orange County Projections 2018



**Spectrum Center (Interstate 5): (HQTA does NOT exist, Interstate 5 Bus Rapid Transit NOT a project in the adopted Connect SoCal Plan)**

Irvine (ITAM) Traffic Analysis Zone (TAZ)	Orange County (OCTAM) Traffic Analysis Zone (TAZ)	Relationship to ½ mile radius of High Quality Transit Area	2045 Population <sup>4</sup>
342	1264	Population would need to be prorated	0
341	1264		0
363	1282	Population would need to be prorated	0
364	1282		0
856	1282		0
855	1282		0
358	1265	Population would need to be prorated	0
362	1265		0
359	1265		0
355	1265		0
558	1276	Population would need to be prorated	8,156
557	1276		-
349	1253	Population would need to be prorated	0
346	1253		0
338	1249	Population would need to be prorated	0
356	1262	Population would need to be prorated	5,821
354	1262		-






<b>Total 2045 Population – HQTA ½ mile radius: Orange County Projections 2018 (Not Prorated to reflect population located within the HQTA)<sup>5</sup></b>	<b>43,719</b>
<b>Total 2045 Population – HQTA ½ mile radius: SCAG RHNA Methodology Appendix Page 18<sup>6</sup></b>	<b>43,892</b>

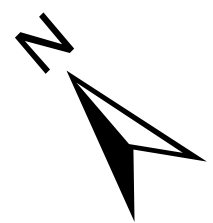
OCP-2018 and SCAG RHNA Methodology are consistent with TOTAL 2045 population of 327,664

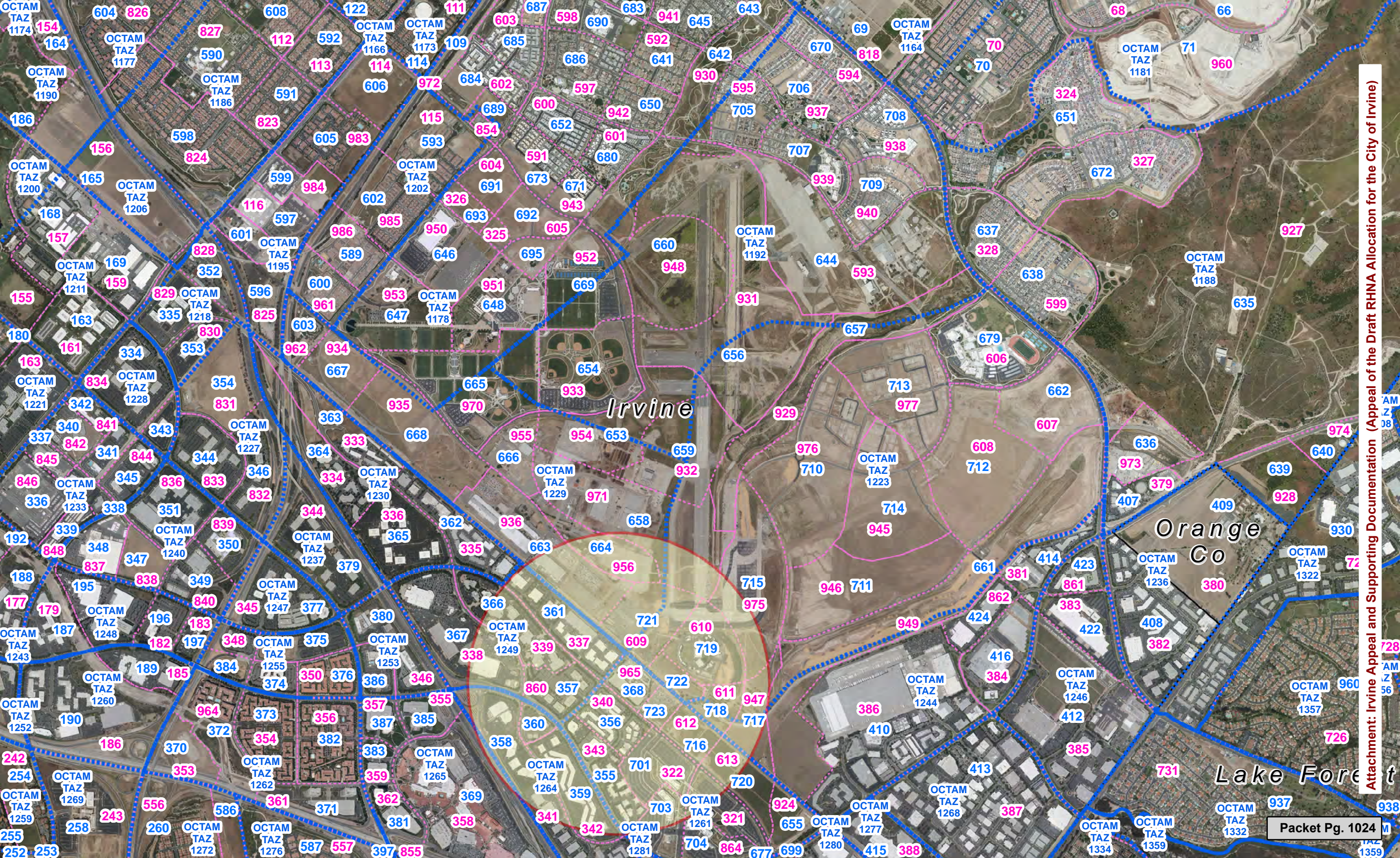
<sup>4</sup> Orange County Projections 2018

<sup>5</sup> Orange County Projections 2018

<sup>6</sup> SCAG Adopted RHNA Methodology Data Appendix

-  .5 Miles
-  Traffic Analysis Zone
-  City Boundary
-  Irvine Transportation Center
-  Public ROW





Irvine







Orange  
Co

Lake Forest

Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

City of Santa Ana

City of Irvine

-  .5 Miles from Alton ROW
-  Traffic Analysis Zone
-  Alton ROW at the 55
-  City Boundary
-  Zoning
-  Public ROW

55

Alton ROW at the 55

5.1 IBC Multi-Use

TAZ 395  
49.6601  
acres

TAZ 398  
23.9502  
acres

TAZ 402  
24.4562  
acres

TAZ 396  
56.4835  
acres

TAZ 399  
33.3253  
acres

TAZ 407  
14.5784  
acres

TAZ 412  
18.4052  
acres

TAZ 418  
25.3881  
acres

TAZ 404  
25.1246  
acres

TAZ 415  
13.3709  
acres

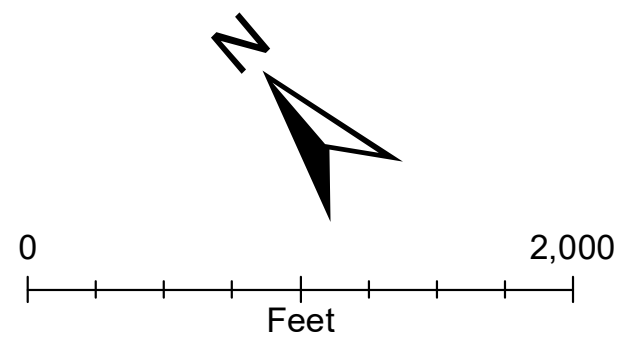
TAZ 424  
22.246  
acres

TAZ 400  
69.3034  
acres

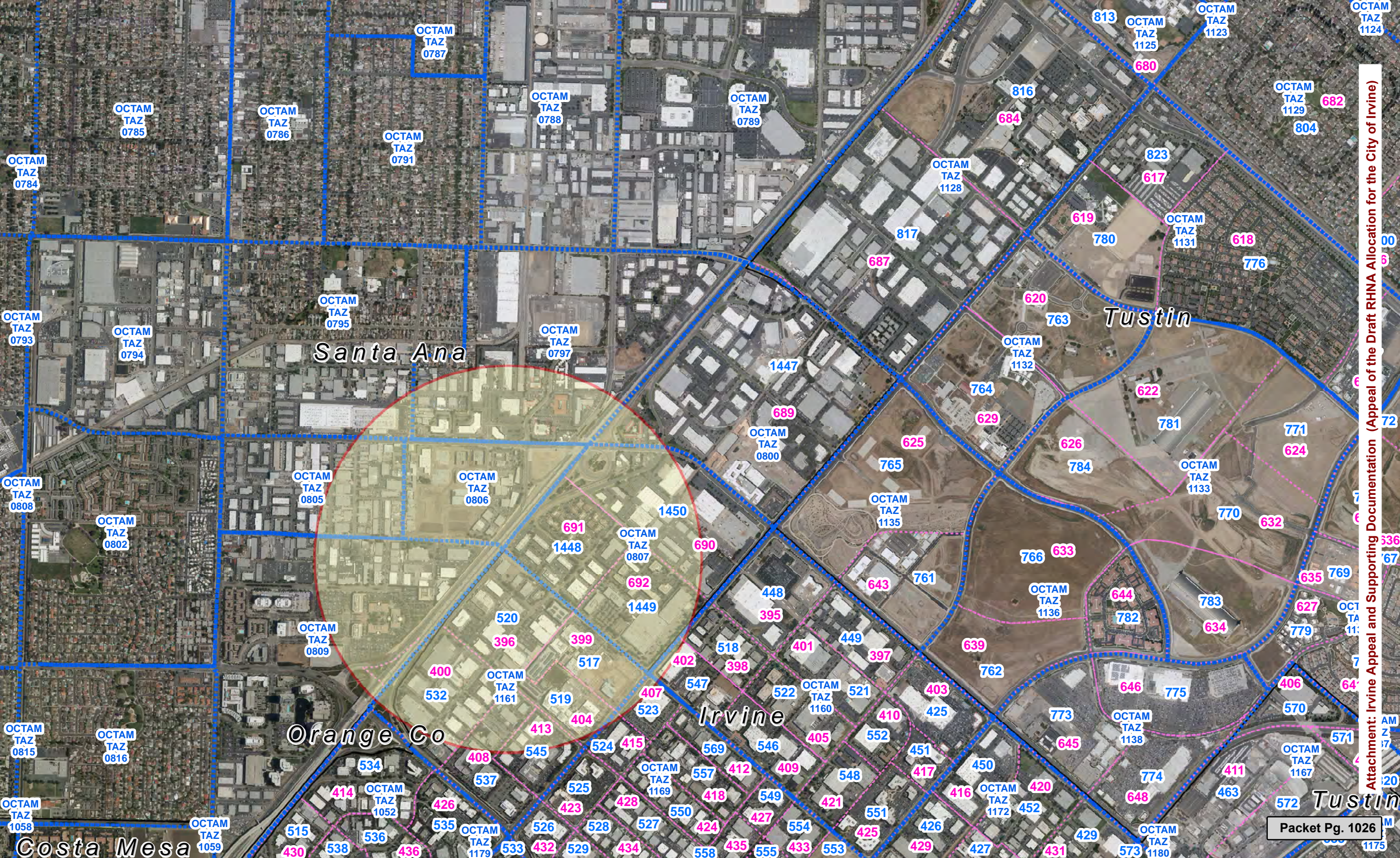
TAZ 413  
26.5476  
acres

TAZ 423  
19.8735  
acres







TAZ 408  
41.7334  
acres

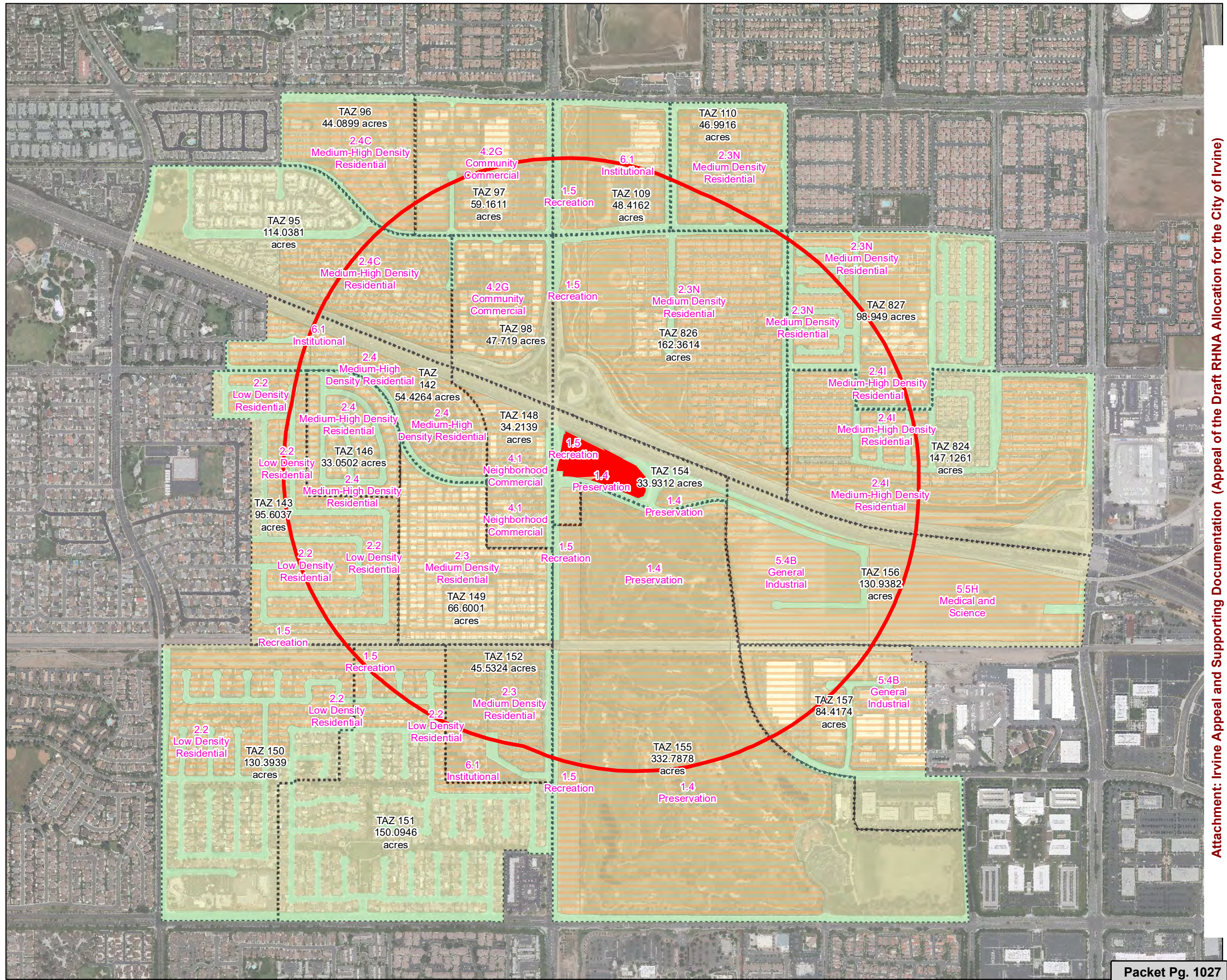
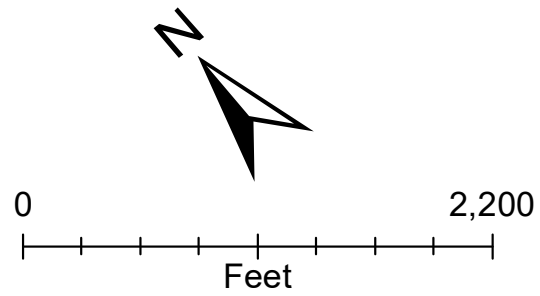


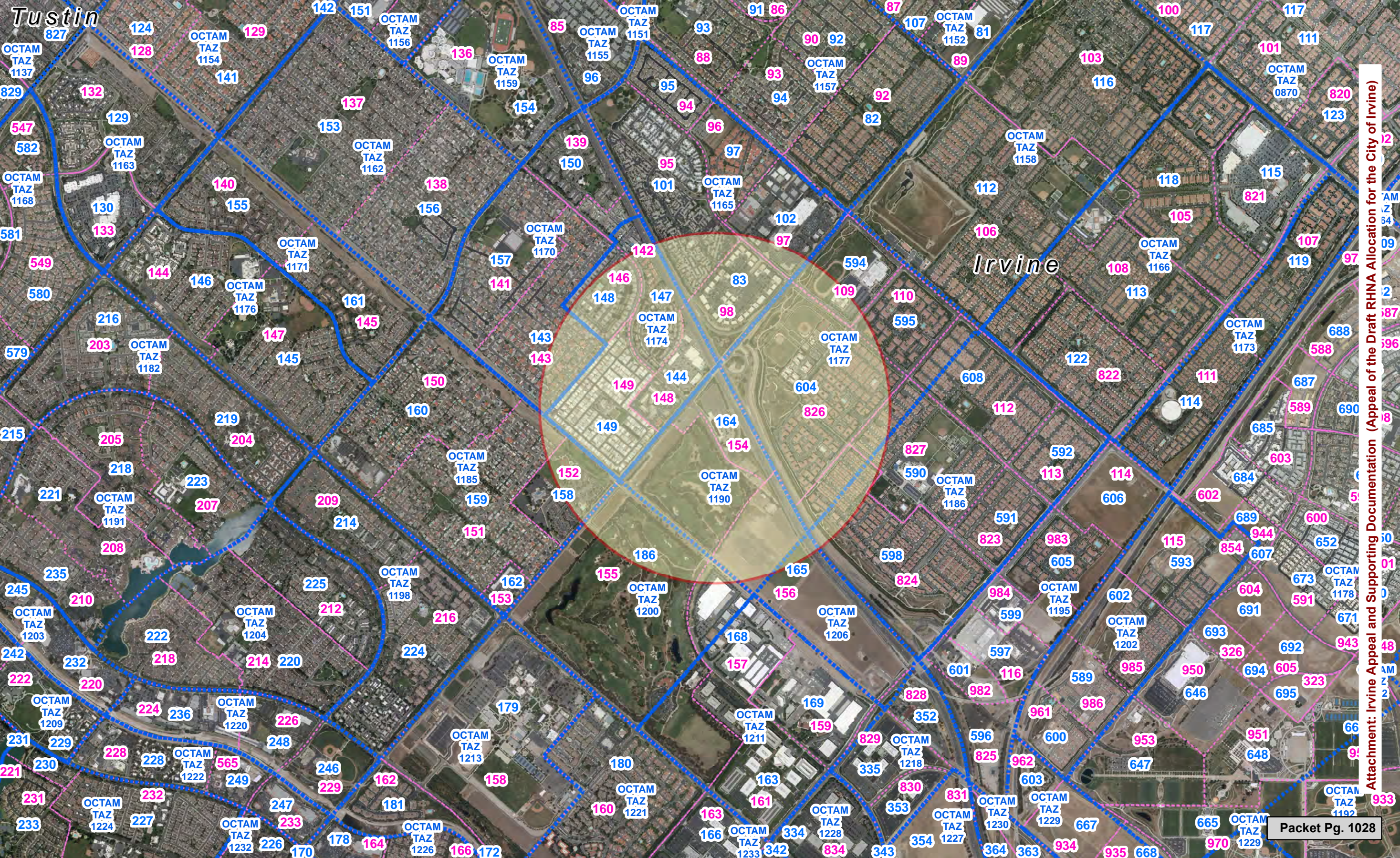
Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)



Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

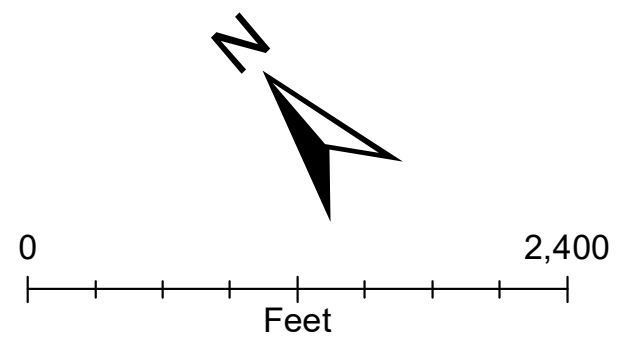
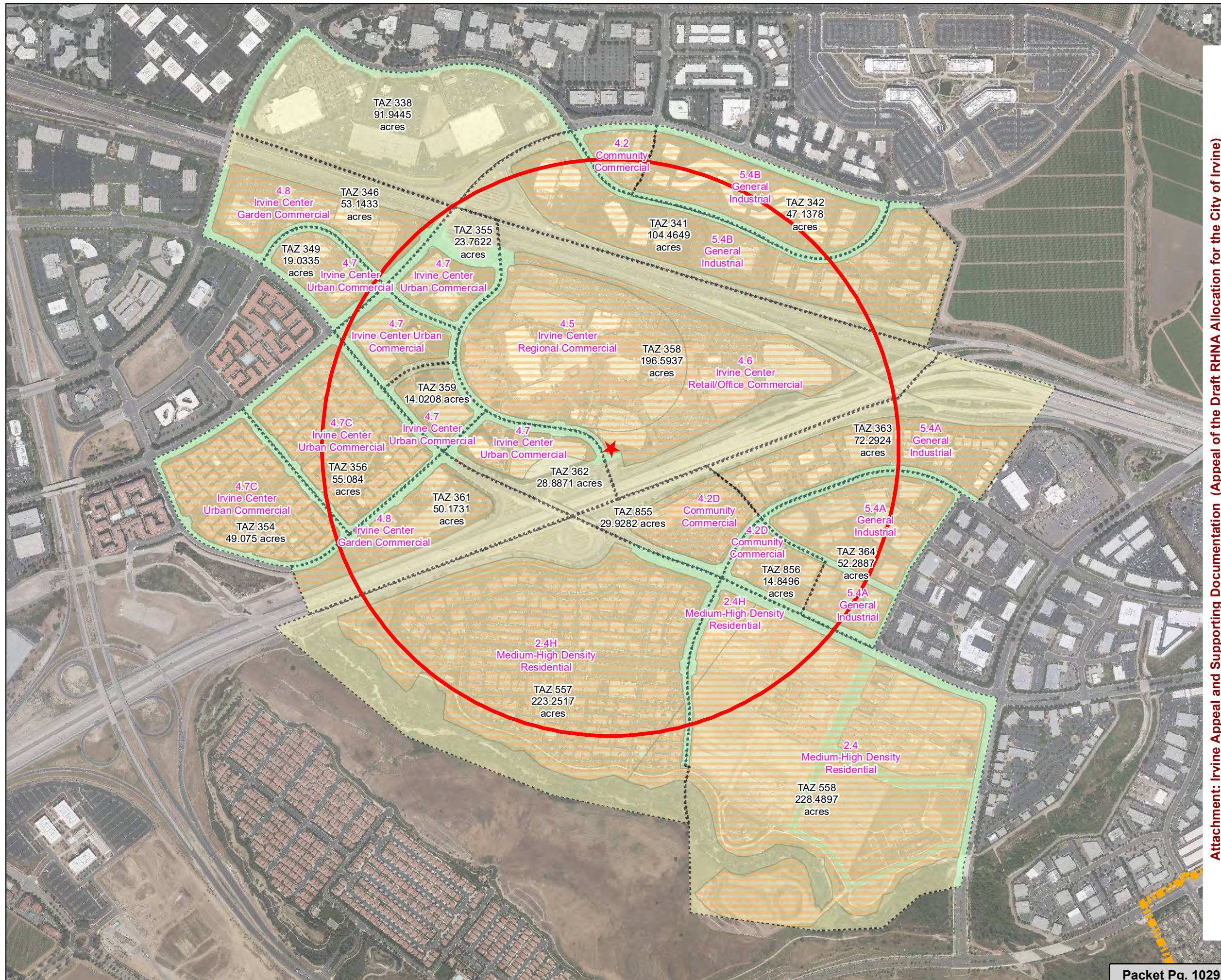
-  Jeffery Park & Ride
-  .5 Miles from Jeffery Park & Ride
-  Traffic Analysis Zone
-  Zoning
-  City Boundary
-  Public ROW



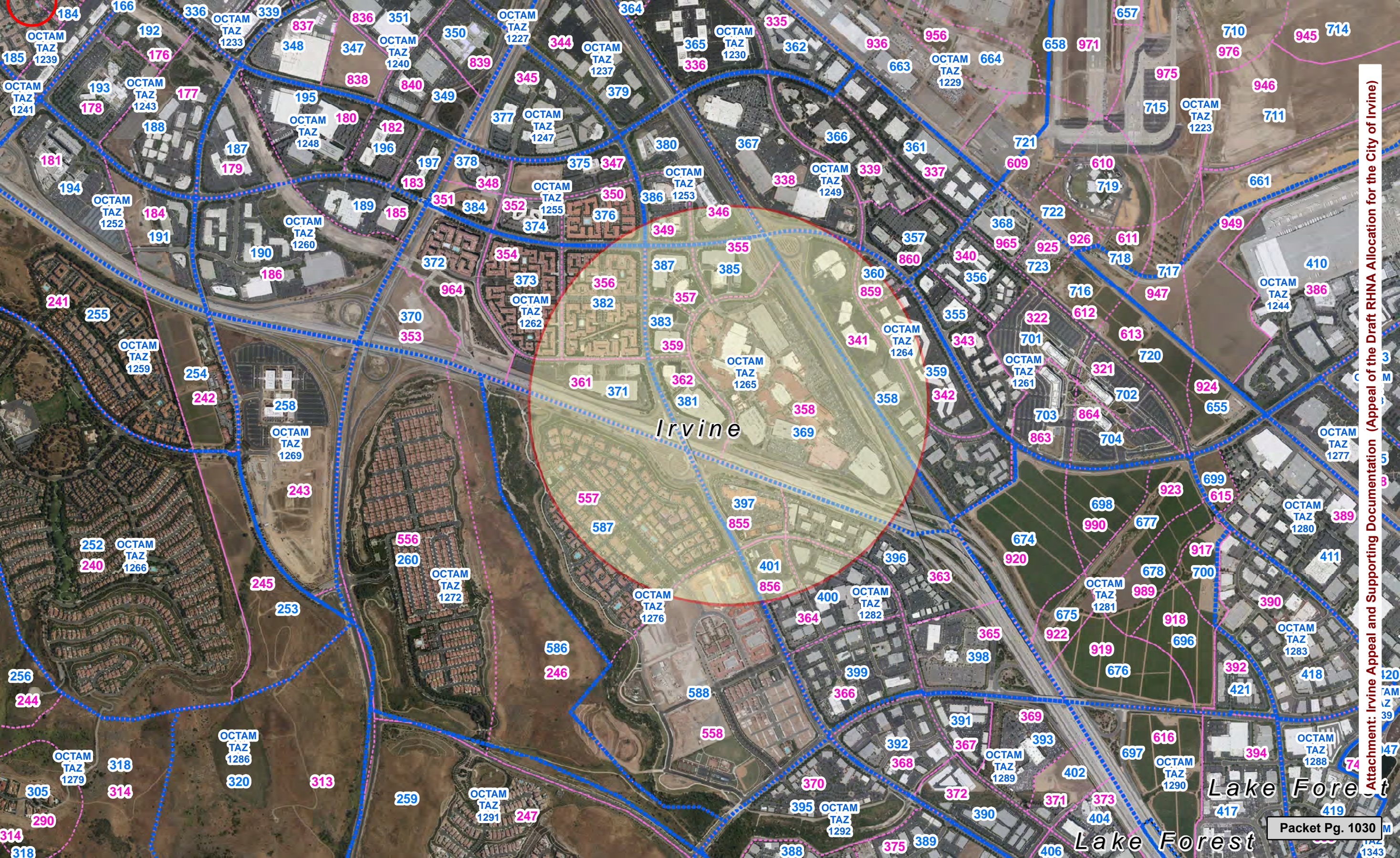


Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

-  **Spectrum Bus Stop**
-  **.5 Miles from Bus Stop**
-  **Traffic Analysis Zone**
-  **Zoning**
-  **City Boundary**
-  **Public ROW**







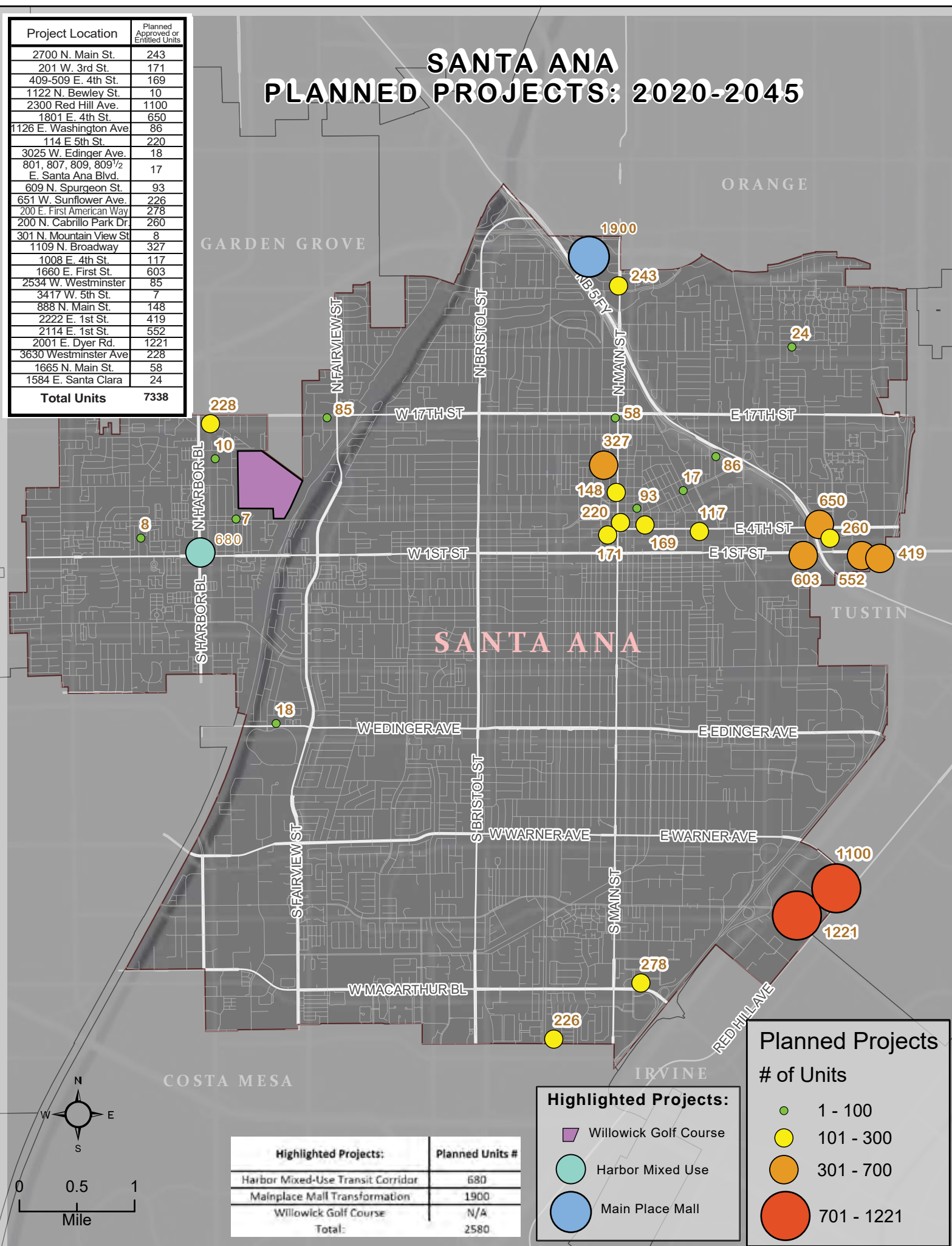
Irvine

Lake Forest

Lake Forest

Project Location	Planned Approved or Entitled Units
2700 N. Main St.	243
201 W. 3rd St.	171
409-509 E. 4th St.	169
1122 N. Bewley St.	10
2300 Red Hill Ave.	1100
1801 E. 4th St.	650
1126 E. Washington Ave	86
114 E 5th St.	220
3025 W. Edinger Ave.	18
801, 807, 809, 809 1/2 E. Santa Ana Blvd.	17
609 N. Spurgeon St.	93
651 W. Sunflower Ave.	226
200 E. First American Way	278
200 N. Cabrillo Park Dr.	260
301 N. Mountain View St.	8
1109 N. Broadway	327
1008 E. 4th St.	117
1660 E. First St.	603
2534 W. Westminster	85
3417 W. 5th St.	7
888 N. Main St.	148
2222 E. 1st St.	419
2114 E. 1st St.	552
2001 E. Dyer Rd.	1221
3630 Westminster Ave	228
1665 N. Main St.	58
1584 E. Santa Clara	24
<b>Total Units</b>	<b>7338</b>

# SANTA ANA PLANNED PROJECTS: 2020-2045



Highlighted Projects:	Planned Units #
Harbor Mixed-Use Transit Corridor	680
Mainplace Mall Transformation	1900
Willowick Golf Course	N/A
<b>Total:</b>	<b>2580</b>

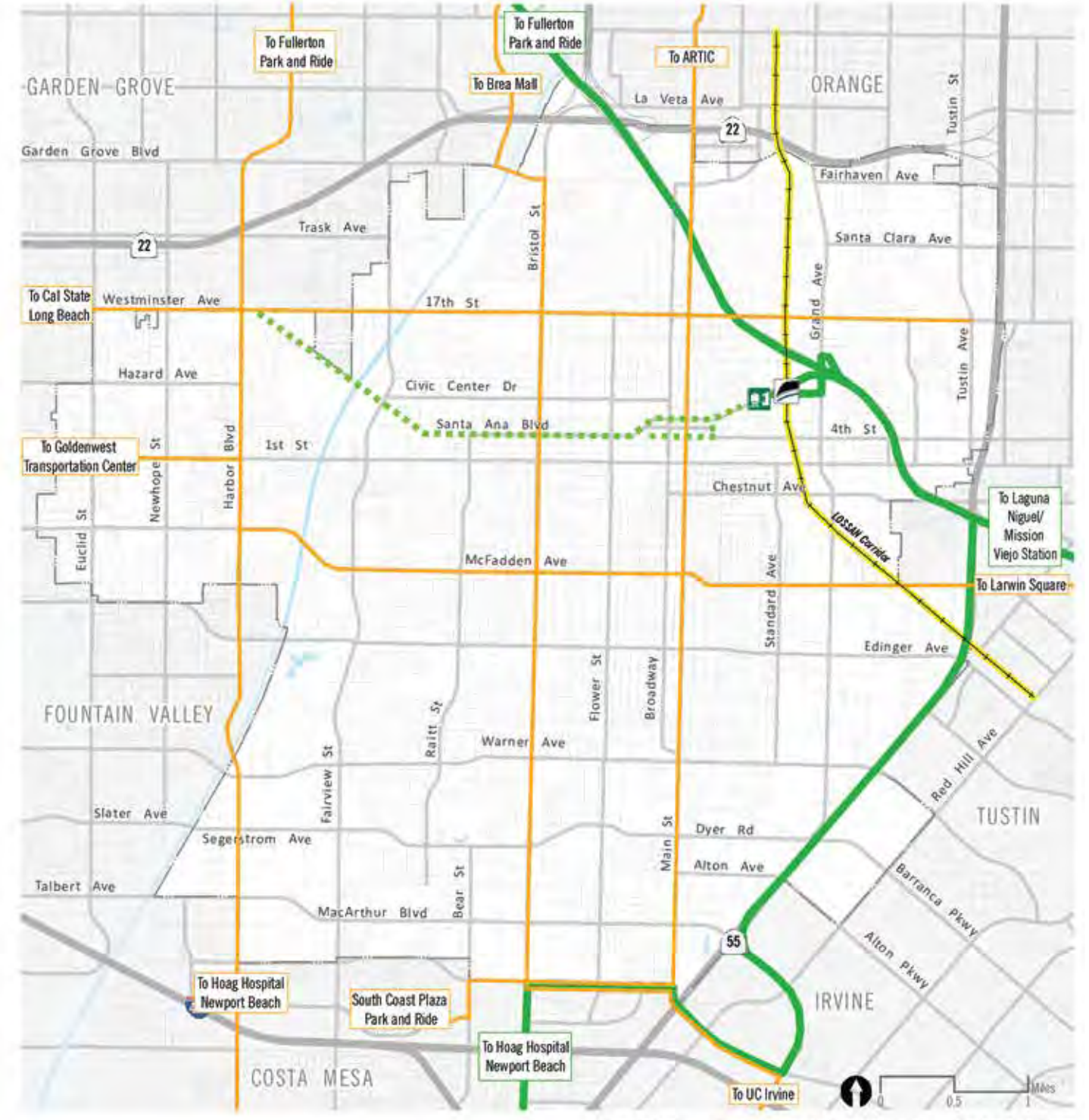
**Highlighted Projects:**

- Willowick Golf Course
- Harbor Mixed Use
- Main Place Mall

**Planned Projects # of Units**

- 1 - 100
- 101 - 300
- 301 - 700
- 701 - 1221

**ABOUT THE MAP.** This map shows the long-term plans of the City and regional transit operators to expand and enhance ways for people to travel within, to, and from Santa Ana by rail, streetcar, and bus. OCTA Transit and Freeway Transit Opportunity Corridors represent bus rapid transit lines; other OCTA bus lines (not shown) run along most major streets in the city.



Source: OCTA OCstreetcar Overview, OCTA Transit Vision Plan (June 2020) Date Published: 9/20/2020

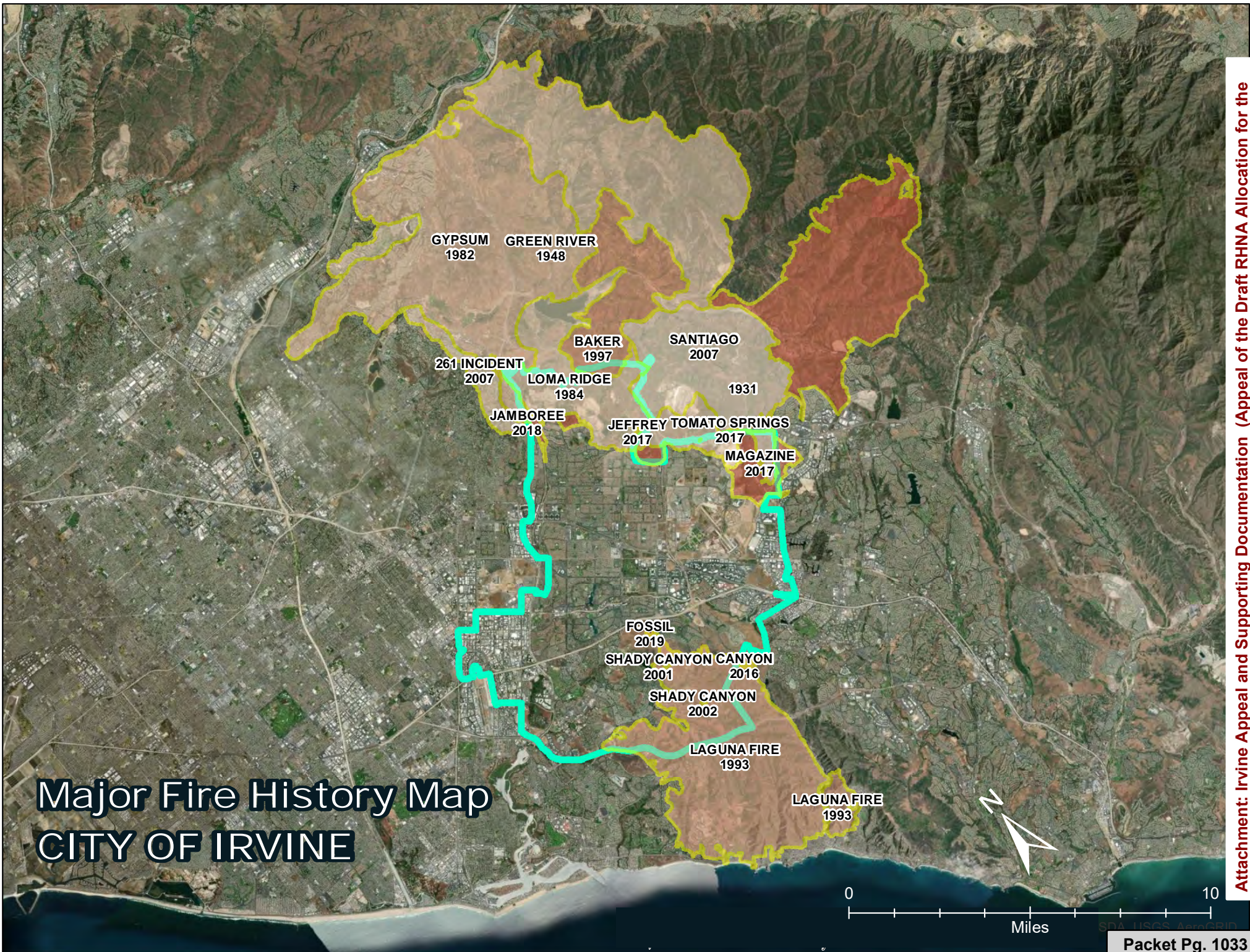
- OCTA Transit Opportunity Corridor
- OCTA Freeway Transit Opportunity Corridor
- Future Alignment of OC Street Car
- Santa Ana Regional Transportation Center
- Metrolink and Amtrak Commuter Rail
- Metrolink Station

\\c01-gisfile-pv\projects\CommDev\Poynter\_M\_SantaAna\_20201007\_kb Date Exported: 10/12/2020 2:33 PM

Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)


Project	DU	Unit type	Status	Application Date	Approval Date	Link
520 South Harbor	35	SFD	Entitlements Approved		Jun-15	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
888 N Main Street	148	Multi-Family Residential	Plan Check Review		Historic Resources	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1440 E First Street	64	Multi-Family Residential	Under Construction		CC - 5/3/2016	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2222 E First Street	419	Senior housing project	Under Construction		PC - 9/11/17	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2114 E First Street	552	affordable multi-family	Entitlements Approved		PC - 6/4/18	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1112 N Bewley Street	10	Condos (Single Family	Public Hearings		PC - 7/13/2020; CC -	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2300 S Red Hill Avenue (The Bowery)	1,150	Multi-Family Residential	Public Hearings	NOP -8/5/2019	CC - 8/18/2020	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
317 E 17th Street	56	permanent supportive housing	Under Construction		PC - 4/6/17; CC - 5/22/17	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1406 North Harbor Boulevard	38	for-sale townhomes (6 for mod	Completed		2015?	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
3025 West Edinger Ave	18	multi-family residential	Entitlements Approved		PC - 5/13/19; CC 6/4/19	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
609 North Spurgeon Street	93	affordable residential units	Entitlements Approved		CC-2/19/19	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
651 W. Sunflower Ave.	226	Apartments	Entitlements Approved		CC- 1/18/19	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
200 E. First American Way	278	Multi-Family Residential	Tentative Parcel Map was		PC - 1/16/19	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
3630 Westminster Ave.	228	apartment	Under Construction		PC - 1/25/16	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
200 N. Cabrillo Park Dr.	260	6-story mixed use	Tolling Agreement		CC - 6/5/18	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2525 N. Main St.	256	Multi-Family Residential	Litigation			<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2800 North Main Street	1,900	Multi-Family Residential	Entitlements Approved		CC - 6/4/19	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1666 N. Main St.	58	Multi-Family Residential	Under Construction		PC - 5/9/16	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
301 N. Mountain View St.	8	Condos	N/A		Tentatively Scheduled	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2700 N. Main St.	243	Multi-Family Residential	TDB		TBD	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2223 W Fifth Street	51	Multi-Family Residential	Under Construction		CC - 1/16/2018	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1008 E 4th Street	117	single family residential	Entitlements Approved		CC - 2/20/18	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
Tribella Homes	110	15 live/work and 95 SFD	Under Construction			<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1660 E. First St.	603	Multi-Family (Mixed-Use)	Entitled		10/22/2018	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2534 West Westminster Avenue	85	Multi-Family Residential	N/A		TBD	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
201 W. 3rd St.	171	Multi-Family Residential	N/A		PC - 9/24/2020; CC- TBD	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
409-509 E. 4th St.	169	Multi-Family Residential	N/A		PC - 10/12/2020; CC	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1801 E. 4th St.	650	Multi-Family Residential	N/A		TDB	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1126 E. Washington Ave.	86	Multi-Family Residential	Development Project			<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
114 E. 5th St.	220	Multi-Family Residential	Plan Check Review		PC - 10/28/19; CC-	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
801, 807, 809, 809	17	Multi-Family Residential	Development Project			<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1109 N. Broadway	327	Multi-Family Residential	Development Project			<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
2001 E. Dyer Rd.	1221	Multi-Family Residential	Under Construction		CC- 2/2/16	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
1584 E. Santa Clara	24	SFD	Under Construction		CC - 9/2/14	<a href="https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-">https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-</a>
	9891					

# Major Fire History Map CITY OF IRVINE



# ITAM PROJECT VMT SUMMARY REPORT

V 1.1-071820

	PROJECT INFORMATION	Project #:	1	
		Name:	-	
		Description:	127k DU	
		Type:	Residential	
			Baseline	Project
Vehicle Miles Travelled (VMT)	ORANGE COUNTY	Total	139,318,384	146,584,560
		Population	56,348,927	63,218,666
		Employment	82,969,450	83,365,898
Population and Employment	ORANGE COUNTY	Population	3,219,593	3,566,896
		Employment	1,706,388	1,706,388
Δ VMT (With Project - No Project)	ORANGE COUNTY	Total		7,266,176
		Population		6,869,739
		Employment		396,448
Δ Population & Employment Caused by Project	ORANGE COUNTY	Population		347,303
		Employment		-
VMT Rate Threshold Goal <sup>1</sup>	ORANGE COUNTY	Residential	14.88	
		Non-Residential	41.33	
Project Δ VMT Rate <sup>1</sup>	ORANGE COUNTY	Residential	1	19.78
		Non-Residential	2	
			Applicable Measure(s)	19.78
			Threshold Goal	14.88
			Net VMT Rate Percentage Increase <sup>2</sup>	24.77%
			Mitigation required?	Yes

MITIGATION MEASURES		
On-Site	<input type="checkbox"/>	2.5%
Off-Site	<input type="checkbox"/>	5.0%
Additional Mitigation <sup>3</sup>	<input type="checkbox"/>	
<b>Significant VMT Impact?</b>		<b>24.8%</b> <b>YES</b>

**Notes:**

- 1- Both Residential and Non-Residential VMT Rates are calculated based on the County VMT and SED.
- 2- For Mixed-Use projects, the "Net VMT Rate Percentage Increase" is based on the higher of Residential or Non-Residential VMT rate.
- 3- Sufficient justification must be provided to support additional mitigation.

Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

*read at beginning public comment*

Marika A Poynter, AICP, Senior Planner   
City of Irvine, Community Development Department  
May 6, 2019

The City of Irvine requests the RHNA Subcommittee consider the following recommendations:

For Item 6: SCAG should propose a regional determination of 430,000 for the 6<sup>th</sup> RHNA Cycle. This eight-year regional projection incorporates input from local jurisdictions that already incorporates existing need and future projected need. The proposed original determination of approximately 430,000 is consistent with the local input utilized in the draft SCS. All numbers, tables, and discussion regarding existing need as a separate calculation should be removed from the HCD consultation package.

For Item 7: No action should be taken on the social equity adjustment until after HCD provides SCAG with the regional housing allocation. As a jurisdiction, we are unable to analyze the true impact of the social equity adjustment until the regional allocation is confirmed. If a decision on a social equity adjustment factor is required prior to HCD's regional distribution, the City of Irvine supports a social equity adjustment of 110%, consistent with the 4<sup>th</sup> and 5<sup>th</sup> RHNA Cycles.

The City of Irvine formally requests SCAG provide an Excel table that identifies the following variables by all the jurisdictions in the SCAG region:

- a. Cost burden
- b. Healthy vacancy rate
- c. Overcrowding
- d. Share of the region's population
- e. Share of the region's population within the high quality transit areas (HQTAs)



October 4, 2019

Honorable Peggy Huang, Chair  
Regional Housing Needs Assessment Subcommittee  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017

**Subject: Regional Housing Needs Assessment (RHNA) Methodology**

Honorable Chair Huang and Honorable Members of the Regional Housing Needs Assessment (RHNA) Subcommittee:

The City of Irvine expresses its appreciation to the RHNA Subcommittee; Community, Economic and Human Development (CEHD) Policy Committee; Regional Council; and the Southern California Association of Governments (SCAG) staff for their efforts in attempting to establish an equitable RHNA that complies with new state housing law and addresses the state's housing crisis. In particular, the City of Irvine appreciates the use of local input for several factors in the new SCAG staff recommended RHNA methodology.

The late release of the SCAG staff-recommended RHNA allocation is a departure from the spirit of transparency and collaboration that has marked the process to date. The sixth RHNA cycle has been years in the making, yet the recommended methodology is only being shared with the public and the affected jurisdictions a couple of weeks before it is to be voted on. Further, the calculation tool that allows City's to see their estimated allocation was released three working days prior to vote of the subcommittee. Beyond the general concerns about lack of transparency, the City of Irvine has several specific concerns due to significant late changes to the methodology and lack of sufficient vetting of newly included data, as outlined below.

- 1. Data accuracy is critical to any selected RHNA methodology. With the staff-recommended option, new elements have been added to the methodology that have not had the opportunity for technical vetting, especially by affected jurisdictions and agencies. As such, the City of Irvine cannot currently support the use of any data not previously reviewed, verified, and corrected by the jurisdictions. Specifically, new data elements associated with 2045 transit accessibility and jobs accessibility were introduced with the release of the new RHNA methodology for the staff-recommended option, as part of the RHNA Subcommittee staff report on October 2, 2019. This is not adequate time to review the data and methodology assumptions and the City of Irvine recommends that no decision on the methodology**

**should be made until after jurisdictions have the opportunity to verify all new data and assumptions.**

- 2. The City of Irvine has concern that the job accessibility factor has not been adequately reviewed and verified.**

As noted in Comment 1 above, the jobs accessibility factor dataset has not been reviewed or verified by local jurisdictions. Specifically, there is not a definition nor an explanation of what a jurisdiction's "median" traffic analysis zone is, and how it was determined for each jurisdiction. The City of Irvine would appreciate a discussion on the approach that has been used. Also, the job accessibility factor is solely based on the region's jobs within a 30-minute auto commute. The City of Irvine recommends the jobs accessibility factor should be recalculated to include jobs located within a 30 minute commute of all transportation modes.

- 3. The City of Irvine does not agree with the methodology utilized to determine the transit accessibility factor.**

In reviewing the data provided on page 19 of 210 in the Draft RHNA Methodology Data Appendix, the total acreage in the City of Irvine located within a half mile of a High Quality Transit Area (HQTA) increases from 781 acres or 1.9 percent of Irvine's total acreage in 2016 to 8,081 acres or 19.20 percent of Irvine's total acreage in 2045. This significant increase appears to be related to the inclusion of the Interstate 5 Corridor – Freeway Bus Rapid Transit (BRT) between the Fullerton Park-and-Ride and the Mission Viejo/Laguna Niguel Metrolink station. The City of Irvine finds this increase in acres included in a 2045 HQTA to be inappropriately overestimated, for the reasons noted below:

- This specific Bus Rapid Transit Line is located within the Interstate 5 freeway, not along an arterial. The City of Irvine objects to the entire Interstate 5 corridor being identified as a viable HQTA, since stops have not been identified by the Orange County Transportation Authority (OCTA), and there has been no assessment or determination on how users would access the freeway service, until applicable studies have commenced. OCTA has identified the Interstate 5 BRT will begin at the Fullerton park-and-ride and will terminate at the Mission Viejo/Laguna Niguel Metrolink station; therefore, these should be the only two known Transit Priority Areas associated with this route. Intermediate stops along the Interstate 5 corridor BRT route have not been determined and will not be determined in the near future. Inclusion of all the areas within a half of mile of the proposed BRT corridor line itself, as currently assumed, is not appropriate. It assumes that all the population along that one-half mile zone has access to the BRT line within the one-half mile zone. With no determination of the access points to the freeway BRT line, that conclusion cannot be supported. Additionally, there is no information on where the one-half mile HQTA is measured from (center line or edge of



the freeway right-of-way) and how the population was calculated. It is unclear whether the entire acreage and population within the impacted traffic analysis zone (TAZ) was included or only the percentage of the acreage and the population within the one-half mile HQTAs corridor..

As an alternative, the City of Irvine supports the inclusion of a transit accessibility factor, but it should be based on the 2045 Transit Priority Area (TPA) and not the BRT planned for the Interstate 5 corridor

#### 4. Redistribution of Housing Units

With regard to successful appeals and resulting redistribution of housing units, has SCAG given full consideration as to the methodology for redistributing housing units that are successfully appealed? There are a myriad of scenarios that could unfold. For example, will jurisdictions that successfully file an appeal to their RHNA be exempt from receiving additional housing units successfully appealed by other jurisdictions in the region? Will the appeals process be based on the methodology utilized to distribute the "residual" units? This is an issue that needs to be discussed as part of the RHNA planning process.

In conclusion, the City of Irvine implores SCAG to preserve the integrity of the local input process in establishing any RHNA methodology. Additionally, all jurisdictions within the SCAG region should be given adequate time to review and verify all datasets utilized in determining the RHNA allocation.

The City recognizes and appreciates the time and effort provided by all those involved in this important and complex issue and for your consideration of those items. Please work to ensure the integrity of the process by providing adequate transparency and vetting of key data. Let us know if you need any additional clarification or have any questions by contacting Principal Planner Marika Poynter at [mpoynter@cityofirvine.org](mailto:mpoynter@cityofirvine.org) or 949-724-6456.

Sincerely,



Christina Shea  
Mayor

cc: City Council  
John Russo, City Manager  
Marianna Marysheva, Assistant City Manager  
Pete Carmichael, Director of Community Development  
Tim Gehrich, Deputy Director of Community Development

Honorable Peggy Huang  
October 4, 2019  
Page 4 of 4

Steve Holtz, Manager of Neighborhood Services  
Kerwin Lau, Manager of Planning Services  
Marika Poynter, Principal Planner  
Kome Ajise, Executive Director, Southern California Association of Governments  
Sarah Jepson, Director of Planning, Southern California Association of  
Governments  
Marnie Primmer, Executive Director, Orange County Council of Governments  
[housing@scag.ca.gov](mailto:housing@scag.ca.gov)



February 20, 2020

Mr. Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, California 90017  
housing@scag.ca.gov

**Subject: Request to the Southern California Association of Governments (SCAG) to Amend the Regional Housing Needs Assessment (RHNA) Methodology for the 6<sup>th</sup> Cycle**

Dear Mr. Ajise:

The City of Irvine requests that SCAG amend the RHNA methodology to reinstate local input as a factor in the existing need portion of the calculation. The City of Cerritos recently submitted a proposal dated February 4, 2020, which recommends that household growth forecasts be reintroduced back into the calculations for the existing needs calculation as follows: household growth (33.3 percent), job accessibility (33.3 percent), and population within high quality transit areas (33.3 percent). These household growth projections are an important factor in that they take into consideration the unique characteristics of each jurisdiction. Moreover, these growth projections more closely align the RHNA with the development pattern established within Connect SoCal as required by state statute. Finally, as stated in the staff-recommended RHNA methodology within the staff report for the November 7, 2019 Regional Council meeting, the reintroduction of household growth into the existing need would further the five objectives of state housing law. The objectives include: increasing the housing supply and mix of housing types; promoting infill development; promoting an improved intraregional relationship between jobs and housing; ensuring social equity; and, affirmatively furthering fair housing (AFFH).

The City also requests also request that SCAG object again to the Department of Housing and Community Development's (HCD) regional determination based on the fact that it did not follow state law in its development of this number and did not utilize the growth forecast based on local input [see Government Code Section 65584.01(a)]. Furthermore, The Department of Finance recently updated its population projections and shows a significant decrease relative to its previous forecast. Governor Newsom has also stated that his commitment to building 3.5

Mr. Kome Ajise  
February 20, 2020  
Page 2

million homes by 2025 was a “stretch goal” and that the state would soon be releasing a more pragmatic estimate of the housing needs by region. The regional determination of 1.34 million housing units combined with the inequitable RHNA methodology, which does not include local input, are setting up local jurisdictions for failure to comply with state housing law.

We request that the RHNA Subcommittee, CEHD Policy Committee, and Regional Council consider these two recommendations prior to the adoption of the RHNA. We recognize that there are time constraints established by state law; however, the RHNA will have significant impacts on jurisdictions over the next decade. Therefore, it is imperative that the RHNA be finalized in a way that is equitable and attainable in responding to the housing crisis.

Sincerely,



Pete Carmichael  
Director of Community Development

cc: Irvine City Council  
John Russo, City Manager



September 18, 2020

The Honorable Rex Richardson,  
President  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

Dear President Richardson:

On behalf of thirty-two cities in Orange County, we, the mayors respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States."). Further, the Embarcadero Institute, a non-profit policy analysis organization, just released a September 2020 Report – "Double Counting in the Latest Housing Needs Assessment" – that questions whether State HCD's use of an incorrect vacancy rate and double counting has exaggerated the RHNA for the SCAG region, San Diego, the Bay Area and Sacramento area by more than 900,000 units (Attachment 3).

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:

- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.

Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,



**Mike Munzing**  
Mayor  
City of Aliso Viejo



**Harry Sidhu**  
Mayor  
City of Anaheim



**Marty Simonoff**  
Mayor  
City of Brea



**Fred Smith**  
Mayor  
City of Buena Park



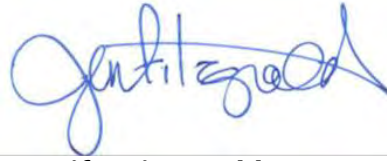
**Katrina Foley**  
Mayor  
City of Costa Mesa



**Rob Johnson**  
Mayor  
City of Cypress



**Cheryl Brothers**  
Mayor  
City of Fountain Valley



**Jennifer Fitzgerald**  
Mayor  
City of Fullerton



**Steven R. Jones**  
Mayor  
City of Garden Grove



**Lyn Semeta**  
Mayor  
City of Huntington Beach



**Christina Shea**  
Mayor  
City of Irvine



**Tom Beamish**  
Mayor  
City of La Habra



**Peter Kim**  
Mayor  
City of La Palma



**Bob Whalen**  
Mayor  
City of Laguna Beach



**Janine Heft**  
Mayor  
City of Laguna Hills



**Laurie Davies**  
Mayor  
City of Laguna Niguel



**Noel Hatch**  
Mayor  
City of Laguna Woods



**Neeki Moatzedi**  
Mayor  
City of Lake Forest



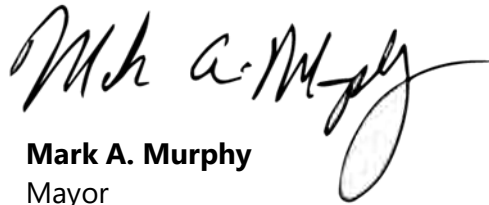
**Richard D. Murphy**  
Mayor  
City of Los Alamitos



**Brian Goodell**  
Mayor  
City of Mission Viejo



**Will O'Neill**  
Mayor  
City of Newport Beach



**Mark A. Murphy**  
Mayor  
City of Orange



**Ward Smith**  
Mayor  
City of Placentia



**Bradley J. McGirr**  
Mayor  
City of Rancho Santa Margarita




**Troy Bourne**  
Mayor  
City of San Juan Capistrano



**Miguel A. Pulido**  
Mayor  
City of Santa Ana





**Schelly Sustarsic**  
Mayor  
City of Seal Beach



**David J. Shawver**  
Mayor  
City of Stanton



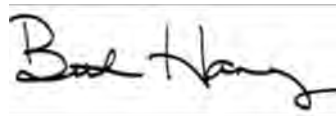
**Allan Bernstein**  
Mayor  
City of Tustin



**Robbie Pitts**  
Mayor  
City of Villa Park



**Tri Ta**  
Mayor  
City of Westminster



**Beth Haney**  
Mayor  
City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need
3. Embarcadero Institute Report: Updated September 2020

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair  
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors  
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors  
Mayor Pro Tem Michael Carroll, OC Representative SCAG's RHNA Litigation Study Team  
Orange County Representatives on SCAG Policy Committees and Regional Council  
Kome Ajise, SCAG Executive Director  
Orange County City Managers Association  
Orange County Mayors  
Marnie O'Brien Primmer, OCCOG Executive Director  
Nate Farnsworth, OCCOG TAC Chair



FEBRUARY 2020

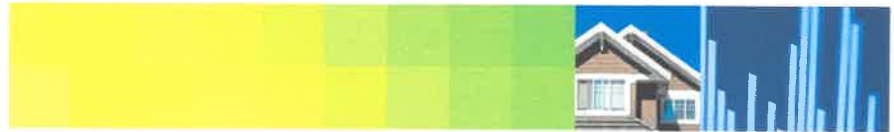
## The Housing Supply Shortage: State of the States

The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



### Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates ( $v^*$ ). Second, we need an estimate of the target number of households ( $h^*$ ).<sup>1</sup> The estimates of  $v^*$  and  $h^*$  give an estimate of housing demand ( $k^*$ ) using the formula:

$$k^* = \frac{h^*}{1 - v^*} \text{ Eq(1)}$$

### Vacancy rates

As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates ( $v^*$ ), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for  $v^*$  because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

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<sup>1</sup> The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.

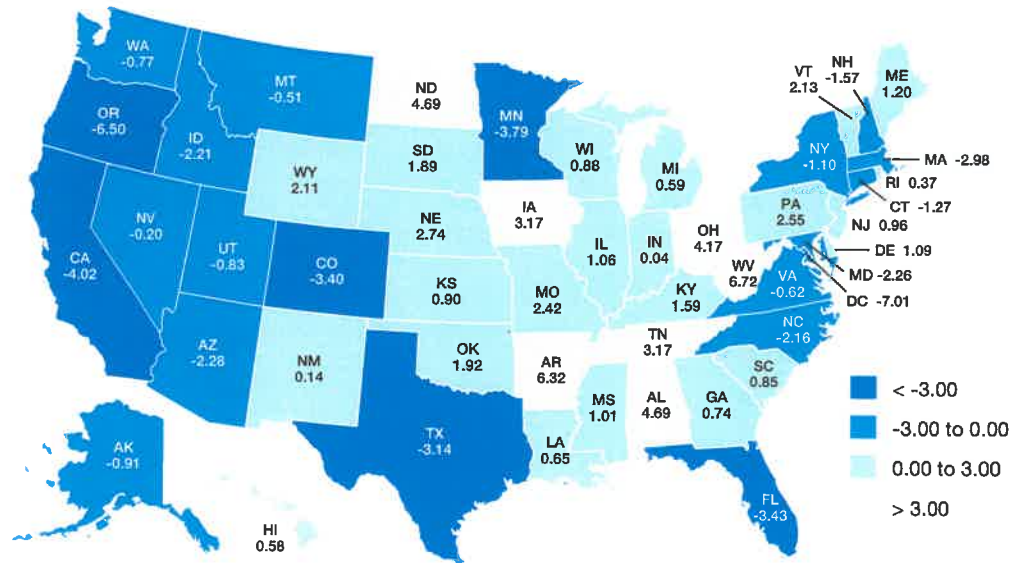


It is interesting to compare each state's long-term vacancy rate ( $v^*$ ) to recent estimates ( $v$ ). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

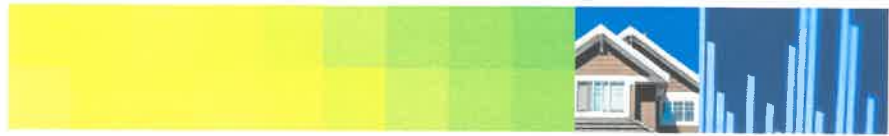
**Exhibit 1**

**Difference between 2018 vacancy rate and historical vacancy rate**

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



### Target households

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

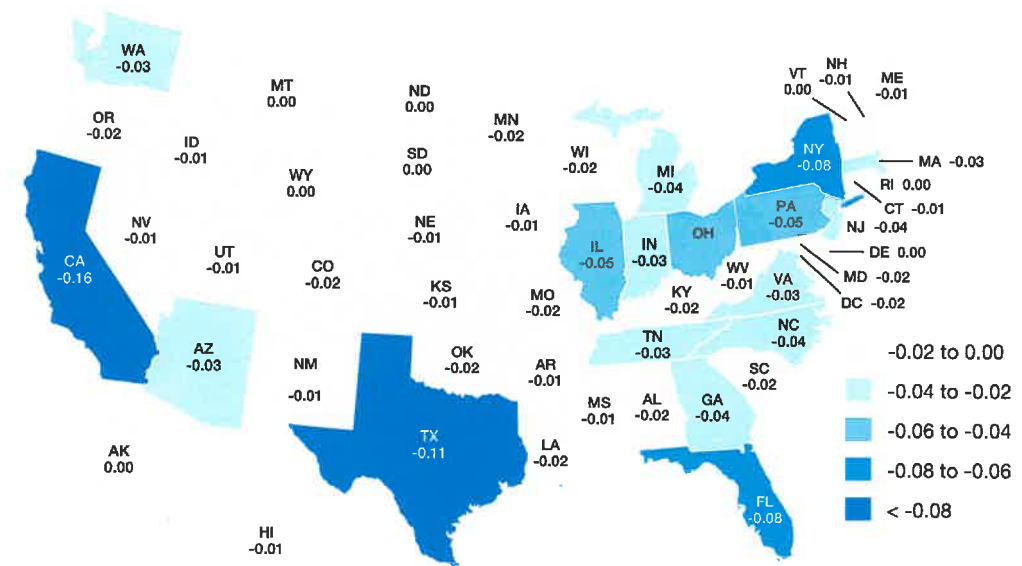
While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

Due to different age profiles, the share of missing households varies by state. **Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

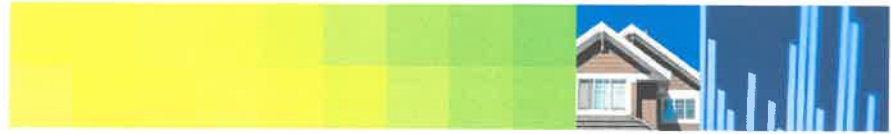
### Exhibit 2

#### Missing households due to high housing costs (millions)

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.



### Static estimate of housing deficit

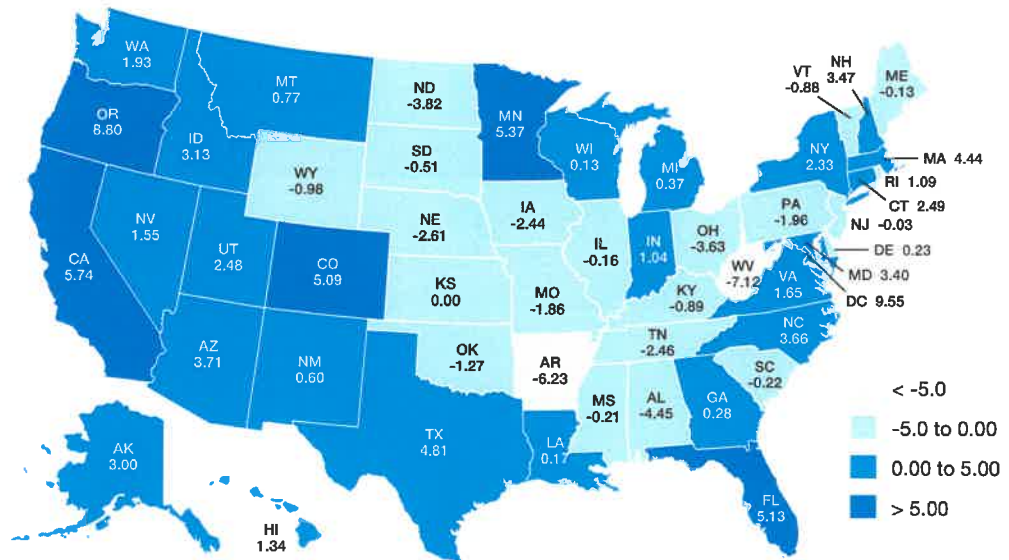
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).<sup>2</sup> Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

**Exhibit 3**

### Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

<sup>2</sup> The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.



### Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

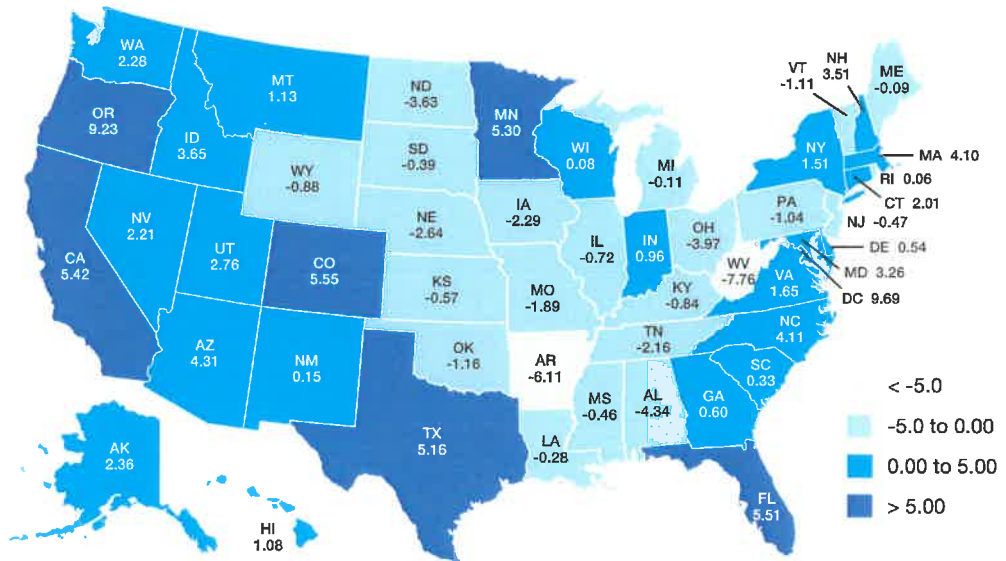
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (Exhibit 4).<sup>3</sup>

#### Exhibit 4

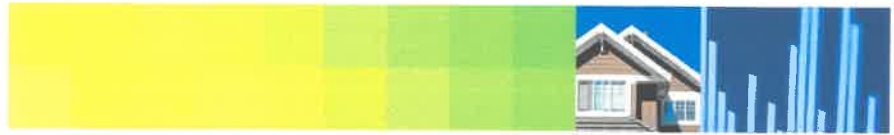
### Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

3 We used the average net migration flows between states from 2001 to 2017 for the past flows.



For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

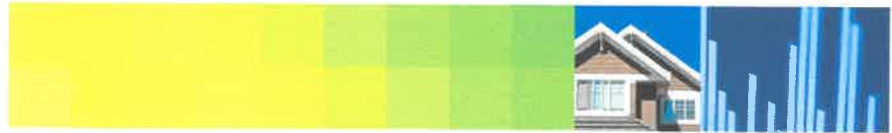
Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

### Conclusion

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.





## Appendix

### 1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody's analytics for the period from 1970 to 2000<sup>4</sup> and estimate the average vacancy rate for this period for each state.

$$VR_i = average(VR_i) \text{ for } 1970-2000,$$

where  $i$  is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership—Table 8—Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state's weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

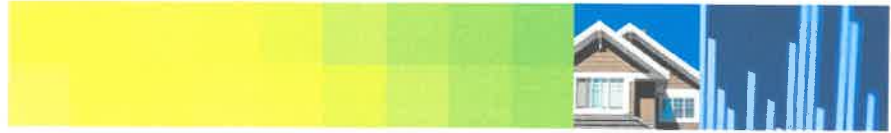
### 1.2 Estimating target households

We obtain the headship rates<sup>5</sup> for the year 2018 by state and by age for all the 50 states and District of Columbia.<sup>6</sup> We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey—Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where  $i$  is the state and  $j$  is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.<sup>7</sup>

### 1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

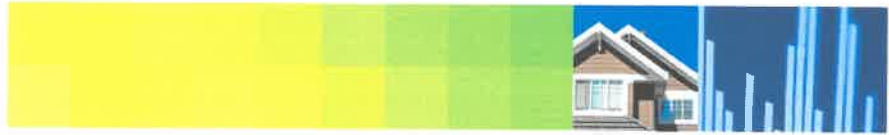
where  $i$  is the state,  $j$  is the five-year age buckets,  $I$  is the in-migrants, and  $O$  is the outmigrants.

To estimate the net outmigrants from states that have a  $NM < 0$ , we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,j}$$

where  $P_{i,j,out}^*$  is the total change in population (net out-migrants) for states that have net outmigration,

<sup>7</sup> These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$  is the net out-migrants by age group and state,

$\sum NM_{i,j}$  is the sum of the total out-migrants for the state, and

$P_{m,j}$  is the historical net domestic migration data from Moody.

The ratio of  $NM / \sum NM$  gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ( $P_{i,j,out}^*$ ) is then divided among the in-migrating states, given that the net flows for the country are 0.

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where  $\Delta P_{i,j,in}^*$  is the in-migrants to the state i from the outmigrants pool,

$SI$  is the share of the state in total in-migrants,

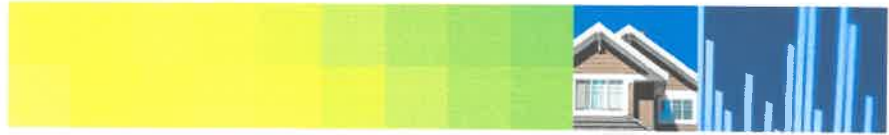
$SA$  is the share of the five-year age bucket in the total in-migrants, and

$\Delta P_{i,j,out}^*$  is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).



Economic & Housing Research **Insight**

**Prepared by the Economic & Housing Research group**

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Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

### Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.

Exhibit A

<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>				
1	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
2	- <i>Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			<b>-327,879</b>
3	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>	<b>20,397,998</b>		<b>6,668,498</b>
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 - 74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
4	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
5	+ Vacancy Adjustment (2.63%)			178,896
6	+ Overcrowding (6.76%)			459,917
7	+ Replacement Adjustment (0.50%)			34,010
8	- <i>Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</i>			-6,250,261
9	+ Cost-burden Adjustment ((Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
	<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>			<b>1,208,565</b>



September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Subject: SCAG’s Objection to HCD’s Regional Housing Need Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)’s formal objection to HCD’s Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

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Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*



SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### Improved Vacancy Rate Comparison

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

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<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

4. From our review, HCD's data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region's future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG's originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD's current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise  
Executive Director

Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1  
SCAG Alternative Determination**

1	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	<b>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</b>			<b>-327,879</b>
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>			
		<b>20,397,998</b>		<b>6,668,498</b>
	<b>under 15 years</b>	3,812,391		n/a
	<b>15 - 24 years</b>	2,642,548		147,005
	<b>25 - 34 years</b>	2,847,526		864,349
	<b>35 - 44 years</b>	2,821,442		1,304,658
	<b>45 - 54 years</b>	2,450,776		1,243,288
	<b>55 - 64 years</b>	2,182,421		1,116,479
	<b>65 -74 years</b>	1,883,181		1,015,576
	<b>75 - 84 years</b>	1,167,232		637,415
	<b>85+</b>	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	<b>+ Vacancy</b>	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		<b>0.14%</b>	9,335
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>823,808</b>

1	<b>OPTION B: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
	<b>Household Formation Groups</b>	<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
		<b>20,397,998</b>		<b>6,668,498</b>
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
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	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	+ Vacancy	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>2.00%</b>	<b>6.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.87%	2.70%	
	Vacancy Adjustment	30,433	85,540	115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (HCD minimum standard)		<b>0.50%</b>	33,340
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>47,724</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>920,772</b>

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>

**Option A: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	212,284
Low	15.1%	124,375
Moderate	17.1%	140,601
Above-Moderate	42.1%	346,547
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>
* Extremely-Low	14.6%	included in Very-Low Category

**Option B: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	231,084
Low	15.1%	135,390
Moderate	17.1%	159,982
Above-Moderate	42.1%	394,316
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>
* Extremely-Low	14.6%	included in Very-Low Category

*Income Distribution : Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*



**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

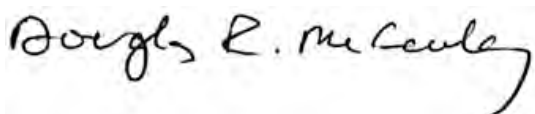
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Douglas R. McCauley  
Acting Director

Enclosures

ATTACHMENT 1

HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>				20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029				-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>				20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	<b>Projected Households (Occupied Unit Stock)</b>				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>					<b>1,341,827</b>

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



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# Double Counting in the Latest Housing Needs Assessment



[View PDF Report](#)



Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Irvine)



**Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030.**

But what if the math is wrong?

Senate Bill 828, co-sponsored by the Bay Area Council and Silicon Valley Leadership Group, and authored by state Sen. Scott Wiener in 2018, has inadvertently doubled the “Regional Housing Needs Assessment” in California.

Use of an incorrect vacancy rate and double counting, inspired by SB-828, caused the state’s Department of Housing and Community Development (HCD) to exaggerate by more than 900,000 the units needed in SoCal, the Bay Area and the Sacramento area.

The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets, but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.



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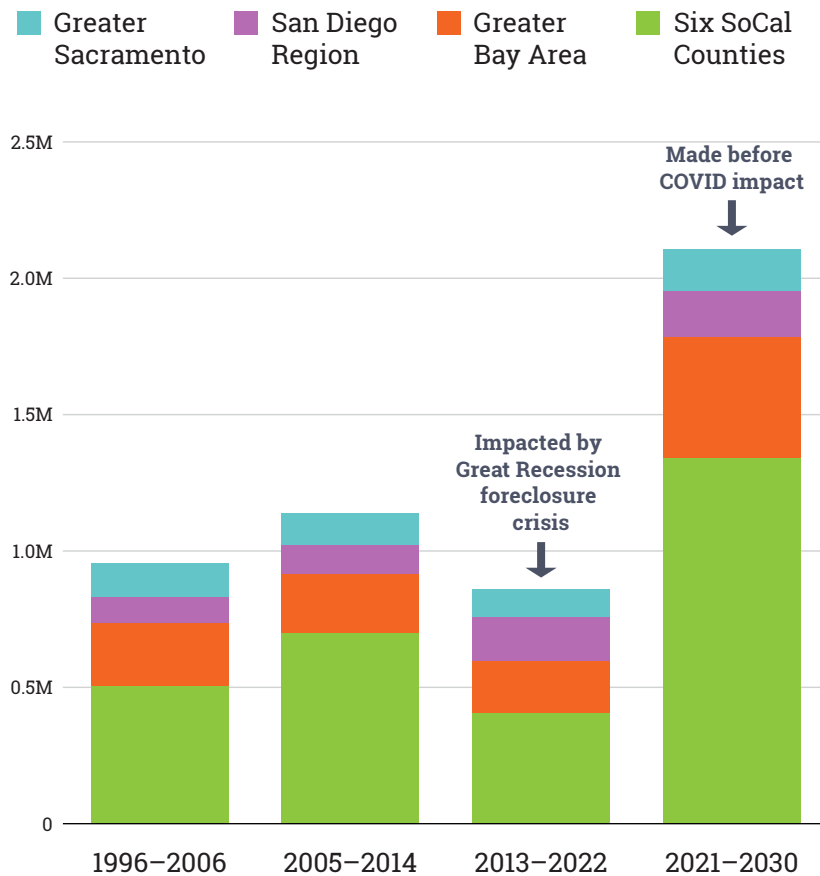
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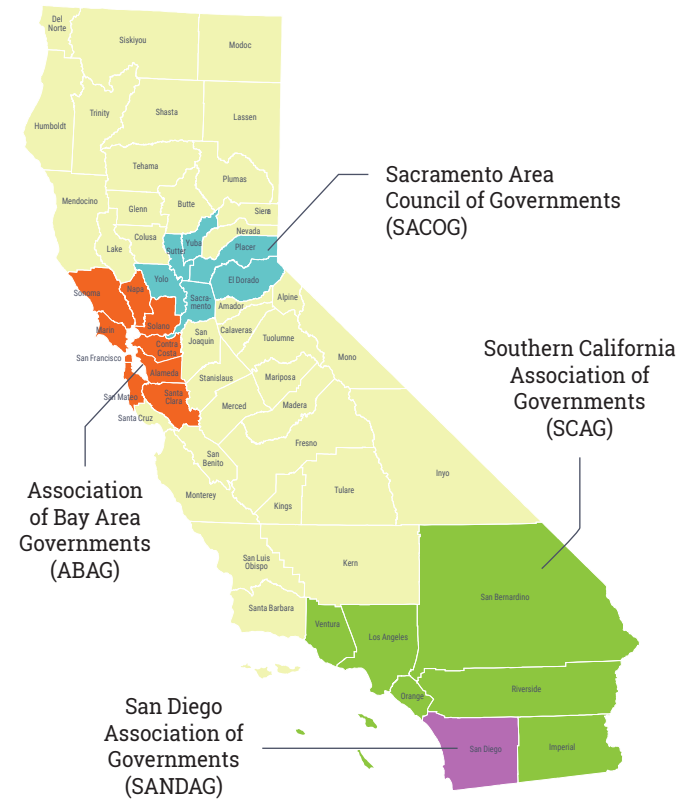
# Double counting (not surprisingly) doubled the assessed housing need for the four major planning regions.

Every five to eight years the Department of Housing and Community Development (HCD) supervises and publishes the results of a process referred to as the Regional Housing Needs Assessment (RHNA). Four regional planning agencies cover the 21 most urban counties and account for 80% of California’s housing. All four regions saw a significant jump in the state’s assessment of their housing need for the years 2021 to 2030.

**Housing Units Needed According to the State, (1996–2030)**



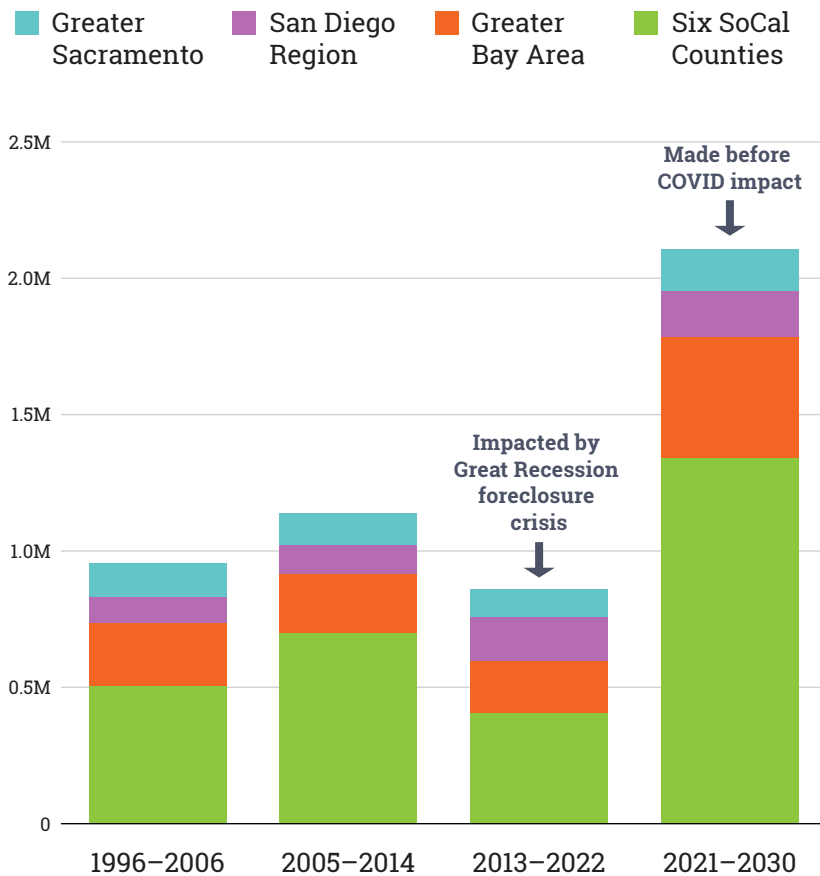
**Four Regions Contain 80% of the State’s Housing**



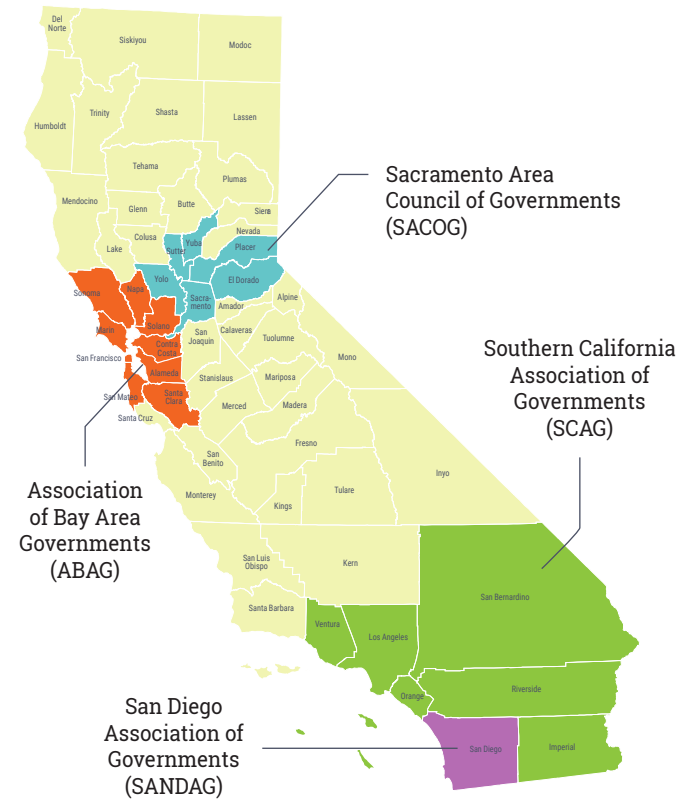
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The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets, but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.

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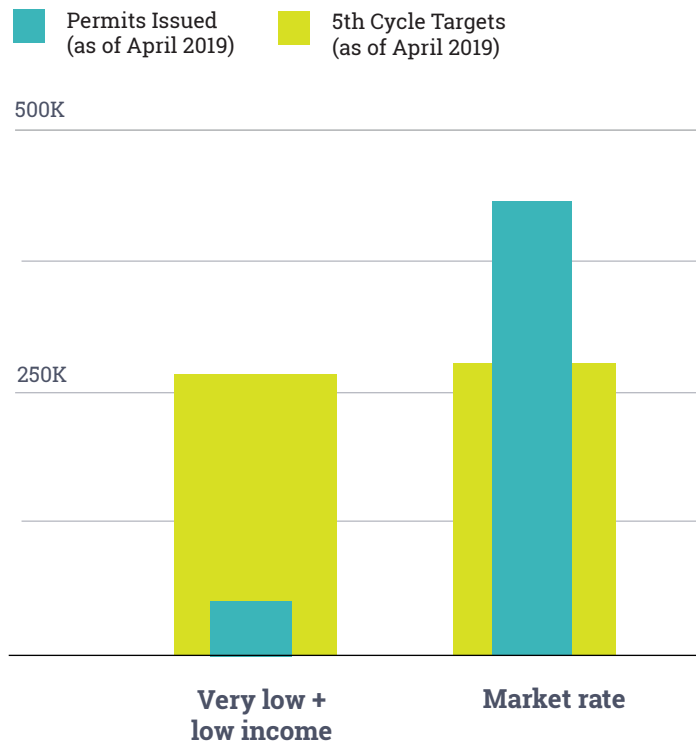
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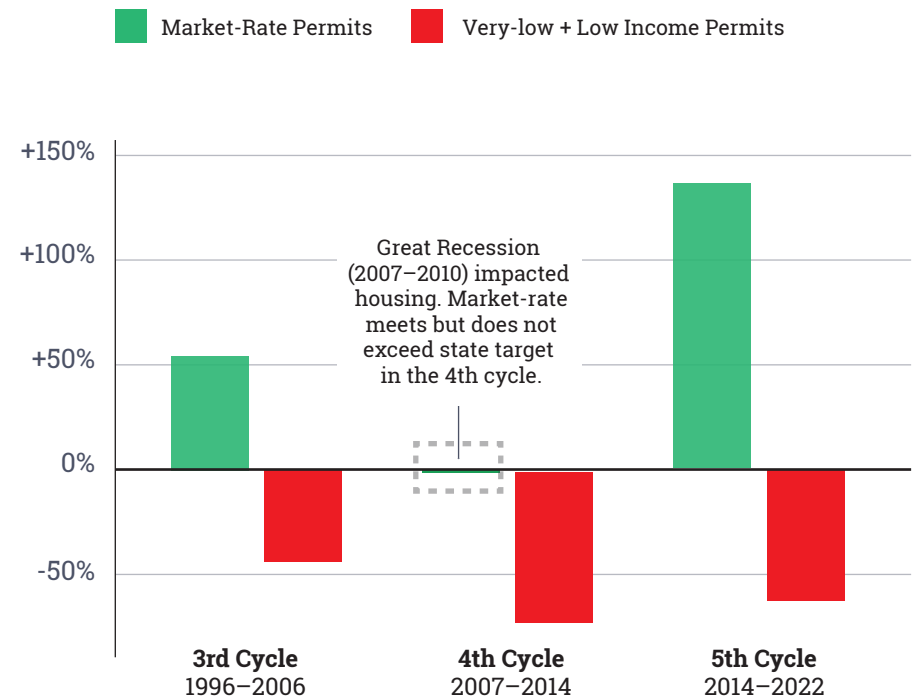
# The state's exaggerated targets unfortunately mask the real story: Decades of overachieving in market-rate housing has not reduced housing costs for lower income households.

The state has shown, with decades of data, that it cannot dictate to the market. The market is going to take care of itself. The state's responsibility is to take care of those left behind in the market's wake. Based on housing permit progress reports published by the Dept. of Housing and Community Development in July 2020, cities and counties in the four most populous regions continue to strongly outperform on the state's assigned market-rate housing targets, but fail to achieve even 20% of their low-income housing target. In the Bay Area where permit records have been kept since 1997, there is evidence that this housing permit imbalance has propagated through decades of housing cycles.

## Permit Progress in the 5th Cycle (2013-2022)\* (all 4 regions)



## Affordable Housing Languishes as Market-Rate Housing Overachieves (Bay Area only)\*



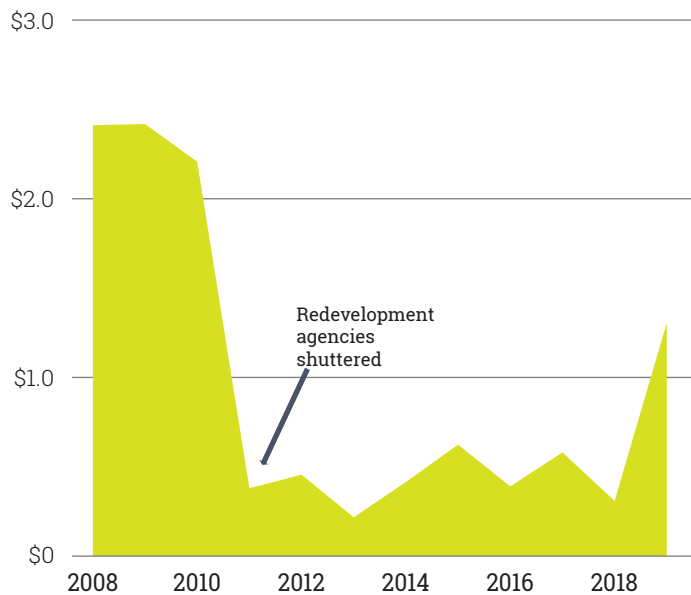
\* Based on permit progress reports published by the Dept of Housing and Community Development and updated July 2020, reporting progress through April 2019.

\*\* Only the Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles.

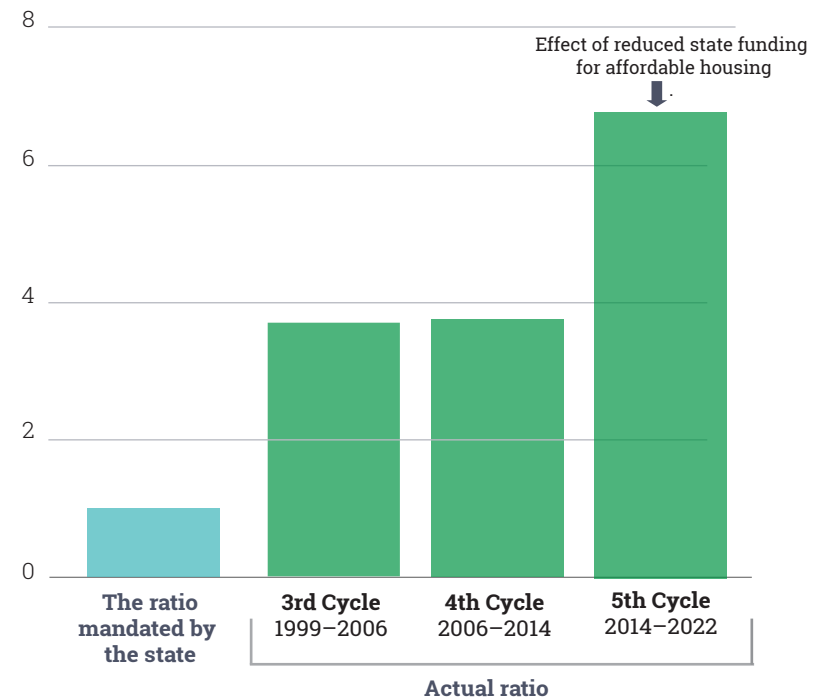
# It's clear. Market-rate housing doesn't need state incentives. Affordable housing needs state funding.

Cities are charged by the state to build one market-rate home for every one affordable home. But state laws, such as the density bonus law, incentivize developers to build market-rate units at a far higher rate than affordable units. As a result, California has been building four market-rate units for every one affordable unit for decades. And with the near-collapse of legislative funding for low-income housing in 2011, that ratio has grown to seven to eight market-rate units to each affordable unit. Yet we need one-to-one. This worsening situation can't be fixed by zoning or incentives which are the focus of many recent housing bills and only reinforce or worsen the ever-higher market-rate housing ratios. From the data it appears that the shortage of housing resulted not from a failure by cities to issue housing permits, but rather a failure by the state to fund and support affordable housing. Future legislative efforts should take note.

**State Funds for Affordable Housing, 2008–2019\***  
\$ Billion



**Market-Rate to Low-Income Housing Permits in the Bay Area has grown from a ratio of 4 : 1 to 7 : 1**  
(Bay Area only)\*\*



\* "The Defunding of Affordable Housing in California", Embarcadero Institute, update June 2020 [www.embarcaderoinstitute.com/reports/](http://www.embarcaderoinstitute.com/reports/)

\*\* Only Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles. Data is from ABAG's permit progress reports for 3rd and 4th cycle and Dept. of Housing and Community Development's 5th cycle Annual Progress Report.



# Finally, since penalties are incurred for failing to reach state targets for housing permits, the methodology for developing these numbers must be transparent, rigorous and defensible.

Non-performance in an income category triggers a streamlined approval process per Senate Bill 35 (2017). These exaggerated 6th cycle targets will make it impossible for cities and counties to attain even their market-rate targets, ensuring market-rate housing will qualify for incentives and bonuses meant for low income housing. **Yet again low-income housing will lose out.** The state needs to correct the errors in the latest housing assessment, and settle on a consistent, defensible approach going forward.

## At Least Four Different Methodologies Have Been Used Simultaneously by the State to Discuss Housing Need: We Only Need One

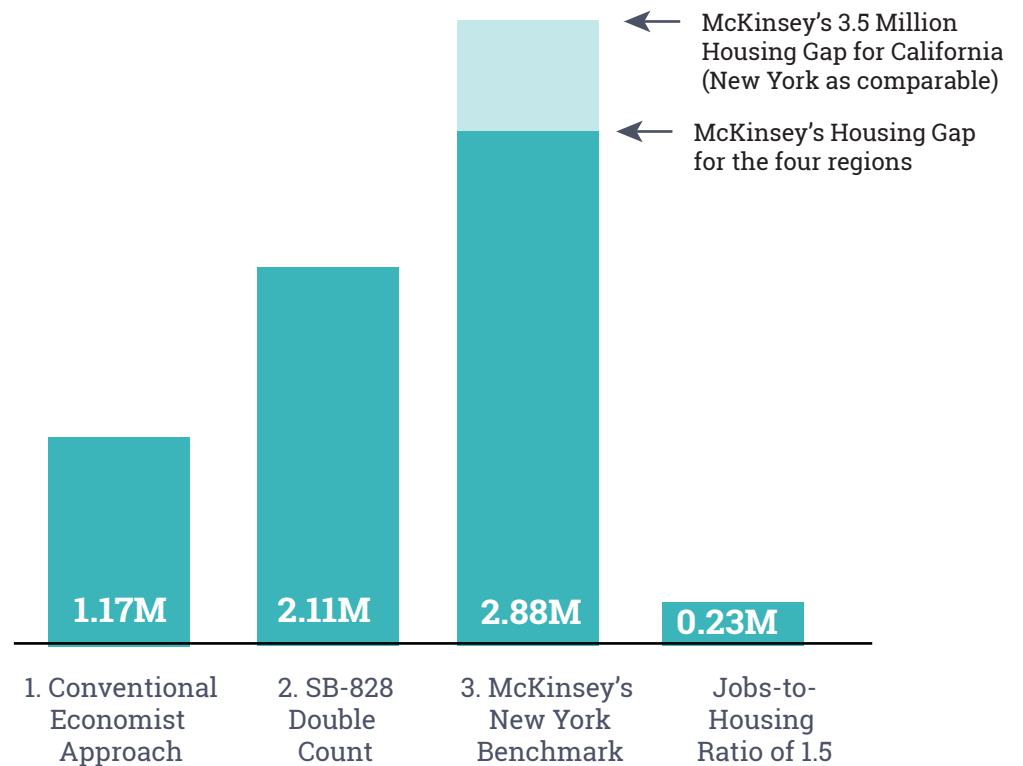
**1. The Conventional Economist Approach:** uses goldilocks (not too big, not too small, just right) benchmarks for vacancies - 1.5% for owner-occupied and 5% for rental housing.

**2. SB-828 Double Count:** incorrectly uses a benchmark of 5% vacancy for owner-occupied housing. It also double counts overcrowding and cost-burdening

**3. McKinsey's New York Benchmark:** the over-simplified approach generated an exaggerated housing gap of 3.5 Million for California. McKinsey multiplied California's population by New York's housing per capita to get 3.5M. New York is not a proper benchmark for California and NY's higher housing per capita is more reflective of NY's declining population rather than a healthy benchmark for housing

**4. Jobs-to-housing ratio of 1.5:** according to state planning agencies 1.5 is the optimal benchmark. Employment in the four regions is estimated to grow to 17 million by 2030 (job growth estimates prepared before COVID).\*\*

Forecast 2030 Housing Need for the Four Regions



\* California's Employment Development Department (EDD) estimates employment by county through 2026. Using annualized growth (2016 to 2026) as a basis for future growth 2030 employment is estimated for the four regions.

\*\* The 17 million includes estimates of self employed, private household workers, farm and nonfarm employment. Occupations with employment below 100 in 2016 are excluded.

**How it Works :** A multi-agency collaborative effort has generated past state housing targets. However, in 2018, SB-828 annointed the Dept. of Housing and Community Development with final veto powers.

**STEP 1**

The Dept. of Finance (DOF) generates household forecasts by county based on population growth and headship rates. This is the step where overcrowding and cost-burdening are factored in .

Dept. of Finance (DOF)



**STEP 2**

The Dept. of Housing and Community Development (HCD) then takes the DOF household projections and adds in a healthy vacancy level (1.5% for owner-occupied, 5% for rental housing) to determine the number of housing units needed to comfortably accommodate the DOF household projections.

dept. of Housing and Community Development (HCD)



**STEP 3**

The regional agencies allocate housing targets to cities and counties in their jurisdiction. These allocations collectively meet their RHNA assessments, and are based on algorithms that may include employment, transit accessibility and local housing patterns



**STEP 4**

Cities and Counties report annual progress on housing permits to the Dept. of Housing and Community Development (HCD)



Attachment: Irvine Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the

**SB-828 introduced errors in Step 2 (when the Dept. of Housing and Community Development made adjustments to the Dept. of Finance’s household projections).**

Southern California and the Bay Area were most impacted by the double counting. San Diego was not assessed for cost-burdening although it is more cost-burdened than the Bay Area. It was perhaps overlooked because its assessment cycle began in July, 2018, a few months before SB-828 passed into law.

**The Department of Housing and Community and Development**

**1. Used a benchmark of 5% vacancy rate for BOTH owner-occupied and rental housing.**

Six SoCal Counties	=	+126,000	<b>+ 228,000</b> housing units
Greater Bay Area	=	+59,000	
San Diego Area	=	+23,000	
Greater Sacramento	=	+21,000	

**2. Assumed vacancies in household projections \***

Six SoCal Counties	=	-13,000	<b>- 22,000</b> housing units
Greater Bay Area	=	-4,000	
San Diego Area	=	-2,000	
Greater Sacramento	=	-3,000	

**3. Double counted overcrowding and cost-burdening**

Six SoCal Counties	=	+578,000	<b>+ 734,000</b> housing units
Greater Bay Area	=	+104,000	
San Diego Area	=	+39,000	
Greater Sacramento	=	+13,000	

\* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in ‘read me’ notes that accompany the table  
 \*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels—extremely low, very low, low, moderate, above moderate.

## Detailed explanation of the errors using SoCal Counties as an example: First—the correct approach.

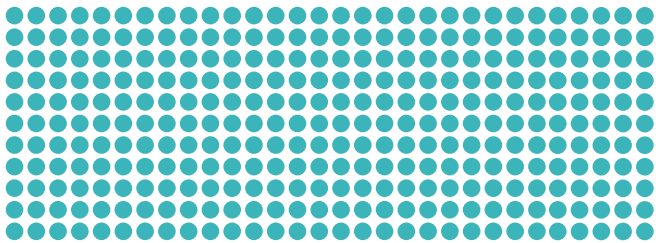
The Department of Housing and Community Development (HCD) have traditionally arrived at a number for pent-up demand or housing shortfall by comparing vacancy rates in owner-occupied and rental housing to healthy benchmarks (1.5% for owner-occupied\* and 5% for rental housing). The largest of the four regions, six SoCal Counties (covering Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties) is considered in the example below\*\*.

### EXISTING HOUSING: Six SoCal Counties

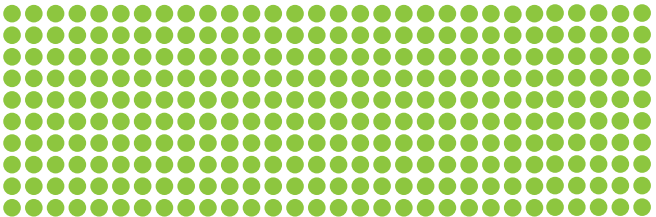
1 circle = 10,000 households

#### Occupied Housing Units

##### Home-owned (3.3 Million)



##### Rentals (3 Million)



#### Vacant Housing Units

Actual Vacancies (40,000)



1.2%

Healthy Benchmark (50,000)



1.5%

#### Existing Need

(10,000)



Actual Vacancies (111,000)



3.7%

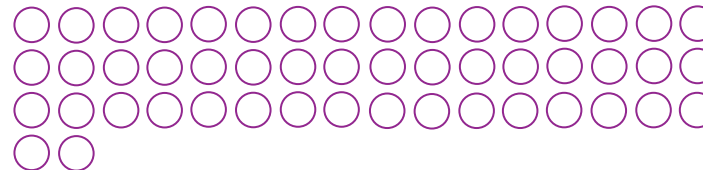
Healthy Benchmark (150,000)



5.0%

(39,000)

Seasonal Vacancies (500,000)\*\*\*



\* Owner-occupied has a lower healthy vacancy rate because it is usually only vacant while a house is for sale

\*\* All numbers are rounded to the nearest thousand.

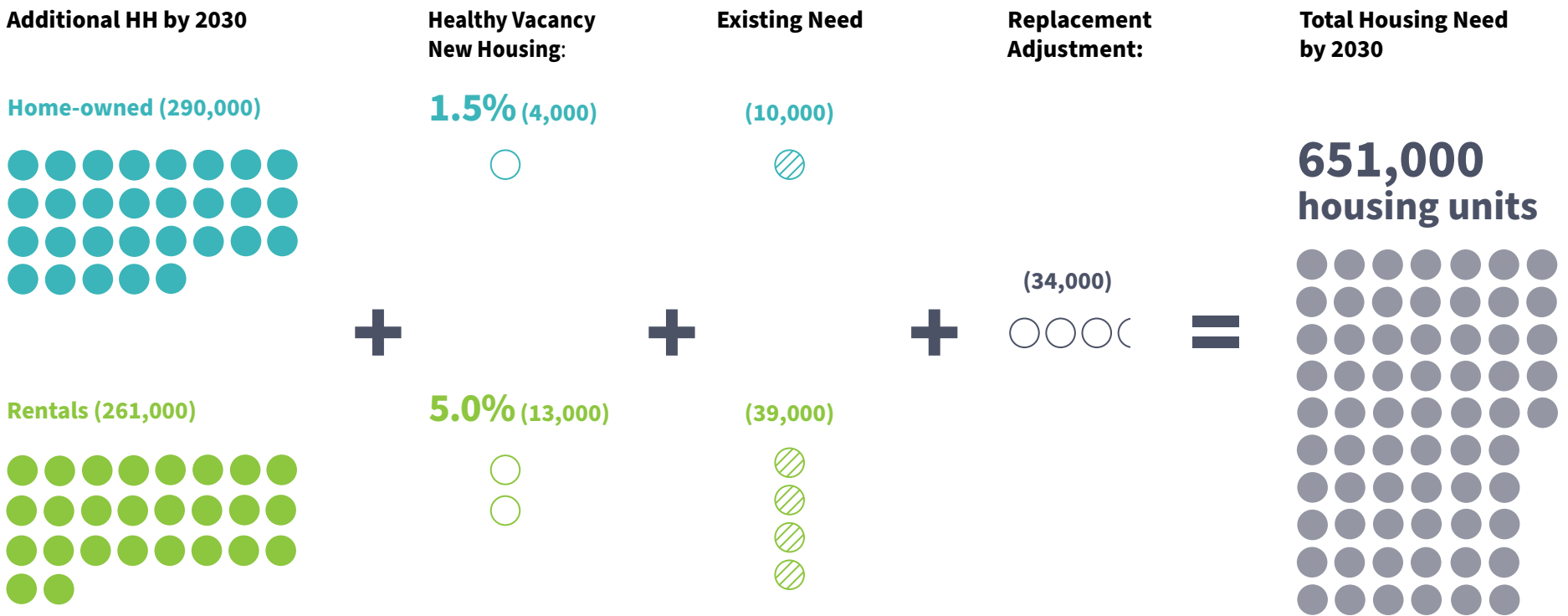
\*\*\* Seasonal Vacancies represent second homes, corporate housing, and short-term rentals such as AirBnBs

## The housing need also takes into account for future growth.

The Dept. of Finance (DOF) supplies the Dept. of Housing and Community Development (HCD) with an estimate of additional households (HH) needed by the end of the cycle. The DOF forecast the 2030 population and using an optimal household formation rate determine the number of households needed to comfortably house that population\*. The DOF also supply the HCD with the number of existing households at the start of the cycle. The HCD adds to the base number of additional households needed, factoring in vacancies for a healthy market, and adding a replacement adjustment (also supplied by the DOF)\*\*.

### PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



\* Households represent occupied housing units. The number of housing units is always higher as at any given time than the number of households because some housing will be vacant or unutilized. The DOF is responsible for the base projection because they manage population projections for the state, and determine those by analyzing births, deaths and net migration.

\*\* Replacement represents houses that may be demolished or replaced during the cycle\*.

**However, the Dept. of Housing and Community Development has adopted an unusual methodology in evaluating existing need in the 6th housing cycle.**

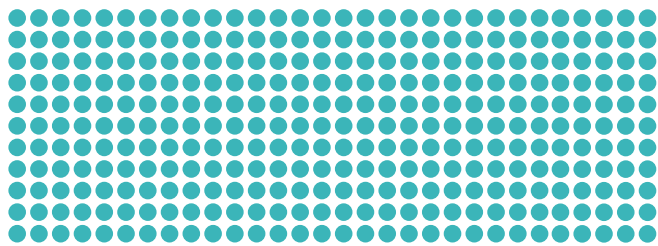
Instead of the typical 1.5% benchmark for owner-occupied housing, they used a 5% vacancy rate usually reserved for rental housing. A 5% vacancy in owner-occupied housing is indicative of a distressed housing market. At 5%, SoCal's existing housing need is increased by 115,000 housing units. Existing need for rental housing is unchanged.

**EXISTING HOUSING: Six SoCal Counties**

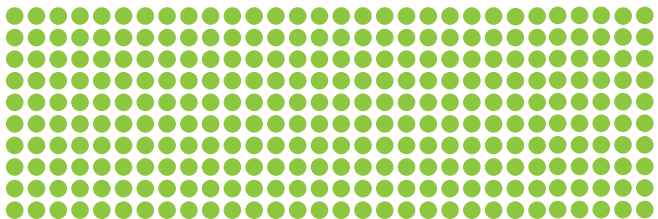
1 circle = 10,000 households

**Occupied Housing Units**

**Home-owned (3.3 Million)**



**Rentals (3 Million)**



**Vacant Housing Units**

**Actual Vacancies (40,000)**

**1.2%**



**Healthy Benchmark (165,000)**

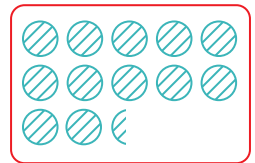
**5.0%**



=

**Existing Need**

**(125,000)**



**Actual Vacancies (110,000)**

**3.7%**



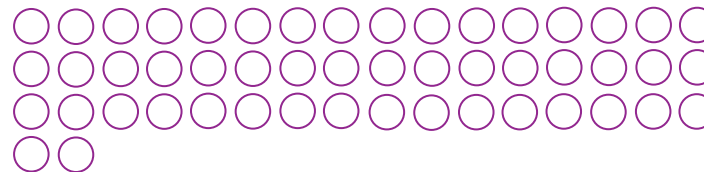
**Healthy Benchmark (149,000)**

**5.0%**



**(38,000)**

**Seasonal Vacancies (500,000)**

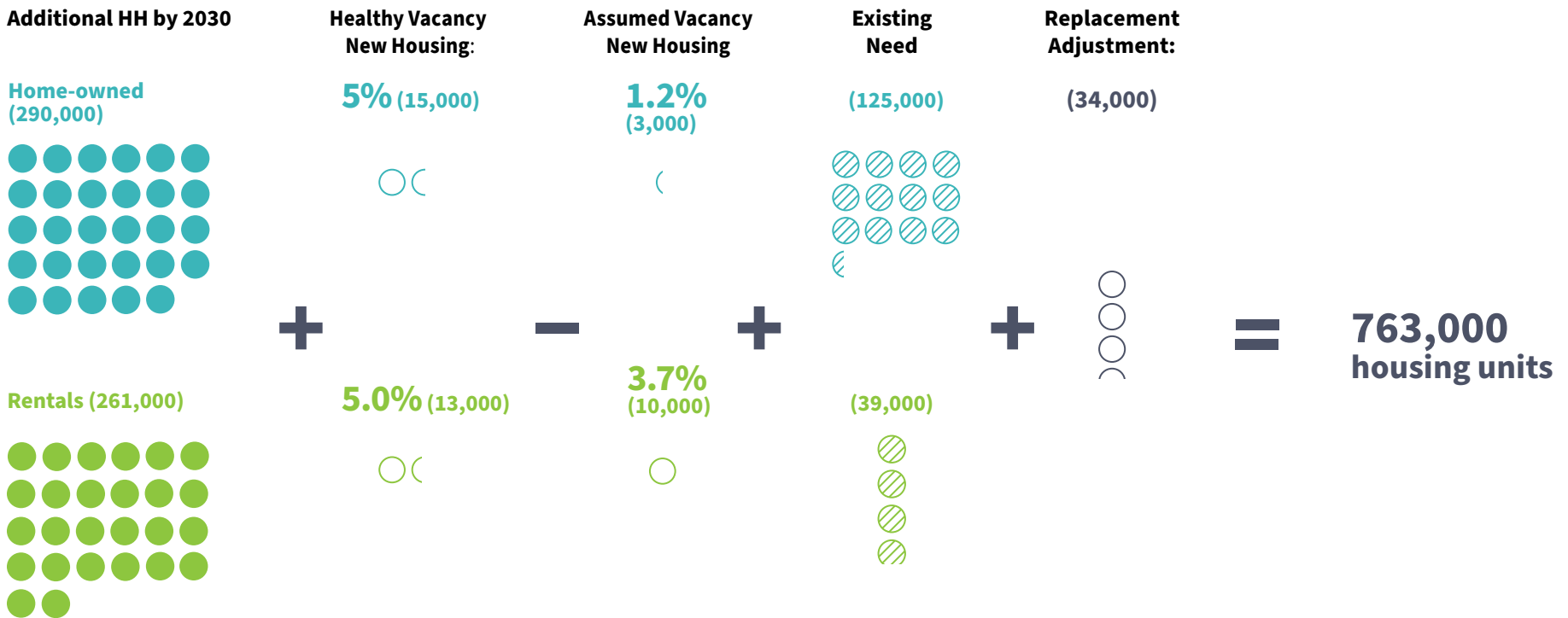


**The Dept. of Housing and Community Development have also taken an unusual approach in evaluating projected housing need.**

Again, instead of using the separate benchmark of 1.5% for owner-occupied housing, 5% was used for all housing. It was also assumed that new projected households had existing vacancies. The full benchmark was not applied to new households. Instead, the difference between the benchmark and the current vacancy rate was applied. The replacement adjustment was applied as it has been in the past.

**PROJECTED HOUSING NEED: Six SoCal Counties**

1 circle = 10,000 households



**Lastly, the Dept. of Housing and Community Development double counted by adding two new factors that had already been factored into household forecasts made by the Dept. of Finance (DOF).**

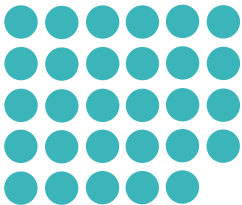
Two new factors were introduced into the 6th assessment – overcrowding and cost burdening. These factors had already been rolled into the DOF’s household projections. The DOF explicitly recognized that regional household formation rates might be depressed (a symptom of overcrowding and cost-burdening) because of the affordable housing crisis. The household formation rate used by the DOF is higher than the actual rate experienced. As such it generates a higher housing target meant to relieve overcrowding and cost-burdening.

**PROJECTED HOUSING NEED: Six SoCal Counties**

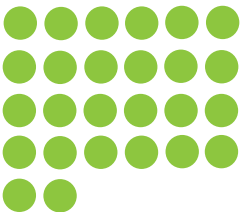
1 circle = 10,000 households

**Additional HH by 2030**

Home-owned  
(290,000)



Rentals (261,000)



**Projected Households already factors in overcrowding and cost-burdening**

From the Department of Finance

“The argument was that the Great Recession and the affordability crisis which impact recent trends in headship should not be allowed to solely dominate the projection, rather some return to underlying socio-cultural norms of homeownership/fewer roommates is a beneficial assumption”

**A DOUBLE COUNT**

Overcrowding Adjustment\*

(460,000)



Cost Burdening Adjustment\*\*

(118,000)



\* In addition to double counting, HCD incorrectly calculated the overcrowding factor. They assumed that for every house that was overcrowded another house would be required to relieve overcrowding. The more accurate analysis would be to assess the number of extra people to be housed and divide by the average household size.  
 \*\* HCD only applied cost-burdening adjustments to future households not existing households. It is unclear why cost-burdening would only be considered an issue for future households, as the data is for current households.



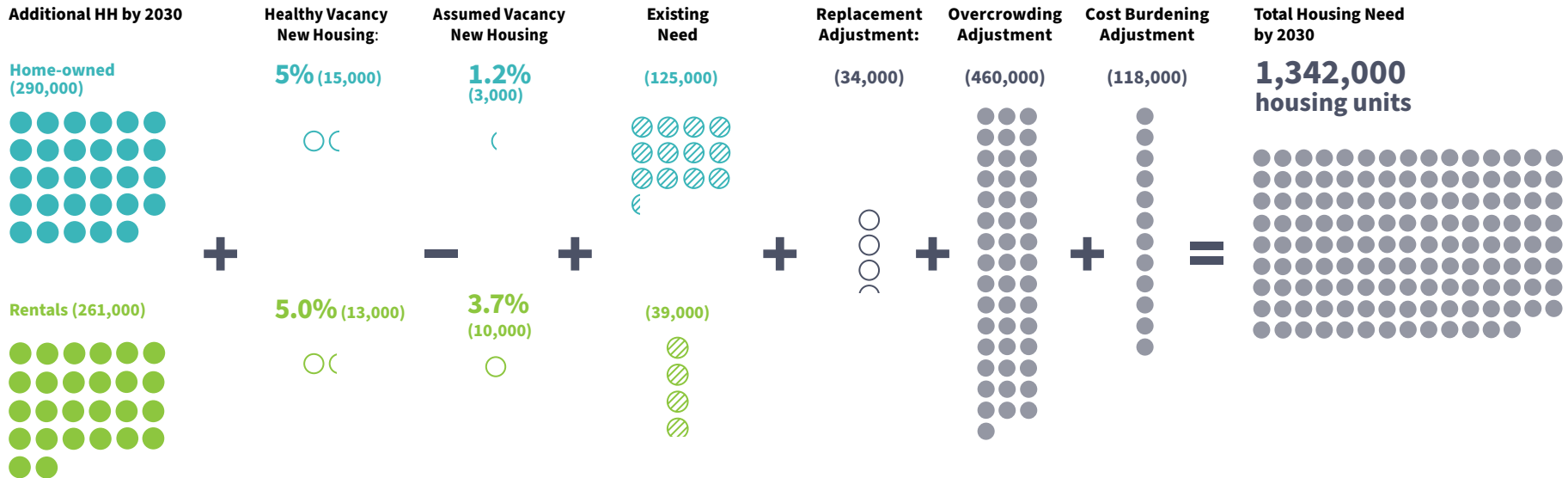
# The vacancy errors and double counting resulted in a doubling of the housing needs assessment for the six counties of SoCal.

## TYPICAL METHODOLOGY

1 circle = 10,000 households



## HCD 6TH CYCLE METHODOLOGY



Complete data tables: *RHNA Data and Models 6th cycle*, [www.embarcaderoinstitute.com](http://www.embarcaderoinstitute.com)

**References used in the analysis :**

**Dept. of Housing and Community Development (HCD)** <https://www.hcd.ca.gov>

**Regional Housing Needs Allocation and Housing Elements**

**Regional Housing Needs**

**Allocations for 6th Cycle Housing Elements:**

- Association of Bay Area Governments Regional Housing Need Determination Plan for the Sixth Housing Element Update
- Sacramento Area Council of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- Southern California Association of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- San Diego Association of Governments Regional Housing Need Determination and Plan for the Sixth Housing Element Update

**Allocations for 5th Cycle Housing Elements:**

- Association of Bay Area Governments (February 24, 2012)
- Sacramento Area Council of Governments (September 26, 2011)
- San Diego Association of Governments (November 23, 2010)
- Southern California Association of Governments (August 17, 2011)

**Annual Progress Reports**

Annual Progress Report APR: 5th Cycle Annual Progress Report Permit Summary (updated 7/30/2020)

**Allocations for Earlier Cycles and Housing Element**

- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06
- Regional Housing Needs Plan 2006 to 2013 SACOG February 2008
- 3rd and 4th Cycle RHNA allocations (data sent in personal communication with the Department of Housing and Community Development)

**Department of Finance Methodology for Household Forecasts**

- "Read Me" P4 Tables : Household Projections 2020 to 2030
- Association of Bay Area Governemnets Digital Library: RHNA Documents, Regional Housing Neeed Allocation Documents
- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06, Regional Housing Need Allocation p 2

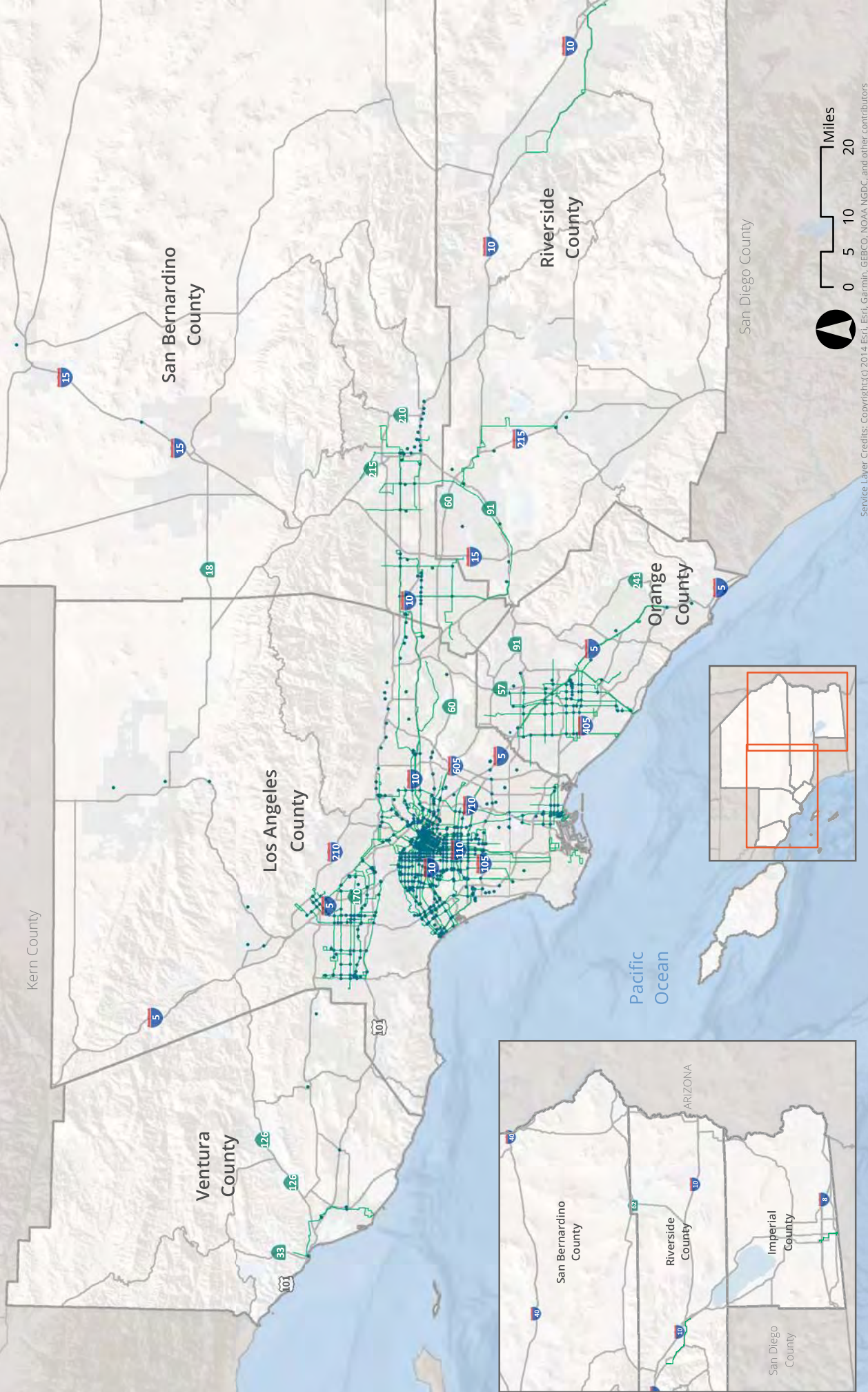
**Other Housing Assessment Methodologies**

**"Mckinsey & Company:** A TOOL KIT TO CLOSE CALIFORNIA'S HOUSING GAP: 3.5 MILLION HOMES BY 2025", October 2016

**Jobs to Housing**

Employment Development Department, State of California, Employment Projections : Long Term Projections  
<https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html>

**EXHIBIT 14 2045 Plan High Quality Transit Corridors**



Service Layer Credits: Copyright (c) 2014 Esri, Esri, Garmin, GEBCO, NOAA NGDC, and other contributors

- Major Transit Stops (2045)
- High Quality Transit Corridors (HQTCS) (2045)

Note: SCAG identifies Major Transit Stops and HQTCS using the methodology described in the Transit Technical Report. In summary, these maps and data are intended for planning purposes only. SCAG shall incur no responsibility or liability as to the completeness, currentness, or accuracy of this information, and assumes no responsibility arising from use of this information by individuals, businesses, or other public entities. The information is provided with no warranty of any kind, expressed or implied. Local jurisdictions should consult with the appropriate transit provider(s) to obtain the latest information on transit routes, stop locations, and service intervals before making determinations regarding CEQA exemption or streamlining.

**Attachment: Connect SoCal - Map of HQTCS (Appeal of the Draft RHNA Allocation for the City of Irvine)**

## PLAN PROJECTS AND STRATEGIES

Connect SoCal includes significant investment in public transit across all transit modes. It includes a \$67 billion investment in transit capital and a \$174 billion investment in transit operations and maintenance. Transit represents 55 percent of total operations and maintenance in Connect SoCal and 23 percent of capital investments. **TABLE 10** displays selected major transit capital projects included in Connect SoCal. These investments include new rail transit facilities, vehicle replacements, bus system improvements and capitalized maintenance projects.

Through its metropolitan planning process, SCAG will continue to support local efforts to redesign transit systems to better support travelers' needs, such as Metro's NextGen Study and OCTA's OC Bus 360 and Transit Master Plan. SCAG will also continue to share best practices and promote regional coordination and consistency in how transit agencies can leverage technology and innovation to promote seamless multimodal travel, improve first/last mile connections and provide shared on-demand services where and when fixed route transit isn't cost effective.

**EXHIBITS 8** through **13** depict each county's local transit network as the plan envisions it in 2045.

## PLANNED HQTCS

Planned HQTCS are future improvements that are expected to be implemented by transit agencies by the RTP/SCS horizon year of 2045. These are assumed by definition to meet the statutory requirements of HQTCS. SCAG's methodology is included as an Appendix to this technical report.

SCAG updates its inventory of planned HQTCS with the adoption of a new RTP/SCS, once every four years. **EXHIBIT 14** identifies the planned future HQTCS included in Connect SoCal.

## FIXED GUIDEWAY GAP CLOSURES

The previous 2016 RTP/SCS included as regional initiatives five fixed guideway

gap closures, funded by the Plan's innovative financing strategies. These projects are included above and beyond locally funded CTC investments, providing important links in the future transit network. They leverage existing investments to expand the connectivity of the regional rail system and support seamless transferability throughout the network. Three of the projects, the Gold Line Foothill Extension to Montclair, Vermont Corridor, and Metro Green Line Norwalk extension to the Norwalk/Santa Fe Springs Metrolink Station, are now included Metro's Measure M expenditure plan. All of these fixed guideway gap closures, including the Slauson Corridor and Metro Red Line extension to Burbank Airport, are carried forward into Connect SoCal.

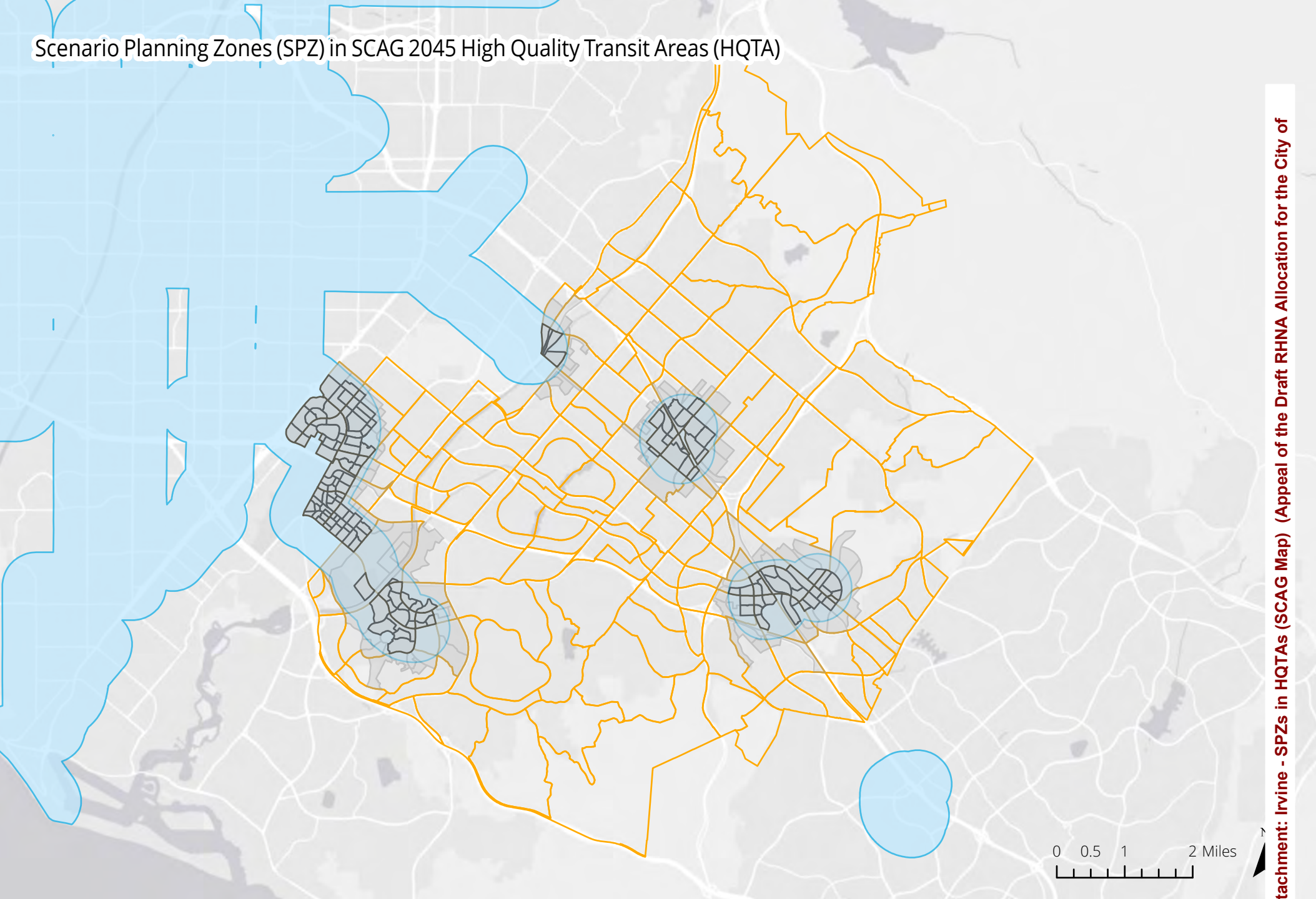
## DEDICATED MULTIMODAL LANES

As previously noted, the City of Los Angeles's Mobility Plan 2035 calls for a Transit-Enhanced Network that includes peak-hour and dedicated all day bus-only lanes. While Connect SoCal recognizes that the network identified in the City of Los Angeles Mobility Plan is subject to further local planning and project development, including environmental impact analysis, implementation of such a network would support regional and statewide environmental goals, including a reduction in greenhouse gas emissions. SCAG therefore estimates "off-model" greenhouse gas emissions reductions in 2035 from such a network as part of the Connect SoCal Sustainable Communities Strategy.

## PLAN PERFORMANCE

Our region's investment in transit and passenger rail, coupled with its commitment to attaining sustainable communities, result in significant growth in transit trips and passenger miles by 2045. The output from the travel demand model indicates a 144 percent increase in, or more than doubling of, transit and rail boardings. This includes a 104 percent increase for bus, and a fourfold increase for rail (light, heavy, and commuter). Passenger miles are also up significantly for bus service including BRT and local, and especially for rail, reflecting a higher percentage of transit trips on rail due to the new rail facilities to be built between now and 2045. On a per capita level, transit ridership will double, outpacing the region's growth in population (19.5 percent) and

# Scenario Planning Zones (SPZ) in SCAG 2045 High Quality Transit Areas (HQTA)

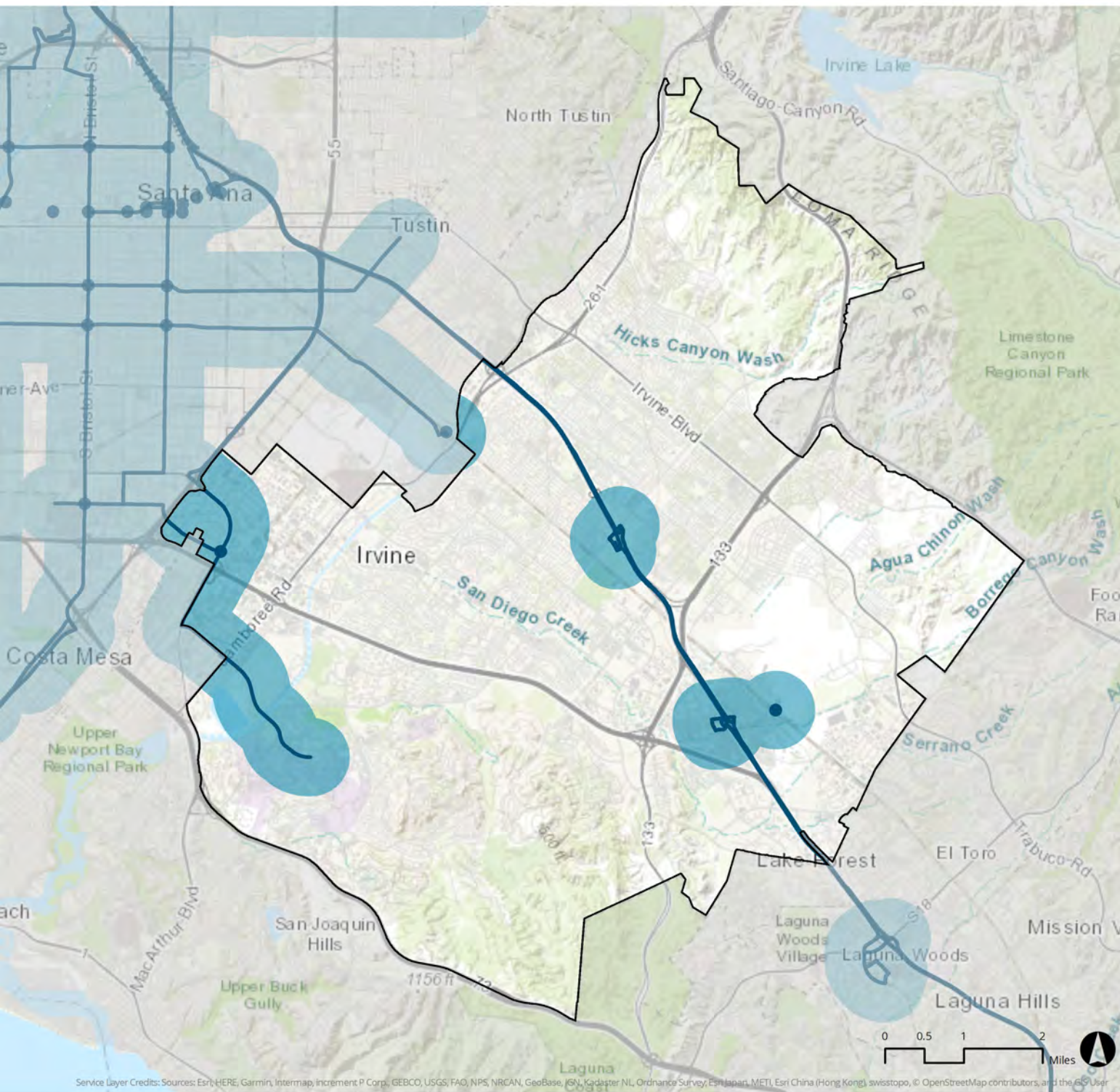


SPZ within HQTA (150)    SPZ partially within HQTA (127)    HQTA (2045)    City Tier2 TAZ Boundary

Source: SCAG, 2020

Date Saved: 1/4/2025

Packet Pg. 1098



## Major Transit Stops and High Quality Transit Areas in City of Irvine [Year 2045]

- Major Transit Stops
- ~ High Quality Transit Corridors (HQTCS)
- High Quality Transit Areas (HQTAs)

Note: SCAG identifies Major Transit Stops and High Quality Transit Corridors (HQTCS), and their surrounding areas in one-half mile radius distance as specified in Section 21155.(b)(3). Major transit stops and HQTCS are extracted from 2045 plan year data of Connect SoCal. SCAG's High Quality Transit Area (HQTA) is within one-half mile from Major Transit Stops and HQTCS and developed based on the language in SB375; however, freeway transit corridors with no bus stops on the freeway alignment do not have a directly associated HQTA. The RHNA process, per Section 65584 et seq., specifies that SCAG's housing needs allocation plan shall further several objectives including those related to infill development and jobs-housing balance. To that end, SCAG's Regional Council-adopted 6th Cycle Final RHNA Methodology relies on a jurisdiction's forecasted 2045 population within HQTAs to allocate housing need.

Data Source: SCAG, County Transportation Commissions, 2020 | Map Created: 10/22/2020

Disclaimer: The information shown on this map reflect jurisdiction's input submitted during the Local Input and Envisioning Process for the City of Irvine. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodologies and data please refer to the SCAG Data/Map Book at [connectsocial.org/Pages/Local-Input-Process.aspx](https://connectsocial.org/Pages/Local-Input-Process.aspx) or contact [RTPLocalInput@scag.ca.gov](mailto:RTPLocalInput@scag.ca.gov).

## APPENDIX 1 OF 1

# High Quality Transit Corridors and Major Transit Stops

## BACKGROUND

The Sustainable Communities and Climate Protection Act of 2008, Senate Bill (SB) 375, requires that Metropolitan Planning Organizations (MPOs) develop a Sustainable Communities Strategy (SCS) to reduce per capita greenhouse gas emissions through integrated transportation, land use, housing and environmental planning. SB 375 creates incentives for residential or mixed-use projects that may be exempt from, or subject to a limited review of, the California Environmental Quality Act (CEQA), provided they are consistent with the MPO's adopted SCS. These "transit priority projects" must, among other criteria, be located within one-half mile of a major transit stop or high-quality transit corridor (HQTC).

SB 743, signed into law in 2013, provides further opportunities for CEQA exemption and streamlining to facilitate transit oriented development (TOD). Specifically, certain types of projects within "transit priority areas" (TPAs) can benefit from a CEQA exemption if they are consistent with an adopted specific plan and the SCS. A TPA is an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Federal Transportation Improvement Program (FTIP).

## STATUTORY DEFINITIONS

Definitions of "major transit stop" and "high quality transit corridor" are set forth under California law as follows:

CA Pub. Res. Code § 21155(b)

For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

CA Pub. Res. Code § 21064.3

“Major transit stop” means a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

CA Pub. Res. Code § 21060.2

- (a) “Bus rapid transit” means a public mass transit service provided by a public agency or by a public-private partnership that includes all of the following features:

- (1) Full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- (2) Transit signal priority.
- (3) All-door boarding.
- (4) Fare collection system that promotes efficiency.
- (5) Defined stations.

- (b) “Bus rapid transit station” means a clearly defined bus station served by a bus rapid transit.

## METHODOLOGY

SCAG’s technical methodology for identifying HQTcs and major transit stops is based on input from the Regional Transit Technical Advisory Committee (RTTAC), as well as consultation with local agencies, other large MPOs in California, and the Governor’s Office of Planning and Research. The methodology and assumptions are discussed below. This methodology may be periodically updated to incorporate revisions or clarifications. Questions should be directed to Steve Fox, at fox@scag.ca.gov, or Phillip Law, at law@scag.ca.gov.

SCAG maps and data depicting HQTcs and major transit stops are intended for planning purposes only. SCAG shall incur no responsibility or liability as to the completeness, currentness, or accuracy of this information. SCAG assumes no responsibility arising from use of this information by individuals, businesses, or other public entities. The information is provided with no warranty of any kind, expressed or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

For the methodology SCAG uses to identify “high quality transit areas,” see the Sustainable Communities Strategies Technical Report.



## EXISTING HQTCS AND MAJOR TRANSIT STOPS

SCAG updates its inventory of existing major transit stops and HQTCS with the adoption of a new Regional Transportation Plan (RTP) and SCS, once every four years. Data for the existing (“base year”) condition for the RTP/SCS are typically obtained several years before plan adoption. The base year transit network for *Connect SoCal*, the 2020 RTP/SCS, is based primarily on data for 2016. This inventory of existing major transit stops and HQTCS is therefore only a snapshot in time as of 2016, and does not reflect the existing levels of transit service for any other timeframe.

See **EXHIBIT 7, 2016 Base Year “existing” major transit stops and high quality transit corridors.**

Transit agencies make adjustments to bus service on a regular basis. Therefore, given the limitations of the RTP/SCS base year transit network, local jurisdictions should consult with the appropriate transit provider(s) to obtain the latest information on existing transit routes, stop locations, and service intervals before making determinations regarding CEQA exemption or streamlining. It is the responsibility of the lead agency under CEQA to determine if a project meets statutory requirements.

## STOP-BASED ANALYSIS

SCAG calculates peak commute bus service intervals at the stop level using schedule data published by transit agencies in the General Transit Feed Specification (GTFS) format (see for example, [www.transitfeeds.com](http://www.transitfeeds.com)). An HQTC therefore comprises or is determined by the qualifying stops on an individual bus route.

## PEAK PERIOD BUS SERVICE INTERVAL (FREQUENCY)

To determine whether the peak commute bus service interval (also called frequency) meets the statutory threshold of 15 minutes or less, SCAG uses the peak period defined in its regional travel demand model. The morning peak

is defined as 6am to 9am and the afternoon peak is defined as 3pm to 7pm. A transit operator may have a different, board-adopted or de facto peak period; in such cases SCAG will accept requests to use operator-specific peak-hour periods on a case-by-case basis.

SCAG uses the total population of bus trips during the combined seven-hour morning and afternoon peak periods to determine the peak frequency at a bus stop. This is done for each bus route, by direction. The peak frequency is calculated by dividing 420 minutes (the seven-hour peak converted to minutes) by the total peak bus trips. This average frequency should be 15 minutes or less in order to qualify. The threshold is strict, at 15.0 minutes.

## DIRECTIONAL FREQUENCY

A bus route must only meet the 15-minute service interval threshold in one direction to qualify as an HQTC. This is based on RTTAC feedback that transit agencies often operate very peak-directional service or operate predominantly one-way service on a corridor.

## CORRIDORS WITH MULTIPLE OVERLAPPING BUS ROUTES

Separate but overlapping bus routes that do not individually meet the 15-minute threshold may not be combined in order to qualify as an HQTC. However, based on RTTAC feedback, there are certain corridors where overlapping “line families” or local/bus rapid transit (BRT) lines are intended to function as one bus route. On these corridors, transit riders typically board the first bus available, whether it be a local, express, or BRT line. For these line families or local/BRT corridors, SCAG uses the combined routes to calculate the frequency.

## ROUTE ALIGNMENT

The entire alignment of a bus route, based on the stops that meet the 15-minute peak frequency threshold, is considered an HQTC. This would include,

for example, express bus services that operate along freeways where there are no stops along the freeway right-of-way.

## **BUS RAPID TRANSIT**

As defined in statute, a BRT must include full-time dedicated bus lanes. In the SCAG region, there are existing and proposed BRT projects that have only a portion of their alignment in a full-time dedicated bus lane. For these BRT projects, only those stations that are adjacent to a full-time dedicated bus lane are considered major transit stops. For the BRT projects that have a full-time dedicated bus lane on their entire route, all of the stations are considered major transit stops.

## **MAJOR TRANSIT STOPS AND INTERSECTING SERVICE TRANSFER ZONES**

As defined in statute, major transit stops include the intersection of two or more HQTcs. For purposes of transferring between intersecting service, SCAG uses a 500-foot buffer to determine a major transit stop. In other words, two intersecting HQTcs must have stops that are within 500 feet of each other to qualify as a major transit stop. A 500-foot buffer is assumed to be a reasonable limit to the distance that a transit patron would walk to transfer between bus routes. It is also consistent with the Metro Transfers Design Guide definition of a transfer zone.

## **AMTRAK STATIONS AND FERRY STATIONS**

Amtrak intercity passenger rail stations with only limited long-distance service are not automatically included as a major transit stop unless requested by a local agency. Similarly, ferry stations with seasonal and/or non-commuter based service (and that are served by bus or rail transit) are not automatically included as a major transit stop unless requested by a local agency.

## **PLANNED HQTCS AND MAJOR TRANSIT STOPS**

Planned HQTcs and major transit stops are future improvements that are expected to be implemented by transit agencies by the RTP/SCS horizon year of 2045. These are assumed by definition to meet the statutory requirements of an HQTc or major transit stop. SCAG updates its inventory of planned major transit stops and HQTcs with the adoption of a new RTP/SCS, once every four years. However, transit planning studies may be completed by transit agencies on a more frequent basis than the RTP/SCS is updated by SCAG. Local jurisdictions should consult with the appropriate transit provider(s) to obtain the latest information on planned transit routes, stop locations, and service intervals/frequencies before making determinations regarding CEQA exemption or streamlining.

See **EXHIBIT 14, planned (year 2045) major transit stops and high quality transit corridors.**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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January 13, 2020

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Review of Draft Regional Housing Need Allocation (RHNA) Methodology**

Thank you for submitting the draft Southern California Association of Governments (SCAG) Sixth Cycle Regional Housing Need Allocation (RHNA) Methodology. Pursuant to Government Code Section 65584.04(i), the California Department of Housing and Community Development (HCD) is required to review draft RHNA methodology to determine whether the methodology furthers the statutory objectives described in Government Code Section 65584(d).

In brief, the draft SCAG RHNA methodology begins with the total regional determination provided by the California Department of Housing and Community Development (HCD) and separates it into two methodologies to allocate the full determination: projected need (504,970) and existing need (836,857).

For projected need, the household growth projected in SCAG's Connect SoCal growth forecast for the years 2020-2030 is used as the basis for calculating projected housing need for the region. A future vacancy and replacement need are also calculated and added to the projected need.

The existing need is calculated by assigning 50 percent of regional existing need based on a jurisdiction's share of the region's population within the high-quality transit areas (HQTAs) based on future 2045 HQTAs. The other 50 percent of the regional existing need is based on a jurisdiction's share of the region's estimated jobs in 2045 that can be accessed within a 30-minute driving commute. For high segregation and poverty areas as defined by [HCD/TCAC Opportunity Maps](#),<sup>1</sup> referred to by SCAG as extremely disadvantaged communities (DACs), existing need in excess of the 2020-2045 household growth forecast is reallocated to non-DAC jurisdictions within the same county.

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<sup>1</sup> Created by the California Fair Housing Task Force and commissioned by HCD and the California Tax Credit Allocation Committee (TCAC) to assist public entities in affirmatively furthering fair housing. The version used in this analysis is the 2019 HCD/TCAC Opportunity Maps available at [treasurer.ca.gov/ctcac/opportunity.asp](http://treasurer.ca.gov/ctcac/opportunity.asp).

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Within both the projected and existing need methodologies the four RHNA income categories (very low, low, moderate, and above moderate) are assigned to each jurisdiction by the use of a 150 percent social equity adjustment, which inversely adjusts based on the current incomes within the jurisdiction. An additional percentage of social equity adjustment is made for jurisdictions that have a high concentration of DACs or Highest Resource areas as defined by the HCD/TCAC Opportunity maps. Overall, the social equity adjustments result in greater shares of lower income RHNA to higher income and higher-resource areas.

**HCD has completed its review of the methodology and finds that the draft SCAG RHNA Methodology furthers the five statutory objectives of RHNA.<sup>2</sup>** HCD acknowledges the complex task of developing a methodology to allocate RHNA to 197 diverse jurisdictions while furthering the five statutory objectives of RHNA. This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of objective factors specifically linked the statutory objectives in the existing need methodology.

Below is a brief summary of findings related to each statutory objective described within Government Code Section 65584(d):

*1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.*

The methodology generally allocates increased shares of lower income RHNA to jurisdictions that have higher housing costs. In support of a mix of affordability, the highest housing cost cities generally receive higher shares of lower income RHNA. Under this methodology the 15 cities with the highest median housing costs all receive greater than 50 percent of the RHNA as lower income RHNA. Beverly Hills with the 18<sup>th</sup> highest median housing costs receives the 25<sup>th</sup> highest share of lower income RHNA; Westlake Village with the 14<sup>th</sup> highest median housing costs receives the 12<sup>th</sup> highest share of lower income RHNA; Aliso Viejo with the 23<sup>rd</sup> highest median housing costs receives the 38<sup>th</sup> highest share of lower income RHNA; and Villa Park with the 10<sup>th</sup> highest median housing costs receives the 31<sup>st</sup> highest share of lower income RHNA.

*2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

The draft SCAG RHNA methodology furthers the environmental principles of this objective as demonstrated by the transportation and job alignment with the RHNA allocations.

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<sup>2</sup> While HCD finds that this particular methodology furthers the objectives of RHNA, HCD's determination is subject to change depending on the region or cycle, as housing conditions in those circumstances may differ.

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*3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

Half of the existing need portion of the draft SCAG RHNA methodology is set based on the jurisdiction's share of the region's estimated jobs in 2045. While future looking job projections are important for housing planning, and housing built in the next decade will likely exist for 50-100 years or more, it is also critical to plan for the needs that exist today. This objective specifically considers the balance of low-wage jobs to housing available to low-wage workers. As part of HCD's analysis as to whether this jobs-housing fit objective was furthered by SCAG's draft methodology, HCD analyzed how the percentage share of the region's lower income RHNA compared to the percentage share of low-wage jobs.

For example, under the draft SCAG RHNA methodology Irvine would receive 1.84 percent of the region's lower income RHNA, and currently has 2.07 percent of the region's low-wage jobs, .23 percent less lower income RHNA than low-wage jobs for the region. Pomona would receive .71 percent of the region's lower income RHNA, and currently has .57 percent of the region's low-wage jobs, .13 percent more lower income RHNA than low-wage jobs for the region. Across all jurisdictions there is generally good alignment between low-wage jobs and lower income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower income RHNA for the region and their percentage low-wage jobs for the region.

HCD is aware there has been some opposition to this current methodology from jurisdictions that received lower allocations under prior iterations; however it is worth noting that even if it is by a small amount, many of the jurisdictions that received increases are still receiving lower shares of the region's lower income RHNA compared to their share of the region's low-wage jobs. HCD recommends any changes made in response to appeals should be in the interest of seeking ways to more deeply further objectives without compromising other objectives.

*4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

This objective is furthered directly by the social equity adjustment factor included in the draft SCAG RHNA methodology. Jurisdictions in the SCAG region range from as little as 10.9 percent lower income households to 82.7 percent lower income households. The 20 jurisdictions with the greatest share of lower income households, 67.2-82.7 percent lower income households, would receive an average of 31.6 percent lower income share of their RHNA; compared to the 20 jurisdictions with the lowest share of lower income households, 10.9-25.1 percent lower income households, would receive an average of 59.1 percent lower income share of their RHNA. While the social equity adjustment explicitly responds to objective four, it also assists in the methodology furthering each of the other objectives.

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*5. Affirmatively furthering fair housing, which means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.*

HCD applauds the inclusion of the affirmatively furthering fair housing adjustment factor in the methodology. This factor directs more lower income RHNA to higher opportunity areas and reduces allocations in segregated concentrated areas of poverty, as defined in the [HCD/TCAC Opportunity Maps](#), which evaluate access to opportunity, racial segregation, and concentrated poverty on 11 dimensions, which are all evidence-based indicators related to long term life outcomes. 14 of the top 15 highest shares of lower income RHNA are in regions over 99.95 percent High and Highest Resource areas. These include: Imperial, La Habra Heights, Rolling Hills Estates, Hermosa Beach, La Cañada Flintridge, Palos Verdes Estates, Manhattan Beach, Rolling Hills, Agoura Hills, Rancho Palos Verdes, Westlake Village, San Marino, Eastvale, and Hidden Hills. With the exceptions of the cities of Vernon and Industry, the 31 jurisdictions with the highest share of lower income RHNA are all over 95 percent High and Highest Resource areas.

HCD appreciates the active role of SCAG staff in providing data and input throughout the draft SCAG RHNA methodology development and review period. HCD especially thanks Ping Chang, Kevin Kane, Sarah Jepson, and Ma'Ayn Johnson for their significant efforts and assistance.

HCD looks forward to continuing our partnership with SCAG to assist its member jurisdictions to meet and exceed the planning and production of the region's housing need.

Support opportunities available for the SCAG region this cycle include, but are not limited to:

- SB 2 Planning Technical Assistance (Technical assistance available now through June 2021)
- Regional and Local Early Action Planning grants (25 percent of Regional funds available now, all other funds available early 2020)
- SB 2 Permanent Local Housing Allocation (Available April – July 2020)

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Assistant Deputy Director for Fair Housing

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.



Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

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(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

Attachment: Comments Received during the Comment Period (Appeal of the Draft RHNA Allocation for the City of Irvine)

is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068



Attachment: Comments Received during the Comment Period (Appeal of the Draft RHNA Allocation for the City of Irvine)



Southern California Association of Governments  
Remote Participation Only  
January 22, 2021

**To:** Regional Housing Needs Assessment Subcommittee (RHNA)

**EXECUTIVE DIRECTOR'S  
APPROVAL**

**From:** Kevin Kane, Senior Regional Planner,  
(213) 236-1828, kane@scag.ca.gov

**Subject:** Appeal of the Draft RHNA Allocation for the City of Garden Grove

**RECOMMENDED ACTION:**

Deny the appeal filed by the City of Garden Grove to reduce the Draft RHNA Allocation for the City of Garden Grove by 2,813 units.

**STRATEGIC PLAN:**

This item supports the following Strategic Plan Goal 2: Advance Southern California’s policy interests and planning priorities through regional, statewide, and national engagement and advocacy.

**SUMMARY OF APPEAL(S):**

The City of Garden Grove requests a reduction of its RHNA allocation by 2,813 units (from 19,122 units to 16,309 units). Garden Grove bases its appeal on the following:

1. Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle (2021 – 2029) - the “DAC” or Disadvantaged Communities adjustment places a disproportionate burden on Non-DAC jurisdictions which fall just below the 50% DAC threshold.
2. Changed circumstances - the COVID-19 pandemic has uniquely impacted its future employment and that this should lead to a reduction of the City’s housing need.

**RATIONALE FOR STAFF RECOMMENDATION:**

Staff have reviewed the appeal(s) and recommend no change to the City of Garden Grove’s RHNA allocation.

Regarding Issue 1, the assertion that the application of the DAC adjustment was inequitable and disproportionate is a challenge to the Final RHNA methodology, which was adopted in final form by the Regional Council on March 5, 2020. This is not a valid basis for an appeal as the adopted Final RHNA methodology cannot be revised by the RHNA Appeals Board.

**OUR MISSION**

*To foster innovative regional solutions that improve the lives of Southern Californians through inclusive collaboration, visionary planning, regional advocacy, information sharing, and promoting best practices.*

**OUR VISION**

*Southern California’s Catalyst for a Brighter Future*

**OUR CORE VALUES**

*Be Open | Lead by Example | Make an Impact | Be Courageous*

Regarding Issue 2, while the City of Garden Grove indicates that COVID-19 has resulted in job losses, it does not provide evidence as to how and why this information merits a revision of information used to determine housing need, per Government Code 65584.05(b)(3).

**BACKGROUND:****Draft RHNA Allocation**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the adoption of Connect SoCal on September 3, 2020, all local jurisdictions received draft RHNA allocations on September 11, 2020. A summary is below.

Total RHNA for the City of Garden Grove: 19,122 units  
Very Low Income: 4,155 units  
Low Income: 2,795 units  
Moderate Income: 3,204 units  
Above Moderate Income: 8,968 units

Additional background related to the Draft RHNA Allocation is included in Attachment 1.

**Summary of Comments Received during 45-day Comment Period**

No comments were received from local jurisdictions or HCD during the 45-day public comment period described in Government Code section 65584.05(c) which specifically regard the appeal filed for the City of Garden Grove. Three comments were received which relate to appeals filed generally:

- HCD submitted a comment on December 10, 2020 delineating the statutory basis for RHNA appeals and the requirement that any appeals granted must include written findings regarding how revisions are necessary to further RHNA's statutory objectives.
- The City of Whittier submitted a comment on December 10, 2020 supporting surrounding cities in their appeals, but expressing concern that additional units may be applied to Whittier if reallocated from cities which are successful in their appeals.
- The City of Long Beach submitted a comment on December 3, 2020 indicating their view that the RHNA allocation process was fair and transparent, their support for evaluating appeals on their merits (specifically those from the Gateway Council of Governments), and their opposition to any action which would result in a transfer of additional units to Long Beach.

**ANALYSIS:**

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**Issue 1: Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029) [Government Code Section 65584.05 (b)(2)].**

*The City of Garden Grove raises issues related to the “DAC adjustment.” The City contends that in its application, an exemption for five of the 35 Orange County jurisdictions inequitably redistributes 24% of the County’s total allocation to the 30 “non-DAC” jurisdictions based on their job and transit accessibility measures. Relatedly, the City claims that the 2019 state Tax Credit Allocation Commission (TCAC) data are being used outside their intended purpose.*

*The City, with 48% of its population in a low or very-low resourced area, requests that a “sliding scale exemption” would result in a more equitable distribution of housing need based on this criterion rather than an all-or-nothing approach.*

*Furthermore, the City claims that SCAG failed to adequately consider information submitted and available to SCAG prior to the adoption of the RHNA Methodology. Specifically, Garden Grove uses data from the websites of the 5 DAC jurisdictions in Orange County to suggest that their planned and approved units as of September 2020 exceed their 6<sup>th</sup> cycle RHNA allocation.*

***SCAG Staff Response:***

**RHNA Methodology and AFFH Objectives**

SCAG’s adopted RHNA Methodology balanced a wide range of policy and statutory objectives (i.e., the objectives set forth in Government Code section 65584(d)). For example, the methodology incorporates locally envisioned growth from Connect SoCal, recognizes the importance of job and transit access in future housing planning, and demonstrates a commitment to social equity in the form of the social equity adjustment and the reallocation of residual housing need in lower-resourced jurisdictions to higher-resourced jurisdictions.

With respect to the statutory objectives, SCAG used objective measures to advance certain principles, but since local and regional conditions vary tremendously across the state and over time, there are few consistent quantitative standards which can be used to evaluate all aspects of the methodology. Ultimately, however, the RHNA statute vests HCD with the authority to decide whether statutory objectives have been met. On January 13, 2020, HCD found that SCAG’s (then draft) 6th cycle Methodology advanced all five statutory objectives of RHNA.<sup>1</sup>

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<sup>1</sup> The objectives are: 1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households. (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080. (3) Promoting an

Affirmatively Furthering Fair Housing (AFFH) is a RHNA objective, and the residual reallocation is part of the adopted Final RHNA Methodology. The DAC adjustment is a feature of the RHNA Methodology whereby lower-resourced jurisdictions, as measured by having 50% or more of their population within low or very-low resource areas using the 2019 state Tax Credit Allocation Commission (TCAC) opportunity mapping indicators, have a cap on their RHNA Allocation based on their 2020-2045 local input-based growth forecast. Government Code section 65584.04(i) vests authority to assess whether a methodology furthers the statutory objectives in HCD. In HCD's comment letter dated December 20, 2020 (HCD Comment Letter), HCD specifically explains that the cap on units allocated to DACs furthers the AFFH statutory objective:

“Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.” (HCD Comment Letter at p.2).

Furthermore, in HCD's January 13, 2020 letter approving the Draft RHNA Methodology (HCD RHNA Methodology Letter) (attached), HCD finds that SCAG's RHNA Methodology furthers all five statutory objectives, stating,

“HCD applauds the inclusion of the affirmatively furthering fair housing adjustment factor in the methodology. This factor directs more lower income RHNA to higher opportunity areas and reduces allocations in segregated concentrated areas of poverty, as defined in the *HCD/TCAC Opportunity Maps*, which evaluate access to opportunity, racial segregation, and concentrated poverty on 11 dimensions, which are all evidence-based indicators related to long term life outcomes.” (HCD RHNA Methodology Letter at p.1) (emphasis added and footnote omitted).

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improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey. (5) Affirmatively furthering fair housing (Govt. Code § 65584(d)).

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### Opportunity Mapping Data and “Sliding Scale” Proposal

While the City argues that the TCAC’s Opportunity Mapping Tool was never intended to identify jurisdictions with more than 50% of their population located in DACs, HCD, the co-creator of this data source, has found that the tool’s use for this purpose to be a critical component in SCAG’s RHNA Methodology and furthers the AFFH statutory objective. The 2019 opportunity mapping data been part of several proposed variations of SCAG’s RHNA Methodology as they underwent review during 2019 and also went through an extensive development and public review process during their development by the California Fair Housing Task Force (see <https://www.treasurer.ca.gov/ctcac/opportunity.asp>) and vetting through TCAC and HCD.

The City proposes an alternative method for measuring advantage or disadvantage in a jurisdiction which involves utilizing a “sliding scale exemption”. However, an appeal citing RHNA Methodology as its basis must appeal the application of the adopted Methodology, not the Methodology itself. An example of an improper application of the adopted Methodology might be a data error which was identified by a local jurisdiction, not the presentation of an alternative methodology.

### Information Submitted and/or Available Regarding DAC Jurisdictions

Attachment 1 describes SCAG’s Bottom-Up Local Input and Envisioning Process in detail. All local jurisdictions were provided the same opportunity to comment on and provide additional information regarding anticipated population, household, and employment growth. In order to ensure ample time for required modeling analyses and public review, data inputs were due in October 2018, with two subsequent opportunities for providing technical refinements in December 2019 and June 2020 (jurisdiction-level growth totals could *not* be changed during these opportunities). These data constitute what was submitted to SCAG described in 65584.04(e).

The RHNA statute provides defined timeframes guided by the deadline for the housing element revisions<sup>2</sup> for HCD’s RHNA determination and SCAG’s Final RHNA Allocation Plan. HCD, in consultation with each council of governments (COG), shall determine each region’s existing and projected housing need pursuant to Section 65584.01 at least **two years prior** to the scheduled revision required pursuant to Section 65588. Govt. Code § 65584(b). This “determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments.” Govt. Code § 65584.01(b). HCD begins the process **26 months prior** to the scheduled revision so the data HCD relies on is the available provided by the COGs at that time.

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<sup>2</sup> Currently, local governments within the jurisdiction of SCAG are required to adopt their sixth revision of the housing element on or before October 15, 2021. Govt. Code § 65588(e)(2)(II).

Similarly, the COG issues its survey for information to develop the RHNA allocation methodology up to **30 months prior** to the scheduled revision. By necessity, the data used for these processes is data available at that time.

Under the constraints of the timeframe and considering the comprehensive and equitable process whereby local input had already been solicited, submitted, and included in the RHNA methodology, SCAG does not have a responsibility or the authority to include every piece of information “available” as Garden Grove contends. SCAG relies on the local input process for jurisdictions to provide the most accurate and relevant information for SCAG to consider in its growth forecast.

SCAG staff does not recommend a reduction on the basis of new information regarding the websites of the 5 DAC jurisdictions in Orange County since the information is not related to the City of Garden Grove. Government code 65584.05(b)(1) permits a jurisdiction to appeal the Draft RHNA Allocation of another jurisdiction on the same grounds. Garden Grove has filed a separate appeal of Santa Ana’s Draft RHNA Allocation, requesting an increase of 7,087 units, also contending that SCAG failed to adequately consider housing development data in the City of Santa Ana. These issues are addressed in the appeal of Santa Ana’s Draft RHNA Allocation.

***Issue 2: Changed circumstances [Government Code 65584.05(b)].***

*The City of Garden Grove claims that a change in circumstances warrants a revision to the Draft RHNA Allocation. The COVID-19 pandemic has resulted in a “significant and unforeseen” change in circumstance since employment projection data were submitted in 2018 which result in an anticipated decrease in the City’s 2020-2030 job forecast by 1,746 jobs.*

**SCAG Staff Response:** Citing the Covid-19 pandemic, the City asserts that changed circumstances merit revisions to data previously relied upon. The City states that nearly 2,800 service jobs have been lost and as such the 2020-2030 employment outlook for the City is 1,746 jobs lower than it previously had been.

First, while SCAG staff recognizes that COVID-19 presents unforeseen circumstances and that local governments have been affected by significant unemployment, these facts, as presented by the City, do not “merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04” (Government Code section 65584.05(b)(3)). Furthermore, section 65584.05(b) requires that,

“Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584.”

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Such comparable data is not provided by the City of Garden Grove.

In fact, SCAG's Regional Council delayed the adoption of the 2020 RTP/SCS by 120 days in order to assess the impact of COVID-19; however, the document's long-range (2045) forecast of population, employment, and household growth remained unchanged. The Demographics and Growth Forecast Technical Report<sup>3</sup> outlines the process for forecasting long-range employment growth which involves understanding national growth trends and regional competitiveness, i.e., the SCAG's region share of national jobs. Short-term economic forecasts commenting on COVID-19 impacts generally do not provide a basis for changes in the region's long-term competitiveness or the region's employment outlook for 2023-2045. As such, SCAG's assessment is that comparable data would not suggest long-range regional employment declines.

Secondly, the City of Garden Grove suggests that the loss of employment in the City should reduce its housing need by 1,512 units. However, no evidence is provided that this loss of jobs will reduce housing need. While the City references the RHNA objective regarding regional jobs-housing relationships (Government Code § 65584(d)(3)) as a basis for this connection, SCAG's RHNA Methodology addresses this statutory objective through the job accessibility measure—in large part due to the fact that 80 percent of the SCAG region's workers live and work in different jurisdictions. Specifically, the City's share of regional job accessibility is used to allocate housing units. This measure indicates that 2,175,000 future jobs (21.64% of the region's total employment of 10,049,000) can be accessed within a 30-minute AM peak automobile commute. Note that as discussed above, HCD found that the Draft Methodology furthers the five statutory objectives of RHNA, including promoting an improved intraregional relationship between jobs and housing.

Assuming *arguendo* Garden Grove's reduction of future employment by 1,746, this would mean that 2,173,254 future jobs (21.63% of the regional total) would be accessible. Using the largest city job loss figure referenced in the City's appeal of 4,500 jobs, future Garden Grove residents would still be able to access 21.60% of the region's jobs. Such a change would result in an extremely small decrease in Garden Grove's share of regional job access. However, Garden Grove asserts that this job reduction has crippled the tourism economy more broadly and can reasonably be assumed to decrease jobs outside of the City as well. As such, it cannot be assessed from the evidence provided how the City's job accessibility relative to the region would decrease.

Ultimately, these issues do not "merit a revision of the information submitted pursuant to subdivision (b) of Section 65584.04(b)." (Government Code section 65584.05(b)(3)). The inputs to the RHNA Methodology are not impacted by these purported changes in circumstance and SCAG staff does not recommend a reduction of the City of Garden Grove's Draft RHNA Allocation.

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<sup>3</sup> See [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Demographics-And-Growth-Forecast.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Demographics-And-Growth-Forecast.pdf)



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**FISCAL IMPACT:**

Work associated with this item is included in the current FY20-21 Overall Work Program (300-4872Y0.02: Regional Housing Needs Assessment).

**ATTACHMENT(S):**

1. Local Input and Development of Draft RHNA Methodology (City of Garden Grove)
2. Garden Grove Appeal and Supporting Documentation
3. Map of Job Accessibility near the City of Garden Grove (2045)
4. HCD Review of Draft RHNA Methodology (Jan 13, 2020)
5. Comments Received during the Comment Period

Southern California Association of Governments  
Remote Participation Only  
**City of Garden Grove RHNA Appeal**  
**January 22, 2021**

**Attachment 1: Local Input and Development of the Draft RHNA Allocation**

This attachment sets forth the nature and timing of the opportunities which the City of Garden Grove had to provide information and local input on SCAG’s growth forecast, the RHNA methodology, and the Growth Vision of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). It also describes how the RHNA Methodology development process integrates this information in order to develop the City of Garden Grove’s Draft RHNA Allocation.

**1. Local input**

***a. Bottom-Up Local Input and Envisioning Process***

On October 31, 2017, SCAG took the first step toward developing draft RHNA allocations by initiating the Bottom-Up Local Input and Envisioning Process. At the direction of the Regional Council, the objective of this process was to seek local input and data to prepare for Connect SoCal and the 6<sup>th</sup> cycle of RHNA.<sup>1</sup> Each jurisdiction was provided with a package of land use, transportation, environmental, and growth forecast data for review and revision which was due on October 1, 2018.<sup>2</sup> While the local input process materials focus principally on jurisdiction-level and Transportation Analysis Zone (TAZ) level growth, input on specific parcels, sites, and project areas were welcomed and integrated into SCAG’s growth forecast as well as data on other elements. SCAG met one-on-one with all 197 local jurisdictions between November 2017 and July 2018 and provided training opportunities and staff support. Following input from SCAG’s Technical Working Group (TWG), the Connect SoCal growth forecast reflected precisely the jurisdiction-level growth totals provided during this process.

Forecasts for jurisdictions in Orange County were developed through the 2018 Orange County Projections (OCP-2018) update process conducted by the Center for Demographic Research (CDR) at Cal State Fullerton. Jurisdictions were informed of this arrangement by SCAG at the kickoff of the Process. For the City of Garden Grove, the anticipated number of households in 2020 was 46,870 and in 2030 was 48,350 (growth of 1,480 households). In March 2018, SCAG staff and CDR staff met with staff from the City of Garden Grove to discuss the Bottom-Up Local Input and Envisioning Process and answer questions.

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<sup>1</sup> While the RTP/SCS and RHNA share data elements, they are distinct processes. The RTP/SCS growth forecast provides an assessment of reasonably foreseeable future patterns of employment, population, and household growth in the region given demographic and economic trends, and existing local and regional policy priorities. The RHNA identifies anticipated housing need over a specified eight-year period and requires that local jurisdictions make available sufficient zoned capacity to accommodate this need. A further discussion of the relationship between these processes can be found in Connect SoCal Master Response 1 at [https://www.connectsoocal.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsoocal.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).

<sup>2</sup> A detailed list of data during this process reviewed can be found in each jurisdiction’s Draft Data/Map Book at <https://scag.ca.gov/local-input-process-towns-cities-and-counties>

**b. RHNA Methodology Surveys**

On March 19, 2019, SCAG distributed a packet of methodology surveys, which included the local planning factor survey (formerly known as the AB2158 factor survey), Affirmatively Furthering Fair Housing (AFFH) survey, and replacement need survey, to SCAG jurisdictions’ Community Development Directors. Surveys were due on April 30, 2019. SCAG reviewed all submitted responses as part of the development of the Draft RHNA Methodology. The City of Garden Grove submitted the following surveys prior to the adoption of the Draft RHNA Methodology:

- Local planning factor survey
- Affirmatively Furthering Fair Housing (AFFH) survey
- Replacement need survey
- No survey was submitted to SCAG

**c. Connect SoCal Growth Vision and Additional Refinements**

Beginning in May 2018, SCAG’s Sustainable Communities Working Group began the process of developing growth scenarios for the SCAG region. The culmination of this work was the development of the Connect SoCal Growth Vision, which directly uses jurisdictional-level growth projections from the Bottom-Up Local Input and Envisioning process, and also features strategies for growth at the TAZ-level that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California’s GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Additional detail regarding the Connect SoCal Growth Vision, specifically the Transportation Analysis Zone (TAZ, or neighborhood) level projections is found at <https://www.connectsocal.org/Documents/DataMapBooks/Growth-Vision-Methodology.pdf>.

As a result of these strategies, in some jurisdictions growth at the TAZ-level differed from locally anticipated growth conveyed during the Bottom-Up Local Input and Envisioning Process.

As such, SCAG provided two additional opportunities for all local jurisdictions to make TAZ-level technical refinements on the topics of general plan capacities and entitlements. During the release of the draft Connect SoCal Plan, jurisdictions were notified on October 31, 2019 that SCAG would accept additional refinements until December 11, 2019. Following the Regional Council’s decision to delay full adoption of Connect SoCal for 120 days due to the COVID-19 pandemic, all jurisdictions were again notified on May 26, 2020 that SCAG would accept additional refinements until June 9, 2020.

Connect SoCal Growth Vision data have been available to local jurisdiction staff during the entirety of this process through SCAG’s Scenario Planning Model Data Management Site (SPM-DM) at <http://spmdm.scag.ca.gov> and updates were shared with local jurisdictions on technical refinements to the data in February 2020 and August 2020 to share the results of both review opportunities. SCAG

received additional technical corrections from the City of Garden Grove and incorporated them into the Growth Vision in December 2019.

## 2. Development of the Final RHNA Methodology

SCAG convened the first meeting of the RHNA Subcommittee in October 2018. In their subsequent monthly meetings, this body reviewed and advised on the development of SCAG's 6<sup>th</sup> cycle RHNA process, including the development of the RHNA methodology. Per Government Code 65584.04(a), SCAG must develop a RHNA methodology which furthers the five statutory objectives of RHNA:

*(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.*

*(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

*(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

*(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

*(5) Affirmatively furthering fair housing (Govt. Code § 65584(d)).*

As explained in more detail below, the Draft RHNA Methodology (which was adopted as the Final RHNA Methodology) set forth the policy factors, data sources, and calculations which would be used to generate draft RHNA allocations for all local jurisdictions. Following extensive debate and public comment, SCAG's Regional Council voted to approve the Draft RHNA Methodology on November 7, 2019 and provide it to HCD for review. Per Government Code 65584.04(i), HCD is vested with the authority to determine whether a methodology furthers the objectives set forth in Government Code section 65584(d). On January 13, 2020, HCD found that the Draft RHNA Methodology furthers these five statutory objectives of RHNA. Specifically, HCD noted that:

*"This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes.*

*In particular, HCD applauds the use of the objective factors specifically linked the statutory objectives in the existing need methodology.” (Letter from HCD to SCAG dated January 13, 2020 at <https://scag.ca.gov/sites/main/files/file-attachments/hcd-review-rc-approved-draft-rhna-methodology.pdf?1602190239>).*

On March 5, 2020, again following extensive debate and public comment, the Regional Council voted to approve the Draft RHNA Methodology as the Final RHNA Methodology. Unlike SCAG’s 5<sup>th</sup> cycle RHNA methodology which relies almost entirely on the household growth component of the RTP/SCS, SCAG’s 6<sup>th</sup> cycle RHNA methodology consists of two primary elements: “projected need” which includes the number of housing units required to accommodate anticipated population growth over the 8-year RHNA planning period and “existing need,” which refers to the number of housing units required to accommodate excess or unsatisfied housing demand experienced by the region’s current population.<sup>3</sup> Furthermore, the Final RHNA methodology utilizes measures of 2045 job accessibility and High Quality Transit Area (HQTA) population measures based on TAZ-level projections in the Connect SoCal Growth Vision.

More specifically, the Final RHNA Methodology considers three primary factors in determining a local jurisdiction’s total housing need which are primarily based on data from Connect SoCal’s aforementioned Bottom-Up Local Input and Envisioning Process:

- Forecasted growth over 2020-2030 (projected need)
- Transit accessibility in 2045 (existing need)
- Job accessibility in 2045 (existing need)

The methodology is described in further detail at <http://scag.ca.gov/programs/Documents/RHNA/SCAG-Final-RHNA-Methodology-030520.pdf>.

### **3. Draft RHNA Allocation for the City of Garden Grove**

Following the adoption of the Final RHNA Methodology on March 5, 2020 and the 120 day delay due to the COVID-19 pandemic, SCAG adopted Connect SoCal on September 3, 2020, and the City of Garden Grove received its draft RHNA allocation on September 11, 2020. Application of the RHNA methodology yields the draft RHNA allocation for the City of Garden Grove as summarized in the data and calculations in the tables below.

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<sup>3</sup> Legislative changes in 2018 modified the nature of the regional housing need determination for the 6<sup>th</sup> cycle of RHNA by adding measures of household overcrowding and housing cost burden to the list of factors to be considered by HCD for the determination of housing need. These new measures are not included in the Connect SoCal Growth Forecast because they are not direct inputs to the growth forecasting process and are independent of employment and population projections. In contrast, they reflect additional latent housing needs in the current population (i.e., “existing need”) and would not result in a change in regional population. For further discussion see Connect SoCal Master Response 1 at [https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal\\_Public-Participation-Appendix-2.pdf](https://www.connectsocial.org/Documents/Adopted/0903fConnectSoCal_Public-Participation-Appendix-2.pdf).



<b>Garden Grove city statistics and inputs:</b>	
Forecasted household (HH) growth, RHNA period: <i>(2020-2030 Household Growth * 0.825)</i>	1221
Percent of households who are renting:	46%
Housing unit loss from demolition (2009-18):	253
Adjusted forecasted household growth, 2020-2045: <i>(Local input growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast, +4%)</i>	2,421
Percent of regional jobs accessible in 30 mins (2045): <i>(For the jurisdiction's median TAZ)</i>	21.64%
Jobs accessible from the jurisdiction's median TAZ (2045): <i>(Based on Connect SoCal's 2045 regional forecast of 10.049M jobs)</i>	2,175,000
Share of region's job accessibility (population weighted):	1.48%
Jurisdiction's HQTAs population (2045):	135,945
Share of region's HQTAs population (2045):	1.33%
Share of population in low/very low-resource tracts:	47.92%
Share of population in very high-resource tracts:	0.00%
Social equity adjustment:	150%

Calculation of Draft RHNA Allocation for Garden Grove city	
Forecasted household (HH) growth, RHNA period:	1221
Vacancy Adjustment <i>(5% for renter households and 1.5% for owner households)</i>	38
Replacement Need	253
<b>TOTAL PROJECTED NEED:</b>	<b>1512</b>
Existing need due to job accessibility (50%)	6172
Existing need due to HQTAs pop. share (50%)	5561
Net residual factor for existing need <i>(Negative values reflect a cap on lower-resourced community with good job and/or transit access. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.)</i>	5877
<b>TOTAL EXISTING NEED</b>	<b>17611</b>
<b>TOTAL RHNA FOR GARDEN GROVE CITY</b>	<b>19122</b>
Very-low income (<50% of AMI)	4155
Low income (50-80% of AMI)	2795
Moderate income (80-120% of AMI)	3204
Above moderate income (>120% of AMI)	8968

The transit accessibility measure is based on the population anticipated to live in High-Quality Transit Areas (HQTAs) in 2045 based on Connect SoCal’s designation of high-quality transit areas and population forecasts. With a forecasted 2045 population of 135,945 living within HQTAs, the City of Garden Grove represents 1.33% of the SCAG region’s HQTAs population, which is the basis for allocating housing units based on transit accessibility.

Job accessibility is defined as the jurisdiction’s share of regional jobs accessible within a 30-minute drive commute. Since over 80 percent of the region’s workers live and work in different jurisdictions, the RHNA methodology uses a measure based on Connect SoCal’s travel demand model output for the year 2045 rather than assigning housing units based on the number of jobs with a specific jurisdiction. Specifically, the share of future (2045) regional jobs which can be reached in a 30-minute

automobile commute from the local jurisdiction's median TAZ is used as to allocate housing units based on transit accessibility. From the City of Garden Grove's median TAZ, it will be possible to reach 21.64% of the region's jobs in 2045 within a 30-minute automobile commute (2,175,000 jobs, based on Connect SoCal's 2045 regional job forecast of 10,049,000 jobs).

An additional factor is included in the methodology to account for RHNA Objective #5 to Affirmatively Further Fair Housing (AFFH). Several jurisdictions in the region which are considered disadvantaged communities (DACs) on the basis of access to opportunity measures (described further in the RHNA methodology document), but which also score highly in job and transit access, may have their total RHNA allocations capped based on their long-range (2045) household forecast. This additional housing need, referred to as residual, is then reallocated to non-DAC jurisdictions in order to ensure housing units are placed in higher-resourced communities consistent with AFFH principles. This reallocation is based on the job and transit access measures described above, and results in an additional 5,877 units assigned to the City of Garden Grove.

Please note that the above represents only a partial description of key data and calculations which result in the Draft RHNA Allocation.

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

Date: \_\_\_\_\_ Jurisdiction Subject to This Appeal Filing:  
 \_\_\_\_\_  
*(to file another appeal, please use another form)*

Filing Party (Jurisdiction or HCD)  
 \_\_\_\_\_

Filing Party Contact Name \_\_\_\_\_ Filing Party Email: \_\_\_\_\_

**APPEAL AUTHORIZED BY:**

Name: \_\_\_\_\_

**PLEASE SELECT BELOW:**

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: \_\_\_\_\_

**BASES FOR APPEAL**

- Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - Existing or projected jobs-housing balance
  - Sewer or water infrastructure constraints for additional development
  - Availability of land suitable for urban development or for conversion to residential use
  - Lands protected from urban development under existing federal or state programs
  - County policies to preserve prime agricultural land
  - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - County-city agreements to direct growth toward incorporated areas of County
  - Loss of units contained in assisted housing developments
  - High housing cost burdens
  - The rate of overcrowding
  - Housing needs of farmworkers
  - Housing needs generated by the presence of a university campus within a jurisdiction
  - Loss of units during a state of emergency
  - The region's greenhouse gas emissions targets
  - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Planner: \_\_\_\_\_

**Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form**  
*All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.*  
*Appeals and supporting documentation should be submitted to [housing@scaq.ca.gov](mailto:housing@scaq.ca.gov).*  
*Late submissions will not be accepted.*

**Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):**

**Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.**

**Brief Description of Appeal Request and Desired Outcome:**

**Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):**

Reduced \_\_\_\_\_ Added \_\_\_\_\_

**List of Supporting Documentation, by Title and Number of Pages**  
**(Numbers may be continued to accommodate additional supporting documentation):**

- 1.
- 2.
- 3.

**FOR STAFF USE ONLY:**

Date \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Planner: \_\_\_\_\_



# CITY OF GARDEN GROVE

Steven R. Jones  
Mayor

Stephanie Klopfenstein  
Mayor Pro Tem – District 5

George S. Brietigam  
Council Member– District 1

John O’Neill  
Council Member– District 2

Thu-Ha Nguyen  
Council Member– District 3

Patrick Phat Bui  
Council Member– District 4

Kim B. Nguyen  
Council Member– District 6

October 26, 2020

RHNA Appeals Board  
Southern California Association of Governments  
Attn: Mr. Kome Ajise, Executive Director  
900 Wilshire Blvd., Suite 1700  
Los Angeles, CA 90017

**SUBJECT: CITY OF GARDEN GROVE APPEAL OF THE REGIONAL HOUSING NEEDS ASSESSMENT ALLOCATION OF 19,122 UNITS**

Dear Mr. Ajise,

The City of Garden Grove (City) commends the Southern California Association of Governments (SCAG) for taking on the task of developing methodology to distribute the Department of Housing and Community Development’s (HCD) Regional Determination of 1.34 million housing units. The City appreciates the time and effort that has gone into this process. And while the City is prepared to do its part in accommodating the regional housing need, it is the City’s position that the allocation of regional housing need to the City was inappropriately determined for several reasons.

First, SCAG failed to determine each jurisdiction’s regional housing need in a manner that furthers, and does not undermine, the intent and objectives of state housing law as required by Government Code section 65584(d). Specifically, SCAG granted an exemption to jurisdictions with more than 50% of their population located in high poverty/segregation areas, otherwise known as Disadvantaged Communities (DAC), rather than proportionately distributing those residential need units based upon the percentage of each jurisdiction’s total population that lives in a high DAC area. Then, SCAG exacerbated that problem by redistributing the residential unit needs of the jurisdictions eligible for the DAC exemption (“DAC Jurisdictions”) to those jurisdictions that are not eligible for the DAC exemption (Non-DAC Jurisdictions) through utilization of an Existing Need Methodology which failed to account for various relevant factors and, as a result, inequitably redistributed those units among the Non-DAC Jurisdictions.

Attachment: Garden Grove Appeal and Supporting Documentation (Appeal of the Draft RHNA Allocation for the City of Garden Grove)

Second, SCAG failed to consider information submitted to it as a result of the survey required by Government Code section 65584.04(b) and information that was readily available to SCAG during the development of its regional housing need allocation methodology. Specifically, SCAG failed to hold DAC Jurisdictions accountable for their fair share of the housing burden by failing to recognize planned and approved housing projects by DAC Jurisdictions, which in turn, causes the units that were redistributed to Non-DAC Jurisdictions to be double-counted. Further, SCAG relied upon unreliable data in determining which jurisdictions qualify for the DAC exemption.

Finally, and in addition to the grounds for appeal stated above, the City has experienced changed circumstances due to the Coronavirus pandemic which has disproportionately affected jurisdictions which are dependent upon tourism such as Garden Grove. The data submitted by the City in advance of SCAG's adoption of the allocation methodology was premised upon pre-Covid employment projections which have drastically changed due to the pandemic.

**1. SCAG Failed to Determine Each Jurisdiction's Regional Housing Need in a Manner that Furthers, and does not Undermine, State Housing Goals.**

Pursuant to Government Code section 65584.05(b)(2), a jurisdiction may appeal SCAG'S regional housing need allocation on the grounds that "[t]he council of governments . . . failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584." (Emphasis added) Government Code section 65584(d) sets forth five objectives that must be furthered by SCAG's regional housing need allocation, the first of which is "[i]ncreasing the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households." (Emphasis added)

The approved RHNA methodology, in its application, results in an exemption for five (5) of the 35 Orange County jurisdictions which inequitably redistributes 24% of the County's total allocation of 183,431 units (i.e. 44,451 units) to the 30 Non-DAC jurisdictions. Further, two (2) of the five (5) Orange County DAC Jurisdictions have the largest Total Need Allocations in Orange County with a combined Total Need of 54,925 units, which represents 30% of the entire County's Total Need allocation.

a) Inequitable and Disproportionate Application of the DAC Exemption

The DAC exemption was applied only to jurisdictions in which 50% or more of the jurisdiction's population live in high poverty/segregation areas, otherwise known as DACs. But this "all or nothing" approach places a disproportionate burden on Non-DAC Jurisdictions which fall just below the 50% DAC threshold. The City of Garden Grove is a prime example of this inequity in that 48% of its residents live in DACs. So not only does Garden Grove barely miss the threshold for the exemption itself, but since it does miss that threshold, it is not only responsible for accommodating its

own housing need, but must also share in the additional housing need burden of the five (5) DAC Jurisdictions. And that is true whether the DAC Jurisdiction’s total DAC population is just 2% higher than Garden Grove’s at 50%, or is at 100%. Stated differently, the draft RHNA allocation completely dismisses the disadvantaged populations of Non-DAC Jurisdictions. For Garden Grove, this equates to approximately 90,000 disadvantaged individuals.

The application of this exemption does not “increase[e] the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner” as contemplated by Gov. Code 65584(d)(1). To the contrary, it undermines that objective by treating jurisdictions that are substantially similar in terms of their DAC population in a completely different, and almost punitive, fashion; specifically, by requiring a Non-DAC Jurisdiction that just missed the 50% threshold to accommodate ***thousands of additional units***, while a DAC Jurisdiction that barely met that threshold is not required to accommodate any of its ***own*** housing need.

The City hereby requests that SCAG consider a more equitable approach by ***utilizing a “sliding scale exemption”*** which would continue to provide relief to disadvantaged communities, but in a manner that is proportionate to each jurisdiction’s disadvantaged population. This application would not discount any jurisdiction’s entire DAC population, nor would it treat a jurisdiction that is 51% DAC as though it were 100% disadvantaged. With the sliding scale application proposed by Garden Grove, a jurisdiction identified as having 60% of its population in DACs would receive a 10% reduction of their Total Need allocation, a jurisdiction with 70% in DACs would receive a 20% reduction, and so on (i.e. a one percent reduction in Total Need allocation for each percent over 50% of the jurisdiction’s population that lives in a DAC). For the 30 Non-DAC Jurisdictions in Orange County, this “sliding scale exemption” would reduce the number of Residual Units from 44,451 to 23,168, creating a much more equitable redistribution. The following (Table 1) is an illustration of the more equitable sliding-scale methodology. See **Exhibit 1** for implementation of a sliding-scale methodology for all jurisdictions within Orange County.

**Table 1: Proposed Sliding Scale Exemption Application Illustration**

Orange County DAC Jurisdictions	Total Need Allocation	% of Disadvantaged Population	% of Reduction to Total Need Allocation	Reduction to Total Need (Residual)	Total RHNA Allocation
Santa Ana city	26,256	88.81%	-38.81%	(10,191)	16,064
Anaheim city	28,669	82.93%	-32.93%	(9,439)	19,230
Orange city	9,533	56.88%	-6.88%	(656)	8,877
Stanton city	3,768	99.46%	-49.46%	(1,864)	1,904
La Habra city	2,684	87.95%	-37.95%	(1,019)	1,666
<b>TOTALS</b>	<b>70,909</b>		<b>-33%</b>	<b>(23,168)</b>	<b>47,741</b>

\*Table data derived from the RHNA Methodology Calculator released on 9/3/20.



b) Inequitable Redistribution of DAC Jurisdictions’ Residual Need Units

As discussed in section 1(a) of this appeal, the exemption provided to the five (5) Orange County DAC Jurisdictions reduces their Total Need Allocations by 63% (44,514 housing units), which necessitates redistribution of those Residual Units to Non-DAC Jurisdictions located within the County. Under the current draft allocation, this redistribution is accomplished by utilizing Existing Need methodology, which **allocates a higher percentage of units to jurisdictions with greater access to jobs and transit.**

SCAG’s redistribution of Residual Need units based on Existing Need Methodology furthers the inequity created by the DAC exemption in that it fails to take other relevant factors into consideration. For example:

- Garden Grove is considered 48% disadvantaged
- Garden Grove has greater access to jobs than 98% of all SCAG jurisdictions.
- Garden Grove has greater access to high quality transit than 96% of all SCAG jurisdictions.

So, despite the fact that 48% of Garden Grove’s residents live in DACs the City does not qualify for any DAC exemption under the current draft allocation. To make matters worse, the current redistribution criteria for Residual Units now places the City in a position to receive the **2nd highest Residual Need allocation among all of the 197 SCAG jurisdictions;** second only to Los Angeles City which has a population of nearly 4 million people.

The following (Table 2) represents the five SCAG jurisdictions receiving the highest redistribution of Residual Units.

**Table 2: Highest Redistribution of Residual Units in SCAG region**

Jurisdiction	Projected Population by 2045	Population within 1/2 mile of High Quality Transit	Population with High Job Accessibility	Residual Units Redistributed to non-DAC
Los Angeles city	4,771,326	84.8%	17.5%	27,732
Garden Grove city	185,829	73.2%	21.6%	5,877
Irvine city	327,664	13.4%	17.5%	5,294
Huntington Beach city	205,310	36.4%	17.6%	4,304
Unincorp. Los Angeles Co.	1,258,026	40.6%	11.7%	4,105

\*Table data derived from the RHNA Methodology Calculator released on 9/3/20.

The City believes SCAG failed to meet the objectives of State housing law in the form of equitable distribution of housing units by redistributing Residual Units based primarily on Job Accessibility and High-Quality Transit. This inequity is intensified by the fact that SCAG failed to consider that the City very nearly qualified

for a complete exemption given its 48% DAC designation. Consider this: If only 3,503 of Garden Grove's 175,155 residents were to reside in what are defined as DACs, the City would have received **zero** Residual Units under the draft allocation methodology. Instead, Garden Grove is now set to receive 5,877 Residual Need units. This simply cannot meet the state housing objective of *equitable* distribution of housing units among various jurisdictions.

**2. SCAG Failed to Adequately Consider Information Submitted and Available to SCAG Prior to Adoption of the RHNA Allocation Methodology.**

Pursuant to Government Code section 65584.05(b)(2), a jurisdiction may appeal SCAG'S regional housing need allocation on the grounds that "[t]he council of governments . . . failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04." Here, SCAG failed to consider two crucial pieces of information when reaching its 6<sup>th</sup> Cycle RHNA allocation decision.

a) SCAG Failed to Consider the Housing Units that have Already Been Planned and/or Approved for Development by DAC Jurisdictions During the 6<sup>th</sup> Cycle.

In the midst of a state-wide housing crisis, as evidenced by the 6th Cycle Regional Allocation of 1.34 million units, jurisdictions are being called upon to carry their fair share of the housing burden by taking on RHNA allocations significantly higher than in previous cycles. While the City understands the daunting nature of the aforementioned task, the adopted methodology failed to consider the current and future housing production of DAC Jurisdictions, thus causing ***redistributed units to be double-counted***. With the approved RHNA allocation, SCAG has completely ***disregarded housing production that has already been planned and/or approved in DAC Jurisdictions***, while concurrently creating a DAC exemption for those jurisdictions. In short, SCAG failed to account for the anticipated overproduction of units by DAC Jurisdictions.

The following (Table 3) represents an analysis of planned/approved units as part of Specific Plans, zone overlay districts, and/or individual planned or approved projects per websites of the respective DAC Jurisdictions as of September 2020.

**Table 3: Illustration of Planned and Approved Units in Orange County DACs**

DAC Jurisdiction	RHNA Requirements					Units Planned/Approved (Sep. 2020)			Remaining Units Needed
	5th Cycle			6th Cycle		Planned	Approved	Total	
	2020 5th Cycle	Annual Progress Report	Difference	6th Cycle	Total RHNA (6th + 5th Cycle Remainder)				
Anaheim	5,702	7,377	(1,675)	17,412	17,412	15,899	11	15,910	1,502
Santa Ana	204	2,996	(2,792)	3,087	3,087	7,504	2,650	10,154	(7,067)
Orange	363	1,910	(1,547)	3,927	3,927	685	590	1,275	2,652
La Habra	4	518	(514)	803	803	202	0	202	601
Stanton	313	268	45	1,228	1,273	951	47	998	275
<b>Total</b>	<b>6,586</b>	<b>13,069</b>	<b>(6,483)</b>	<b>26,457</b>	<b>26,502</b>	<b>25,241</b>	<b>3,298</b>	<b>28,539</b>	<b>(2,037)</b>
<b>Garden Grove</b>	<b>747</b>	<b>639</b>	<b>108</b>	<b>19,122</b>	<b>19,230</b>	<b>225</b>	<b>1,084</b>	<b>1,309</b>	<b>17,921</b>

\*Table data derived from websites of the specific jurisdictions

As shown in Table 3 above, prior to the start of the 6th RHNA Cycle, DAC Jurisdictions are planning for, or have approved, a total of 28,539 units, which is 2,037 units over their total 6th Cycle allocation. The City is requesting a more equitable allocation that would consider the planned/approved housing production of DAC Jurisdictions and reduce the number of Residual Units redistributed to Non-DAC Jurisdictions accordingly. In conjunction with the proposed "sliding scale application" for DAC exemptions described in 1(a) of this appeal, this approach would result in a more equitable distribution of the region's housing need allocation. For Garden Grove, inclusion of Planned and Approved Units from DAC Jurisdictions would equitably reduce the City's Residual Unit allocation from 5,877 to 3,063.

b) SCAG Relied Upon the Tax Credit Allocation Committee's Opportunity Mapping Tool to Determine What Constitutes a DAC Without Considering that the Data Generated by the Tool is Unreliable for that Purpose.

As mentioned previously, SCAG's exemption for DAC Jurisdictions has resulted in an overwhelmingly inequitable allocation of Regional Housing Need to Non-DAC Jurisdictions. With that in mind, it is important to note that the data used by SCAG to identify DACs *was never intended to be used for that purpose*. The Tax Credit Allocation Committee's (TCAC) Opportunity Mapping Tool was created to assist in the review of 9% Tax Credit applications by ensuring the greatest level of assistance is allocated to housing projects in the highest resource areas, thus breaking the cycle of concentrated poverty/segregation and giving disadvantaged populations increased access to much-needed resources.

Conversely, the methodology adopted by SCAG utilizes the TCAC Opportunity Mapping Tool to identify jurisdictions with more than 50% of their population located in high poverty/high-segregation areas (DACs) in order to offer a substantial reduction to the number of units determined to be necessary to accommodate Total Need. Further, pursuant to the TCAC Opportunity Mapping Tool Methodology (see excerpt below), the data that drives the Tool has limitations since it is based on surveys, may not be reliable in some areas, and is delayed by two years.

*"Opportunity mapping also has limitations. For example, maps' accuracy is dependent on the accuracy of the data behind them. Data may be derived from self-reported surveys of subsets of an area's population, and sometimes may not be recorded or reliable in some areas. Further, even the most recent publicly available datasets typically lag by two years, meaning they may not adequately capture conditions in areas undergoing rapid change."*

Being that the DAC exemption results in redistribution of 25% of Orange County's Total Need allocation, and 63% of the five Orange County DAC Jurisdictions' Total Need allocation, SCAG's utilization of a tool that was never intended for such a purpose and is, by its own admission, based on outdated and unreliable data, constitutes a failure to consider relevant information.

### **3. Garden Grove Has Experienced Changed Circumstances Which Warrant a Revisions to the Draft RHNA Allocation.**

Pursuant to Government Code section 65584.05(b)(3), a jurisdiction may appeal a regional council of government's draft allocation if "[a] significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits as revision of the information submitted pursuant to subdivision (b) of Section 65584.04."

Household Growth Projections, a key factor in SCAG's determination of Projected Need, were based upon employment projection data for the period from 2020 to 2030, which was submitted by the City to the Center of Demographic Research (CDR) in March 2018<sup>1</sup>. The importance of this data to the RHNA allocation process is due to the state's objective of "[p]romoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction." (Gov. Code § 65584(d)(3))

But the City has experienced a "significant and unforeseen change in circumstances" since 2018 when that employment projection data was submitted to CDR. Specifically, the employment projection data submitted in 2018 was based on a thriving tourism market and the future development of hotels and commercial uses in the Grove Resort District along Harbor Boulevard. However, the Coronavirus pandemic, which has disproportionately affected the tourism industry and jurisdictions that rely upon it, resulted in a significant economic downturn that has crippled the tourism market and (per the U.S. Department of Labor's WARN Report, See **Exhibit 2**), as of August 2020, has resulted in nearly 2,800 service jobs being lost in Garden Grove. Due to the change in circumstance caused by COVID-19, the

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<sup>1</sup> Household Growth Projections also take into consideration housing unit production and population growth estimates.

Garden Grove RHNA Appeal  
October 26, 2020

City is amending its 2020-2030 employment growth projection from 5,477 to 3,731, a reduction of 1,746 jobs (-32%). Therefore, due to the significant loss of over 4,500 new and existing jobs, the City requests a reduction of its current Projected Need allocation of 1,512 housing units.

### **Conclusion**

The City of Garden Grove respectfully requests that SCAG revise the draft RHNA allocation through utilization of the sliding-scale DAC exemption formula as explained herein. Doing so would further the state housing objectives identified by Government Code section 65584(d) by "increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region *in an equitable manner,*" and by "promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction." (Gov. Code § 65584(d), subsections (1) and (3)) Further, the City requests that, due to the changed circumstances experienced as a result of the Coronavirus pandemic, it's Projected Need Allocation be reduced from 1,512 housing units to account for the loss of jobs and decreased employment growth projection in the City.

Sincerely,



Steven R. Jones  
Mayor

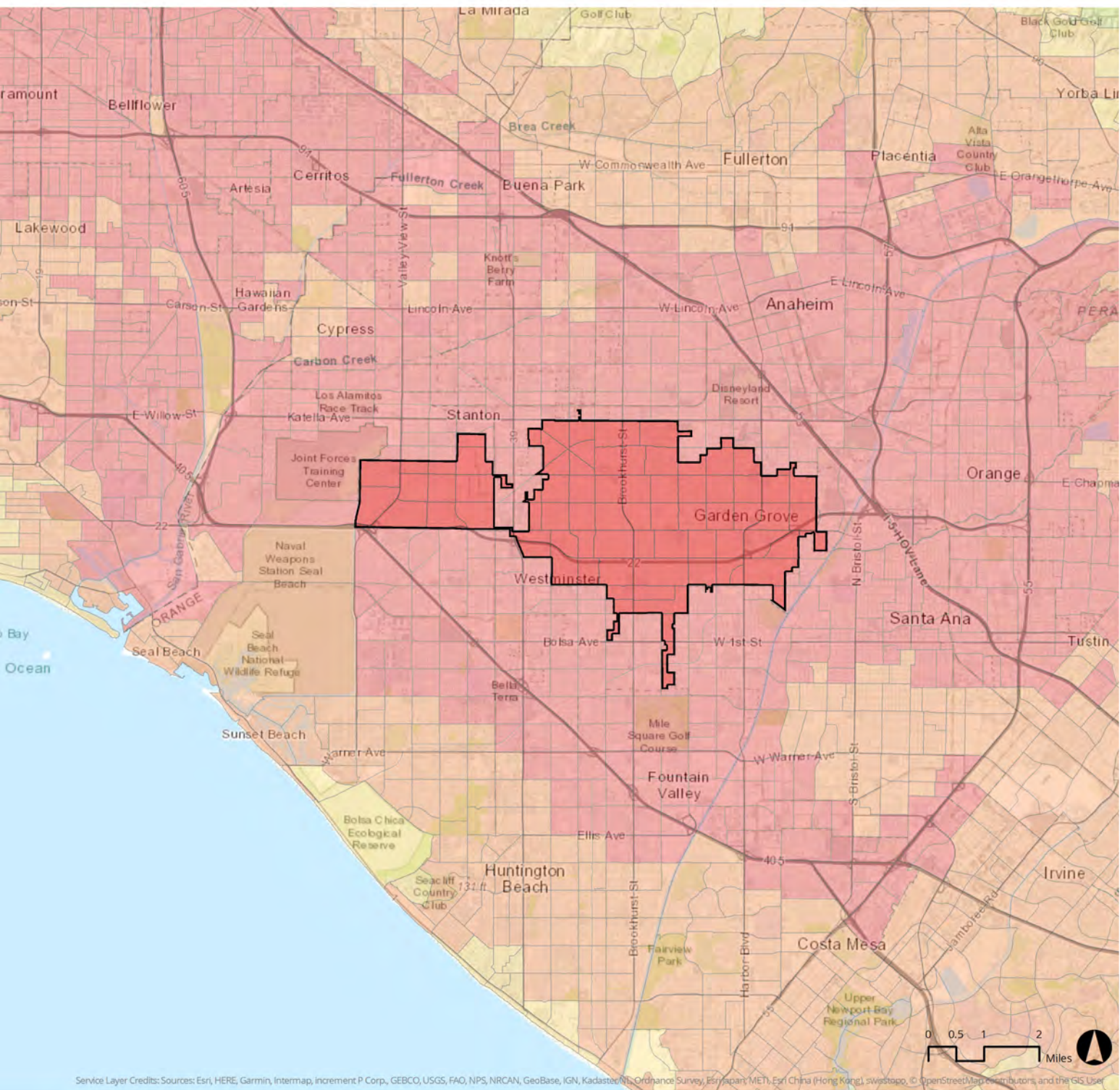
**Exhibit 1:  
 Sliding-Scale DAC Methodology**

OC Jurisdiction	BASELINE			CURRENT METHODOLOGY			SLIDING SCALE METHODOLOGY						
	Proj Need	Exist Need	Total Need	Residual Units	Redistribution	Total RHNA	DAC %	DAC Reduction (%)	New Residual Units	Redistribution %	New Redistribution	New RHNA	Difference New - Old RHNA
Stanton	667	561	3768	2540	0	1228	99.5%	49.5%	1864	0.0%	0	1904	676
Santa Ana	2114	973	26256	23168	0	3087	88.8%	38.8%	10191	0.0%	0	16064	12977
La Habra	341	463	2684	1881	0	803	87.9%	37.9%	1019	0.0%	0	1666	863
Anaheim	4113	13299	28669	11257	0	17412	82.9%	32.9%	9439	0.0%	0	19230	1818
Orange	2192	1735	9533	5606	0	3927	56.9%	6.9%	656	0.0%	0	8877	4950
<b>Garden Grove</b>	<b>1512</b>	<b>17611</b>	<b>13246</b>	<b>0</b>	<b>5877</b>	<b>19122</b>	<b>47.9%</b>	<b>0.0%</b>	<b>0</b>	<b>13.2%</b>	<b>3063</b>	<b>16309</b>	<b>(2813)</b>
Buena Park	1533	7366	6441	0	2458	8899	43.4%	0.0%	0	5.5%	1281	7722	(1177)
San Juan Capistrano	277	774	793	0	258	1051	42.5%	0.0%	0	0.6%	135	927	(124)
Laguna Woods	20	974	669	0	325	994	38.6%	0.0%	0	0.7%	169	839	(155)
Westminster	709	9027	6724	0	3013	9736	37.8%	0.0%	0	6.8%	1570	8294	(1442)
Tustin	49	6717	4525	0	2241	6766	35.2%	0.0%	0	5.0%	1168	5693	(1073)
Fullerton	1641	11538	9329	0	3850	13179	33.5%	0.0%	0	8.7%	2007	11335	(1844)
Placentia	860	3503	3194	0	1169	4364	29.8%	0.0%	0	2.6%	609	3804	(560)
Lake Forest	428	2799	2293	0	934	3228	24.8%	0.0%	0	2.1%	487	2780	(448)
Costa Mesa	411	11322	7955	0	3778	11733	19.2%	0.0%	0	8.5%	1969	9924	(1809)
Fountain Valley	177	4650	3275	0	1552	4827	12.3%	0.0%	0	3.5%	809	4084	(743)
Unincorporated OC	5407	4974	8721	0	1660	10381	8.7%	0.0%	0	3.7%	865	9587	(794)
Dana Point	209	321	422	0	107	529	8.6%	0.0%	0	0.2%	56	478	(51)
Huntington Beach	441	12896	9033	0	4304	13337	7.8%	0.0%	0	9.7%	2243	11276	(2061)
Brea	136	2224	1618	0	742	2360	6.6%	0.0%	0	1.7%	387	2004	(356)
Laguna Hills	848	1132	1602	0	378	1980	6.4%	0.0%	0	0.8%	197	1799	(181)
Irvine	7690	15864	18260	0	5294	23554	5.8%	0.0%	0	11.9%	2759	21019	(2535)
Newport Beach	320	4514	3327	0	1506	4834	4.3%	0.0%	0	3.4%	785	4112	(722)
Villa Park	10	285	200	0	95	295	2.0%	0.0%	0	0.2%	50	249	(46)
Cypress	112	3815	2654	0	1273	3927	0.3%	0.0%	0	2.9%	664	3317	(610)
Mission Viejo	41	2170	1487	0	724	2212	0.0%	0.0%	0	1.6%	378	1865	(347)
Aliso Viejo	48	1144	811	0	382	1193	0.0%	0.0%	0	0.9%	199	1010	(183)
La Palma	6	794	535	0	265	800	0.0%	0.0%	0	0.6%	138	673	(127)
Laguna Beach	18	375	267	0	125	393	0.0%	0.0%	0	0.3%	65	333	(60)
Laguna Niguel	62	1143	824	0	381	1205	0.0%	0.0%	0	0.9%	199	1023	(182)
Los Alamitos	158	609	564	0	203	767	0.0%	0.0%	0	0.5%	106	669	(98)
Rancho Santa Margarita	43	636	467	0	212	679	0.0%	0.0%	0	0.5%	111	578	(101)
San Clemente	462	517	806	0	172	979	0.0%	0.0%	0	0.4%	90	896	(83)
Seal Beach	112	1128	863	0	377	1240	0.0%	0.0%	0	0.8%	196	1060	(180)
Yorba Linda	34	2376	1617	0	793	2410	0.0%	0.0%	0	1.8%	413	2030	(380)
<b>TOTAL</b>	<b>33201</b>	<b>150229</b>	<b>183431</b>	<b>44451</b>	<b>44451</b>	<b>183431</b>		<b>12.6%</b>	<b>23168</b>		<b>23168</b>	<b>183431</b>	

**Exhibit 2:  
 U.S. Department of Labor's WARN Report (as of 8/27/20)**

Worker Adjustment and Retraining Notification Act ("WARN")

Company	Street Address	CSZ	Date	Associates
Basic Energy Services	12891 Neson Street	Garden Grove, CA 92840	1-Apr-20	52
Burlington #772	13092 Harbor Boulevard	Garden Grove, CA 92843	8-Apr-20	69
Club Demonstration Services			11-Apr-20	43
Enterprise Holdings (Enterprise Rent-A-Car)	13292 Brookhurst St.	Garden Grove, CA 92843	2-May-20	2
Evans Manufacturing				73
Garden Grove Kia			10-Apr-20	50
GKN Aerospace	12122 Western Avenue	Garden Grove, CA 92841	4-Jun-20	40
Goodwill - Orange County	11052 Magnolia Street	Garden Grove, CA 92841	7-Apr-20	32
Great Wolf Lodge	12681 Harbor Boulevard	Garden Grove, CA 92840	26-Mar-20	721
Hyatt Regency			9-Apr-20	369
Island Hospitality Group/Residence Inn	11931 Harbor Boulevard	Garden Grove, CA 92840	7-Apr-20	16
Keolis	13591 Harbor Boulevard	Garden Grove, CA 92843	30-Apr-20	19
Outback Steakhouse - Out West Restaurant Group, Inc.	12001 Harbor Boulevard	Garden Grove, CA 92840	3-Apr-20	59
Regal	9741 Chapman Avenue	Garden Grove, CA 92841	27-Apr-20	62
ROSS	13200 Harbor Boulevard	Garden Grove, CA 92843	3-Apr-20	62
Safran Cabin	73300 Lincoln Way	Garden Grove, CA 92840	15-Apr-20	304
Saint Gobain				110
SPS Technologies DBA Air Industries				534
STG Auto Group				37
The Roman Catholic Bishop of Orange ("the Diocese")	13280 Chapman Ave.	Garden Grove, CA 92840	21-Apr-20	52
United Here Local				7
Western Dental & Orthodontics	12141 Garden Grove Blvd.	Garden Grove, CA 92843	30-Mar-20	11
Western Transit System, Inc.	13591 Harbor Boulevard	Garden Grove, CA 92843	29-Apr-20	39
Yellow Cab of Greater Orange County	13591 Harbor Boulevard	Garden Grove, CA 92843	30-Apr-20	33
			Total Job Loss	2796



## TAZ-level job accessibility in and around: City of Garden Grove [Year 2045]



Note: These data represent the share of jobs in the SCAG region accessible by automobile commute in 30 minutes in 2045 during the peak AM commute (6-9am). Further detail on the job accessibility measure can be found in SCAG's Final RHNA Methodology. Note that since the SCAG region's total employment forecast for 2045 is 10,049,000 jobs, the number of jobs available can be measured by multiplying the percentage found on the map by this number. For example, a TAZ-level job accessibility measure of 10.0% means that 1,049,000 future jobs could be reached in 30 minutes.

Data Source: SCAG, 2020 | Map Created: 10/22/2020

Disclaimer: The data underlying the information shown on this map reflect jurisdiction's input submitted during the Local Input and Envision Connect SoCal. SCAG shall not be responsible for user's misuse or misrepresentation of this map. For the details regarding the sources, methodology of this map, please refer to the SCAG Data/Map Book at <https://www.connectsocial.org/Pages/Local-Input-Process.aspx> or contact [RTPLocal@scag.ca.gov](mailto:RTPLocal@scag.ca.gov)



**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
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January 13, 2020

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Review of Draft Regional Housing Need Allocation (RHNA) Methodology**

Thank you for submitting the draft Southern California Association of Governments (SCAG) Sixth Cycle Regional Housing Need Allocation (RHNA) Methodology. Pursuant to Government Code Section 65584.04(i), the California Department of Housing and Community Development (HCD) is required to review draft RHNA methodology to determine whether the methodology furthers the statutory objectives described in Government Code Section 65584(d).

In brief, the draft SCAG RHNA methodology begins with the total regional determination provided by the California Department of Housing and Community Development (HCD) and separates it into two methodologies to allocate the full determination: projected need (504,970) and existing need (836,857).

For projected need, the household growth projected in SCAG's Connect SoCal growth forecast for the years 2020-2030 is used as the basis for calculating projected housing need for the region. A future vacancy and replacement need are also calculated and added to the projected need.

The existing need is calculated by assigning 50 percent of regional existing need based on a jurisdiction's share of the region's population within the high-quality transit areas (HQTAs) based on future 2045 HQTAs. The other 50 percent of the regional existing need is based on a jurisdiction's share of the region's estimated jobs in 2045 that can be accessed within a 30-minute driving commute. For high segregation and poverty areas as defined by [HCD/TCAC Opportunity Maps](#),<sup>1</sup> referred to by SCAG as extremely disadvantaged communities (DACs), existing need in excess of the 2020-2045 household growth forecast is reallocated to non-DAC jurisdictions within the same county.

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<sup>1</sup> Created by the California Fair Housing Task Force and commissioned by HCD and the California Tax Credit Allocation Committee (TCAC) to assist public entities in affirmatively furthering fair housing. The version used in this analysis is the 2019 HCD/TCAC Opportunity Maps available at [treasurer.ca.gov/ctcac/opportunity.asp](http://treasurer.ca.gov/ctcac/opportunity.asp).

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Within both the projected and existing need methodologies the four RHNA income categories (very low, low, moderate, and above moderate) are assigned to each jurisdiction by the use of a 150 percent social equity adjustment, which inversely adjusts based on the current incomes within the jurisdiction. An additional percentage of social equity adjustment is made for jurisdictions that have a high concentration of DACs or Highest Resource areas as defined by the HCD/TCAC Opportunity maps. Overall, the social equity adjustments result in greater shares of lower income RHNA to higher income and higher-resource areas.

**HCD has completed its review of the methodology and finds that the draft SCAG RHNA Methodology furthers the five statutory objectives of RHNA.<sup>2</sup>** HCD acknowledges the complex task of developing a methodology to allocate RHNA to 197 diverse jurisdictions while furthering the five statutory objectives of RHNA. This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of objective factors specifically linked the statutory objectives in the existing need methodology.

Below is a brief summary of findings related to each statutory objective described within Government Code Section 65584(d):

*1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.*

The methodology generally allocates increased shares of lower income RHNA to jurisdictions that have higher housing costs. In support of a mix of affordability, the highest housing cost cities generally receive higher shares of lower income RHNA. Under this methodology the 15 cities with the highest median housing costs all receive greater than 50 percent of the RHNA as lower income RHNA. Beverly Hills with the 18<sup>th</sup> highest median housing costs receives the 25<sup>th</sup> highest share of lower income RHNA; Westlake Village with the 14<sup>th</sup> highest median housing costs receives the 12<sup>th</sup> highest share of lower income RHNA; Aliso Viejo with the 23<sup>rd</sup> highest median housing costs receives the 38<sup>th</sup> highest share of lower income RHNA; and Villa Park with the 10<sup>th</sup> highest median housing costs receives the 31<sup>st</sup> highest share of lower income RHNA.

*2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.*

The draft SCAG RHNA methodology furthers the environmental principles of this objective as demonstrated by the transportation and job alignment with the RHNA allocations.

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<sup>2</sup> While HCD finds that this particular methodology furthers the objectives of RHNA, HCD's determination is subject to change depending on the region or cycle, as housing conditions in those circumstances may differ.

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*3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.*

Half of the existing need portion of the draft SCAG RHNA methodology is set based on the jurisdiction's share of the region's estimated jobs in 2045. While future looking job projections are important for housing planning, and housing built in the next decade will likely exist for 50-100 years or more, it is also critical to plan for the needs that exist today. This objective specifically considers the balance of low-wage jobs to housing available to low-wage workers. As part of HCD's analysis as to whether this jobs-housing fit objective was furthered by SCAG's draft methodology, HCD analyzed how the percentage share of the region's lower income RHNA compared to the percentage share of low-wage jobs.

For example, under the draft SCAG RHNA methodology Irvine would receive 1.84 percent of the region's lower income RHNA, and currently has 2.07 percent of the region's low-wage jobs, .23 percent less lower income RHNA than low-wage jobs for the region. Pomona would receive .71 percent of the region's lower income RHNA, and currently has .57 percent of the region's low-wage jobs, .13 percent more lower income RHNA than low-wage jobs for the region. Across all jurisdictions there is generally good alignment between low-wage jobs and lower income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower income RHNA for the region and their percentage low-wage jobs for the region.

HCD is aware there has been some opposition to this current methodology from jurisdictions that received lower allocations under prior iterations; however it is worth noting that even if it is by a small amount, many of the jurisdictions that received increases are still receiving lower shares of the region's lower income RHNA compared to their share of the region's low-wage jobs. HCD recommends any changes made in response to appeals should be in the interest of seeking ways to more deeply further objectives without compromising other objectives.

*4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.*

This objective is furthered directly by the social equity adjustment factor included in the draft SCAG RHNA methodology. Jurisdictions in the SCAG region range from as little as 10.9 percent lower income households to 82.7 percent lower income households. The 20 jurisdictions with the greatest share of lower income households, 67.2-82.7 percent lower income households, would receive an average of 31.6 percent lower income share of their RHNA; compared to the 20 jurisdictions with the lowest share of lower income households, 10.9-25.1 percent lower income households, would receive an average of 59.1 percent lower income share of their RHNA. While the social equity adjustment explicitly responds to objective four, it also assists in the methodology furthering each of the other objectives.

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*5. Affirmatively furthering fair housing, which means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.*

HCD applauds the inclusion of the affirmatively furthering fair housing adjustment factor in the methodology. This factor directs more lower income RHNA to higher opportunity areas and reduces allocations in segregated concentrated areas of poverty, as defined in the [HCD/TCAC Opportunity Maps](#), which evaluate access to opportunity, racial segregation, and concentrated poverty on 11 dimensions, which are all evidence-based indicators related to long term life outcomes. 14 of the top 15 highest shares of lower income RHNA are in regions over 99.95 percent High and Highest Resource areas. These include: Imperial, La Habra Heights, Rolling Hills Estates, Hermosa Beach, La Cañada Flintridge, Palos Verdes Estates, Manhattan Beach, Rolling Hills, Agoura Hills, Rancho Palos Verdes, Westlake Village, San Marino, Eastvale, and Hidden Hills. With the exceptions of the cities of Vernon and Industry, the 31 jurisdictions with the highest share of lower income RHNA are all over 95 percent High and Highest Resource areas.

HCD appreciates the active role of SCAG staff in providing data and input throughout the draft SCAG RHNA methodology development and review period. HCD especially thanks Ping Chang, Kevin Kane, Sarah Jepson, and Ma'Ayn Johnson for their significant efforts and assistance.

HCD looks forward to continuing our partnership with SCAG to assist its member jurisdictions to meet and exceed the planning and production of the region's housing need.

Support opportunities available for the SCAG region this cycle include, but are not limited to:

- SB 2 Planning Technical Assistance (Technical assistance available now through June 2021)
- Regional and Local Early Action Planning grants (25 percent of Regional funds available now, all other funds available early 2020)
- SB 2 Permanent Local Housing Allocation (Available April – July 2020)

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Assistant Deputy Director for Fair Housing

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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Sacramento, CA 95833-1829  
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December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and

land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director



# City of Whittier

13230 Penn Street, Whittier, California 90602-1716  
(562) 567-9320 Fax (562) 567-2872 www.cityofwhittier.org

Electronically Transmitted to: [Housing@scag.ca.gov](mailto:Housing@scag.ca.gov)

December 10, 2020

RHNA Appeals Committee  
Southern California Association of Governments  
900 Wilshire Blvd, Suite 1700  
Los Angeles, CA 90017

**SUBJECT: City of Whittier's Comments on Appeals to the Sixth Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Honorable Chair and Honorable Committee Members:

The City of Whittier ("City") appreciates the challenges that are inherent in allocating 1,341,827 housing units by the thousands (a 226% increase above the baseline 412,137 unit) to cities across Southern California, especially in built-out cities. However, the City is deeply concerned its housing allocation of 3,431 units from the State Department of Housing and Community Development ("HCD") and the Southern California Association of Government's ("SCAG") unit distribution methodology, along with recent housing legislation will fundamentally abridge the City's ability to develop effective land-use policies that are appropriate for managing the community's actual needs. The 878 units in the 5<sup>th</sup> cycle RHNA allocation has been increased by 290% to 3,431 units in the current 6<sup>th</sup> cycle. Particularly challenging in the 6<sup>th</sup> cycle, is the number of low and very low-income units (1,558) which combined with the moderate and above moderate unit totals forces unplanned and unnecessary residential densification of the community.

The affordable units are an unfunded mandate with very limited regional or State financial support for their development. Considering the affordable housing subsidies typically range from \$50,000 to \$250,000 per unit, the overall funding requirements could range from \$78,000,000 to \$390,000,000 which is clearly beyond the reach of the City of Whittier in that the City's general fund budget is just \$72,000,000 which already include \$2,000,000 annually to house the City's unsheltered residents in transitional housing. Additionally, the City only receives 7.5% of each property tax dollar to provide general services including police and library services.

The City is currently in the process of updating its Housing Element as well as the General Plan to incorporate the current RHNA allocation, so Whittier is acutely aware of the various housing needs as well as the potential obstacles, such as aging infrastructure and unplanned density, to creating the requisite housing within a city that

Attachment: Comments Received during the Comment Period (Appeal of the Draft RHNA Allocation for the City of Garden Grove)



is essentially built out. The changes in the State's housing laws (SB 35, SB 166 and AB 1397) have created additional constraints for the agencies and may severely impact the City's ability to accomplish our regional and local housing goals.

Since development in Whittier began more than 130 years ago, the City is virtually built-out with little developable vacant land outside of its designated open space areas that are dedicated to accommodating existing and future residents. While the City has made significant efforts through its specific plans to densify existing corridors and districts, the majority of Whittier's remaining single-family residential neighborhoods cannot accommodate similar densification. Furthermore, the hills north of Whittier contain regional open space, sensitive habitat and wildlife areas that must be preserved in perpetuity. There are also significant infrastructure and water service constraints that impact Whittier's ability to produce significantly more housing. Although these facts may not be desirable, they must be pragmatically accounted for and mitigated by not further increasing Whittier's share of housing units contained in SCAG's 6<sup>th</sup> Cycle RHNA. The final RHNA allocation and methodology must be fair and equitable while reflecting the capacity for reasonable housing unit construction.

As with many other cities, the City is concerned about the current allocation, but an even greater concern is that additional units may be applied to the City if reallocated from cities that are successful in their appeals. To that end, the City believes the appeal process itself was unclear as to the potential ramifications to other cities and not fully understood.

Although we fully support the surrounding cities in their appeals, the potential for additional units being applied to the City would exacerbate the problems described herein and in Whittier's September 13, 2019 letter to SCAG.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffery S. Adams  
Director of Community Development

File

**From:** Christopher Koontz <Christopher.Koontz@longbeach.gov>  
**Sent:** Thursday, December 3, 2020 11:14 AM  
**To:** Regional Housing  
**Subject:** RHNA Appeals

**Categories:** Response Required, Record

Good morning,

The purpose of this email is to provide the City of Long Beach’s position in regards to pending RHNA appeals before SCAG. The City of Long Beach seeks to meet its housing needs and obligations for the benefit of Long Beach residents and the region. Our allocation was extremely large and presents a planning and financing challenge for the City. Nonetheless we chose not to appeal our allocation because the allocation process was fair and transparent including taking the City of Long Beach’s input into consideration.

We oppose and will not accept any transfer of additional allocation due to the pending appeals. We note that within our area, the Gateway COG, appeals are pending from Bellflower, Cerritos, Downey, Huntington Park, La Mirada, Lakewood, Pico Rivera, and South Gate. Each of these appeals should be evaluated by SCAG on the merits, however Long Beach opposes any transfer of allocation to our City. It would be inappropriate to transfer a further burden to Long Beach when we have already accepted a large allocation and have done more than many cities in the region to accommodate housing growth under the current RHNA cycle, including fully meeting our market-rate RHNA allocation.

The City of Long Beach will continue to work with SCAG and our neighbor jurisdictions to address the housing needs of our residents.

We thank you for consideration and please do not hesitate to contact the City regarding our position.

Christopher Koontz, AICP  
*Deputy Director*

Development Services  
411 W. Ocean Blvd., 3rd Floor | Long Beach, CA 90802  
Office: 562.570.6288 | Fax: 562.570.6068



Attachment: Comments Received during the Comment Period (Appeal of the Draft RHNA Allocation for the City of Garden Grove)