Attachment B: Responses to the Grand Jury Report

<u>Finding 1a:</u> Lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing.

The City partially disagrees with finding 1a.

The City agrees with this finding in concept but questions the definition of "employment centers" in the context of the County. San José has approximately 0.78 jobs for every employed resident, whereas other cities in Santa Clara County have as many as 4 jobs for every employed resident. The term "employment centers" should be used to refer to those communities that have a ratio of jobs to every employed resident anything above 1:1. This creates the conditions for the net importing of workers into a community and in turn intensifies pressure on housing availability and costs. Santa Clara County as a whole, along with San Mateo and San Francisco counties, are net importers of workers. In this context, the ratio imbalance in San José is even more significantly distorted.

To this extent, the City agrees that the lack of housing near "employment centers" results in the net importing of workers from surrounding communities, worsens traffic congestion, and increases the urgency to add housing throughout the County.

Another way to think about this issue is that both jobs and housing are regional markets. There are areas of concentrated jobs and housing throughout the region. These regional centers operate independent of jurisdictional boundaries. Therefore, while this statement is generally true, it may not have the direct correlation to individual jurisdictions' strategies.

<u>Finding 1b:</u> Mass transit stations (Caltrain, VTA, BART) create opportunities for BMR units.

The City agrees with finding 1b.

<u>Finding 1c:</u> Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs.

The City disagrees partially with finding 1c.

The use of density bonus programs can be effective to facilitate additional affordable housing units. On May 1, 2018, the San José City Council adopted a Density Bonuses and Incentives Ordinance (Chapter 20.190 of the San José Municipal Code) to facilitate the implementation of state law. The Ordinance offers specific incentives and concession to encourage the construction of affordable homes while remaining sufficiently flexible to respond to market conditions across the City. The City plans to update these regulations over time to reflect new requirements as State law changes.

The City has recently processed one affordable housing project application (Quetzal Gardens) using the State Density Bonus program, and is processing three other projects proposing to use the City's density bonus ordinance. All projects are within one-half mile from high frequency bus service.

In addition, the City's Envision San José 2040 General Plan encourages and plans for future high density development around transit hubs through Major Strategies, goals, and policies of the Plan. Most fixed rail stations and bus rapid transit corridors are designated Growth Areas, consistent with the Focused Growth Major Strategy. This approach directs and promotes new residential growth in a compact and dense form that supports walking and transit use. The majority of planned residential growth in the General Plan is within one-half mile of transit hubs and corridors.

As noted in Recommendation 1c below, the presence or absence of dense development near transit may or may not be directly associated with use of density bonuses or lack thereof. There are reasons why density bonuses may or may not be used to produce dense housing near transit. Use of the density bonus under State law is at developers' complete discretion. Further, baseline densities near transit may already be high and therefore use of a bonus is not needed. Therefore, any jurisdiction that wishes to use density bonuses 'aggressively' do not necessarily have control over use of this tool.

<u>Finding 2a:</u> Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents.

The City disagrees partially with finding 2a.

Employers in any geography are essential for a vibrant economy. Santa Clara County has experienced a considerable amount of economic volatility and transformation over the past half century, including the creation of new technologies and industries. The success of the local economy has contributed greatly to the economic prosperity of some residents and has provided relatively consistent opportunities across almost all sectors. At the same time the County has seen major increases in high-skilled, higher-paying tech jobs, it has also experienced major employment growth in lower-paying service jobs, including in food and beverage, retail, and hospitality, and has for the most part maintained its supply of middle-skilled, middle income jobs in sectors such as manufacturing, health, and education. San José provides a diverse set of employment opportunities across many sectors, skill, and income levels. The City also has less than one-third of the County's tech jobs despite housing more than half of the County's labor force.

Planning for sufficient housing is the responsibility of government, but planning alone does not always result in the production of housing. Housing production in the County overall has not kept pace with demand. According to SPUR's *Housing Report*, from 2010 to 2015, Santa Clara County added more than 6 jobs for every unit of housing built. During the same period, San José added approximately 60% of the region's total housing units but only 30% of the total jobs. When San José's production of housing and jobs during this period is excluded from the countywide figures, the ratio of jobs created to housing units built increases to 9:1. While job growth is clearly a factor in housing cost trends, more important is housing supply, and most Bay Area cities have not added housing commensurate to their job growth. High construction costs as well as some cities' restrictive positions on housing development also play a significant role.

As the highest percentage of employment gains has occurred at the higher skill/wage end of the spectrum, there has been a relative increase in the purchasing power of workers relocating within or to the region. The market economics of a significant undersupply of housing and the relative increase in purchasing power at the high end of the jobs market is the primary driver behind residential displacement.

Finding 2b: Contributions to BMR housing from employers in the County are not mandated nor evenly shared.

The City agrees with finding 2b.

Finding 3a: RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County.

The City agrees with finding 3a.

Finding 3c: More BMR units could be developed if cities with lower housing costs form RHNA sub-regions with adjacent cities with higher housing costs.

The City disagrees partially with finding 3c.

The conditions for development are different in different places and at different times. Land costs, rents and profit margins differ among markets. The likelihood of attracting necessary affordable housing subsidy is also different in different locations, given subsidies' competitive scoring frameworks. Therefore, feasibility for developments that include some or all affordable apartments differs across locations and over time. By allowing localities to create a RHNA sub-region, they could take advantage of these feasibility differences by trading their allocations. This ability to flexibly provide affordable apartments in a wider region could generate additional affordable homes. The key to enabling such trading, however, is that funding to support affordable housing would come with the trade to a new jurisdiction. Identifying funding sources that are eligible for movement across jurisdiction lines will be a key to success in the RHNA sub-regional strategy. Another key to success will be ensuring that communities accepting RHNA allocations from other jurisdictions are not disadvantaged in how the State determines attainment of RHNA goals. Finally, understanding the impact of concentrating additional BMR housing in lower-cost cities on economic diversity and family educational opportunity must be understood for particular trades.

<u>Finding 3d:</u> **High-cost/low-cost RHNA sub-regions would be attractive to low-cost cities if they are compensated by high-cost cities for improving streets, schools, safety, public transportation and other services.**

The City agrees with finding 3d.

<u>Finding 4a:</u> **Commercial linkage fees can be an important tool to generate critical revenues to support BMR housing.**

The City agrees with finding 4a.

<u>Finding 4b:</u> **Use of commercial linkage fees is overdue and could be expected to substantially increase BMR units.**

The City disagrees with finding 4b.

On June 12, 2018 the San José City Council directed staff to not pursue a Housing Impact Fee on Commercial Development at this time.

The availability and attractiveness of new or repurposed commercial development is reflected in rents being commanded by property owners in the region. Office rents in other communities (Palo Alto: $7.09/SF, Mountain View: $7.48/SF, Sunnyvale: $5.61/SF) are far higher those being offered in San José (North San José: $3.74/SF, Downtown: $3.75/SF, Edenvale: $2.40/SF). (Data from Cushman & Wakefield, Q2 2018.) The cost of constructing new commercial development is the same across the region, and fluctuations in land value do not reflect the difference in economic return to the project sponsor.

Development in communities that deliver lower rents is less attractive to investors and less feasible for developers. Adding additional cost to the commercial development and construction process through the introduction of a Commercial Impact Fee may further diminish the likelihood of new commercial development throughout San José. Without new commercial development, a commercial impact fee would not generate sufficient (if any) funds to subsidize BMR housing.

A lack of newly-constructed commercial space in San José would add to increasing commercial displacement pressures that are currently affecting the city's existing employment centers. As demand for space increases, existing quasi-industrial buildings are being converted in commercial office spaces, displacing employers that might otherwise provide a broader range of employment opportunities for the approximately 60% of San José's population that doesn't have a college degree, such as advanced manufacturing companies.

A commercial linkage fee in San José has the potential to greatly increase commercial displacement of low and middle-income jobs, while not substantially increasing the number of BMR units.

<u>Finding 5a:</u> Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements.

The City agrees with finding 5a.

<u>Finding 6:</u> In-lieu fees, when offered as an option, are too low to produce the needed number of BMR units and delay their creation.

The City agrees with finding 6.

<u>Finding 7:</u> NIMBY opposition adversely affects the supply of BMR housing units.

The City agrees with finding 7.

<u>Finding 8:</u> It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units.

The City agrees with finding 8.

<u>City's Response to Recommendations</u>

***Recommendation 1b:* Cities should identify parcels within one-half mile of a transit hub that will help them meet their low income- and moderate-income BMR objectives in the current RHNA cycle by the end of 2019.**

The City has not yet been implemented recommendation 1b, but it will be implemented in the future.

Staff will identify sites in the Adequate Sites Inventory of the City's Housing Element that are located within one-half mile of a transit hub. The list and location of sites will be included in the 2018 Housing Element Annual Progress Report that will be submitted to the State Department of Housing and Community Development this fall.

Recommendation 1c: Cities should revise their density bonus ordinances to provide bonuses for low-income and moderate-income BMR units that exceed the minimum bonuses required by State law for parcels within one-half mile of a transit hub by the end of 2020.

The City will not implement recommendation 1c because it is not warranted.

This recommendation is unlikely to produce the desired effects. The State density bonus law is written such that a developer has the complete discretion to choose the basic density bonus defined in State law, to choose an alternative local program, or to elect not to request a density bonus. Even if a community defines a program stronger than what is required under State law, the developer could elect to decline that option and either use the State default requirement or choose to not use a density bonus at all. State law would have to be amended for stronger density bonus local programs to become realistic alternatives.

Further, the effective use of a density bonus depends on the baseline densities that communities have identified. If a community such as San José has already identified very high-density development in their General Plans at a scale appropriate close to transit, then developers might not need additional density and therefore would not request a density bonus. Jurisdictions' ability to assert local control over land use decisions is a core reason that density bonuses may or not be used in locations near transit. The question of how to influence local land use decisions in a way that results in dense housing being created near transit is a far more complicated issue than can be tackled through the tool of density bonuses.

Recommendation 2a: The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing by June 30, 2019.

The City will not implement recommendation 2a because it is not reasonable.

In the same way that San José cannot be considered in isolation of surrounding conditions and context, land within Santa Clara, San Mateo and San Francisco Counties' jurisdiction disproportionately provides housing and therefore are all net importers of workers. Addressing a regional solution to the current housing crisis should consider all "employment centers" and "housing centers" that disproportionally contribute to the problem or solution. Therefore, a task force just focusing on Santa Clara County would inappropriately exclude other jurisdictions that are part of the regional jobs and housing markets.

In addition, San José is actively working with existing regional organizations and partnerships including MTC, CASA and others to address regional conditions for housing and to increase the opportunities and investment in BMR projects. Creation of a Santa Clara County task force would likely duplicate the other efforts, which are more appropriately broader than just involving Santa Clara County's local governments.

Recommendation 2b: Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing by June 30, 2020.

The City will not implement recommendation 2b because it is not warranted.

On June 12, 2018, the San José City Council directed staff to not pursue a Housing Impact Fee on Commercial Development at this time. San José's employed resident population exceeds employers' workforce demand for employees within the City as measured by the number of jobs.

While San José's jobs deficiency is a geographically specific issue, the commercial development and employment markets are regional in nature. The availability and attractiveness of new or repurposed commercial development is reflected in rents being commanded by property owners. Office rents in other communities (Palo Alto: $7.09/SF, Mountain View: $7.48/SF, Sunnyvale: $5.61/SF) are far higher those being offered in San José (North San José: $3.74/SF, Downtown:

$3.75/SF, Edenvale: $2.40/SF). (Data from Cushman & Wakefield, Q2 2018.) While rents are quite different in different cities, the cost of constructing new commercial development is the same across the region, and fluctuations in land value do not reflect the difference in economic return to the project sponsor.

Commercial development in communities that deliver lower rents is less attractive to investors and less feasible for developers. Adding new costs to the development and construction process through the introduction of a Commercial Impact Fee may further diminish the likelihood of new commercial development throughout communities with weaker commercial rents, such as San José. This raises several challenges:

1. Without new commercial development, a commercial impact fee would not generate sufficient (if any) funds to subsidize BMR housing.
2. A lack of newly-constructed commercial space in San José would add to increasing commercial displacement pressures that are currently affecting San José's existing employment centers. As there is demand for commercial space, existing quasi-industrial buildings are being converted in commercial office spaces. These conversions displace employers that provide a broader range of employment opportunities for the approximately 60% of San José's population that doesn't have a college degree, such as through advanced manufacturing.
3. Per the findings of the Report (see page 18-19), a lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing. In the same way, a lack of employment opportunities in a city near housing worsens traffic congestion in the County. Currently 52% of the County's workforce resides in San José, whereas only 38% of the jobs are located within the City's borders. 62% of employed San José residents leave San José to work in neighboring cities each day.
4. In addition, increasing the difficulty of commercial development in low-return cities may undermine the major transit investments their developers are currently making through multi-modal transportation options.

Recommendation 3a: Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing by the end of 2019.

The City has not implemented recommendation 3a because it requires further analysis.

On August 28th, the City Council voted unanimously to participate in further discussions with the Santa Clara County Cities Association regarding the formation of a single Santa Clara County RHNA sub-region. The Cities Association will discuss this item in October and will provide additional details of the proposal. The City's willingness to join a RHNA sub-region will depend on the details of the agreement and on State law's requirements for RHNA.

<u>Recommendation 3b:</u> A RHNA sub-region should be formed including one or more low-cost cities with one or more high-cost cities by the end of 2021.

The City has not implemented recommendation 3b because it requires further analysis.

As stated above, the City will participate in discussions with the Santa Clara County Cities Association regarding the formation of a sub-region. The ability to transfer housing obligations will be part of the discussion.

<u>Recommendation 4:</u> Campbell, Milpitas, Los Gatos, Los Altos, and San José should enact commercial linkage fees to promote additional BMR housing by June 2019.

The City has not implemented recommendation 4 because it requires further analysis.

As discussed under recommendation 2(b), the City Council directed the staff to not pursue a Housing Impact Fee on Commercial Development at this time. However, San José is actively working with CASA to explore a regional approach for a commercial impact fee. A regional approach requires further study, review, and negotiation before it can be implemented. It is anticipated that CASA will complete its work by the end of 2018.

<u>Recommendation 6:</u> Cities with an in-lieu option should raise the fee to at least 30% higher than the inclusionary BMR equivalent where supported by fee studies by the end of 2019.

The City has already implemented recommendation 6.

The City of San José's Inclusionary Housing Ordinance, Chapter 5.08 of the San José Municipal Code, requires all residential developers who create new, additional, or modified For-Sale or Rental units to provide fifteen percent (15%) of housing on-site that is affordable to income qualified buyers/renters. Alternative compliance options are available including the payment of an in-lieu fee; all alternative compliance options are based off of a twenty percent (20%) obligation.

According to the Grand Jury analysis (see bottom of page 17 of 45), an in-lieu fee option must be at least one-third higher than the build-on site option. The Grand Jury analysis identifies an equivalent example to San José's requirement in which the City of Santa Clara has a build on-site based on a fifteen percent (15%) requirement – the same requirement as San José. San José's 20% off-site/in-lieu fee requirement is one-third higher than its 15% on-site requirement; therefore, San José's Ordinance already fulfills this recommendation.

<u>Recommendation 7:</u> A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities by June 30, 2019.

The City will not implement recommendation 7 because it is not warranted.

The County has already created a housing-ready toolkit for cities and developers to use that provides key messages including defining the problem, solutions, tools, and action steps in support of Measure A. In addition, if a sub-region is created as recommended under 3a, the cities can include a communication plan under their workplan for the sub-region.

Recommendation 8: All 15 cities and the County should annually publish the number of constructed BMR units starting in April 2019.

The City has already implemented recommendation 8.

The City of San José publishes periodically a Production and Preservation Report that includes the number of deed restricted affordable units constructed and those in the pipeline (predevelopment). The report is available on the City's website at http://www.sanjoseca.gov/index.aspx?nid=3293.