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October 6, 2017

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

RE: REVISED SUPPLEMENTAL REPORT ON PROPOSED AFFORDABLE HOUSING LINKAGE FEE ORDINANCE; CF 17-0274

Please note the following notation changes in the enclosed report:

1. Page 2, Paragraph 1: The maximum fee has been corrected to read $9.00 per square foot (psf). The original report states an incorrect amount of $10.00 psf.
2. Page 2, Paragraph 3: The reduced fee range has been corrected to read $2.67-$5.00 psf. The original report states an incorrect range of $4.00-$7.50 psf.
3. Page 4, Item No. 4: The proposed ordinance language has been corrected to match the language in the draft ordinance, as prepared by the Office of the City Attorney. The version in the original report included language that referenced the proposed ordinance prior to Office of City Attorney review.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Claudia Rodriguez
Council Liaison

VPB:YK:cr

Enclosures
Revised Supplemental Report

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October 6, 2017

Los Angeles City Council
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Attention: PLUM Committee

Dear Honorable Members:

REVISED SUPPLEMENTAL REPORT ON THE PROPOSED AFFORDABLE HOUSING LINKAGE FEE ORDINANCE; CF 17-0274

On August 22, 2017, the Planning and Land Use Management (PLUM) Committee considered reports from the Los Angeles City Planning Commission, the Department of City Planning (DCP) and the Housing and Community Investment Department (HCIDLA) relative to a proposed Ordinance adding Section 21.18 and amending Section 16.02 of the Los Angeles Municipal Code (LAMC), as well as adding Section 5.578 of Chapter 172 of the Los Angeles Administrative Code, establishing an Affordable Housing Linkage Fee (AHLF).

Following the discussion, the PLUM Committee continued the matter and requested the Office of the City Attorney to prepare the final Ordinance(s) with amendments within 30 days. In addition, the PLUM Committee instructed the DCP and HCIDLA to report back relative to the following five issues related to the proposed Affordable Housing Linkage Fee (AHLF) ordinance:

1. The impact or feasibility of reducing the exemption for single family home construction and additions from 1,500 square feet to 750 square feet

The proposed AHLF would establish a fee on larger single-family home construction, including any new construction or addition that results in a net increase of over 1,500 square feet in floor area from the size of any prior existing home. Staff had originally recommended a 2,000 square feet floor area exemption, which was subsequently reduced by the City Planning Commission to 1,500 square feet. Additions ranging from 1,500 to 2,000 square feet are larger than many full existing single-family homes, and are typically associated with a change in ownership as they drastically increase the value of a home; while smaller additions below this threshold are more likely to be completed by homeowners who are in need of a more modest home expansion.

The Department has recently received supplemental analysis from the nexus study consultants regarding this issue (BAE Economics, October 4, 2017). The consultants were asked to look specifically at a 750 square foot exemption threshold, as well as the 1,500 square foot option. The supplemental analysis demonstrates that the proposed fee levels of $8.00-$15.00 per square foot (psf) are less supportable from the perspective of a required nexus at the 750 square foot threshold. Based on the supplemental nexus analysis, a maximum fee of $9.00 psf could be justified for additions at this scale. Staff recommends retaining the existing 1,500 square foot threshold and retaining the currently proposed fee levels of $8.00-$15.00 per square foot.

In taking a conservative approach, staff has recommended that fees should be set below the maximum justifiable fee level, and to allow for any fee adjustments over time. If the Council desires to expand the linkage fee to apply to single family additions of 750 square feet to 1,500 square feet of floor area, the fees would need to be lowered by approximately two-thirds from the PLUM-recommended fee structure to remain strongly supportable for single-family home construction. If the Council were to consider this option, one possible fee structure for additions between 750 square feet to 1,500 square feet could be as follows: $2.67 psf in low market areas, $3.33 psf in medium market areas, $4.00 psf in medium-high market areas, and $5.00 psf in high market areas.

Reducing the threshold to 750 square feet would subject approximately 400 additional projects each year to the fee. Assuming reduced fee amounts for those projects ranging from $2.67-$5.00 psf, this would have relatively minor impacts on overall expected revenues (approximately a $1.1 to $1.3 million increase in overall annual revenues, derived largely from new fees being placed on smaller home additions).

The estimated revenue impacts would be as follows:

Table 1. Comparison of anticipated revenue for single family home construction and additions: 1,500 sq. ft. and 750 sq. ft. threshold

Expected Annual Revenue	Additions	New Construction*	Total Revenue from Single-Family Detached Home Construction
1,500 sq. ft. threshold (recommended by the City Planning Commission, with PLUM-recommended fee structure)	$2.8 million to $3.4 million	$31.1 million to $38 million	**$33.9 million to $41.4 million**
750 sq. ft. threshold (with adjusted fee structure for projects under 1,500 sq. ft.)	$3.5 million to $4.2 million	$31.5 million to $38.5 million	**$35 million to $42.7 million**

*Approximately 30% of new construction consists of a demolition and replacement of a single-family home resulting in a net increase of 1,500 sq. ft. or more.

2. Options to include AHLF exemptions for non-profit organizations

The proposed AHLF ordinance includes several exemptions. One of those is an exemption for projects constructed by a government or public institution for public use. The exemption proposed in the ordinance (LAMC 21.18.2 (b)3) reads as follows:

> *Any Development Project being constructed by, or on behalf of, a government or public institution such as a hospital, school, museum, homeless shelter or other similar projects that are intended for community use, or any private Elementary and High School which does not discriminate, as determined by the Director of Planning.*

The term non-profit is quite broad, and includes non-charitable organizations. If the Council were to include an exemption for non-profit organizations, additional direction would be needed to define which subset of non-profit organizations should be exempted from the fee, and how they would be defined. The zoning code currently includes a definition of Philanthropic Institutions (LAMC 12.03), which requires nonprofit organizations to be devoted to one of three activities – housing, training or caring for the underprivileged. A more expansive definition could be based on the federal definition of a charitable organization with 501(c)(3) status.

Expanding this exemption to include non-profit organizations carries several risks. However, a wider exemption for non-profits may not be needed, as several of the exemptions already proposed in the AHLF ordinance would likely also include many non-profit organizations, such as the exemption for affordable housing and the exemption described above. Additionally, such an exemption may be vulnerable to abuse; and the Departments have some concern that including such an exemption would create an incentive for developers to form non-profit entities for the express purpose of evading the Linkage Fee. Lastly, buildings shift use over time, but would only be subject to the Linkage Fee at the time that building permits are secured.

3. Additional information on hospitals located in the city, including but not limited to operator categories such as private, government-run, and non-profit

The proposed City Planning Commission draft does not include a specific exemption for hospitals. The PLUM Committee voted to examine an exemption for all hospitals, and requested a report back from the DCP with additional information on hospitals located in the City.

Discussion on this issue included a concern regarding the need for acute care hospitals to comply with state seismic requirements established by AB 1953 (1994). The law requires that hospitals with buildings that do not meet specifications for earthquake-resistant structures be brought into compliance by 2030. Non-compliant buildings must be abandoned, retrofitted or replaced.

For commercial properties, including hospitals, the proposed ordinance only charges the fee on "additional nonresidential floor area." In cases where hospital buildings are replaced on the same property, the square footage from the old buildings may be deducted from the new building, which would significantly lower, if not negate, any linkage fees.

Based on information from the County, the Department identified approximately 46 hospitals located in the City of Los Angeles. These range in size, specialty and target population. Just over half of these hospitals appear to be controlled by a nonprofit institution, about a third are privately/investor-operated institutions and the remainder are government-run.

About 1.9 million square feet in new hospital space has been constructed in Los Angeles since 2001 (about 120,000 square feet a year). All of these hospital buildings were constructed by nonprofit operators such as Kaiser Permanente, Los Angeles Children's Hospital and Cedars-Sinai.

If City Council wishes to add an exemption for hospital construction, the anticipated revenue loss would be approximately $600,000 a year. City Council could also extend exemptions to non-profit owned hospitals, or those subject to the state law.

4. Options for the broadest reach in vesting regulations in determining which projects would be subject to the fee, once effective

The proposed ordinance states that any applications submitted within six months after the adoption of the ordinance would not be subject to the AHLF. The Office of City Attorney draft ordinance re-stated this provision as 120 days following the effective date, which reflects that there is a 60 day period following adoption date to the effective date. The current draft ordinance reads as follows:

> *For the first 120 days following the effective date of this ordinance, no Linkage Fee shall be imposed on any project for which a Building Permit Application or complete planning or zoning entitlement application is submitted. For purposes of this Section, a complete planning or zoning entitlement application is an application that has been accepted by the Department of City Planning and for which the application fees have been paid. If an Applicant submitted a Building Permit Application or a complete planning or zoning entitlement application for a Development Project prior to the effective date of this ordinance, that Development Project shall not be subject to a Linkage Fee.*

The current vesting language is broad, to encompass any project that has submitted an entitlement application to DCP or a building permit application to the Department of Building and Safety (LADBS) within 180 days of the ordinance's adoption date (or 120 days from effective date). The DCP feels this is the widest and most inclusive vesting option, as it includes all applications that were submitted during that period. It should be noted that the August 22, 2017 PLUM Committee recommendation includes a six month period after the initial 180 days during which projects will qualify for a 50 percent discounted linkage fee rate.

Additional options exist to further extend the proposed 180 day effective date if necessary. However, with the inclusion of an additional 180 days of 50 percent linkage fee rates, this may also not be necessary.

5. The feasibility of an exemption for the first 25,000 square feet of industrial and manufacturing development

The current ordinance includes an exemption for the first 15,000 square feet of all nonresidential development, including industrial and manufacturing uses. Expanding this exemption to the first 25,000 square feet of industrial uses would not result in a significant reduction in the expected revenues given the relatively low level of industrial development in the City. Under the current fee structure, the AHLF is anticipated to generate approximately $118,000 to $144,000 per year from industrial and manufacturing development. This number would decline to approximately $98,000 to $120,000 if the threshold for industrial and manufacturing development were increased to 25,000 square feet. These estimates include industrial and manufacturing development only, and do not include warehouse construction or public facilities.

If City Council wishes to consider a full exemption for all industrial and manufacturing development, the revenue loss would be approximately $118,000 to $144,000.

Conclusion

The DCP, working closely with HCIDLA, appreciates the continued opportunities for discussion of additional policy considerations for the proposed AHLF Ordinance. The above discussion is intended to address several of the issues raised and direction provided by the PLUM Committee. The Departments look forward to additional direction from the City Council on these matters.

If you have any questions on this report, please contact Matthew Glesne in the Department of City Planning at matthew.glesne@lacity.org or (213) 978-2666.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

VPB:KJK:KB:CB:MG:ch