

RESOLUTION NUMBER R- 308648

DATE OF FINAL PASSAGE ~~_____~~ DEC 24 2013

ITEM # 341
SMB-B
12/10/13

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO RELATED TO HOUSING IMPACT FEES ON NONRESIDENTIAL DEVELOPMENT IN THE CITY OF SAN DIEGO.

WHEREAS, it has been the policy of the City of San Diego that new nonresidential development pay a fair share of the costs to subsidize housing for the low and very low income employees who will occupy the jobs new to the region related to such development; and

WHEREAS, the City of San Diego's Housing Impact Fees on Commercial Development (also known as Linkage fees or, now, Housing Impact Fees on Nonresidential Development or Workforce Housing Offset Program fees) were initially established through a nexus study performed in 1989, and at that time, fee levels were set at an amount equal to about 1.5 percent of development costs; and

WHEREAS, in 1996, the Housing Impact Fees on Commercial Development were reduced by 50 percent and since that time there has not been an adjustment to the fee levels, and the current revenues remain substantially below the original nexus amounts; and

WHEREAS, the Housing Element of the City of San Diego's General Plan contains specific policies and goals for increasing housing opportunities for households at various income levels, such as the use of fees to promote affordable housing, the need to provide workforce housing, and the availability of the Housing Trust Fund (of which the Housing Impact Fees on Nonresidential Development are a part) to pursue the City's housing goals;

WHEREAS, according to an August 2013 nexus study from Keyser Marston Associates, as supplemented in October 2013 (the 2013 Nexus Study), there is a significant link between

nonresidential development and the occurrence of homelessness and the risk of homelessness;
and

WHEREAS, the 2013 Nexus Study demonstrates that there is a reasonable relationship between the proposed use and amount of the proposed fees and the impacts caused by the nonresidential development subject to those fees;

WHEREAS, the 2013 Nexus Study demonstrates, by facts and analysis, that there is an essential nexus between new nonresidential development that employs low, very low, and extremely low income workers, and the need for new housing for the low, very low and extremely low income workers employed within the new commercial developments; and

WHEREAS, the 2013 Nexus Study demonstrates that various percentages of those workers required for the various types of new nonresidential development, as referenced within the 2013 Nexus Study, represent households that are low, very low, and extremely low income households as defined within the San Diego Municipal Code and the 2013 Nexus Study; and

WHEREAS, the 2013 Nexus Study demonstrates that the new nonresidential construction is a major contributing cause of the need for additional housing for those low, very low, and extremely low income worker households that does not currently exist and that is needed to house these new worker households; and

WHEREAS, the City Council regularly declares a continuing state of housing emergency in the City of San Diego because of the current lack of affordable housing within the City of San Diego; and

WHEREAS, the City Council finds that the fee established by this ordinance is not being established to ameliorate the existing shortage of affordable housing but only that created by new nonresidential development; and

WHEREAS, the 2013 Nexus Study quantifies, by new commercial development type, a per square foot fee that will only partially ameliorate the need for housing for the low, very low, and extremely low income households caused by the new nonresidential development; and

WHEREAS, the fees for new nonresidential development are supported by the 2013 Nexus Study and are being recommended at initial rates that are approximately 1.5 percent of the 2013 development cost of each new nonresidential development, as is referenced in Appendix A, that are subject to revision as set forth in the ordinance; and

WHEREAS, the City Council finds that the fees are roughly proportional to, but less than, the cost of housing the low, very low, and extremely low income households required by the new nonresidential development; and

WHEREAS, the City Council finds that the fees, on a project by project and individual basis, are being set in a way so that the fees are roughly proportional to, but less than, the public burden caused by the new nonresidential developments and are necessary to allow for the creation and provision of housing for the low, very low, and extremely low income households that work within the new nonresidential developments; and

WHEREAS, the City Council finds that fees are, in aggregate, only a small portion of the total revenue needed to acquire and/or create or provide housing for the low, very low, and extremely low households, which new housing does not currently exist, since the fees being collected from new commercial development represents a small portion of the total cost for producing the low, very low, and extremely low income housing that is required for the new commercial development due to leverage of the Housing Impact Fees with other revenue sources; and

WHEREAS, the fees being proposed to be collected, in aggregate, are far less than the amount that is roughly proportionally needed for the creation and provision of such housing; and

WHEREAS, the City Council finds that the fees are not subject to the requirements of Proposition 26 because they are charges imposed “as a condition of property development;” and

WHEREAS, the City Council finds that the holding in the United States Supreme Court case of *Koontz vs. St. Johns River Water Management District* was a case involving an ad hoc exaction, whereas the fees established by this ordinance are not such ad hoc fees; and

WHEREAS, even though not legally mandated, the City Council finds that the 2013 Nexus Study contains a basis for a determination that the fees meet the requirements that apply to ad hoc exactions; and

WHEREAS, the City Council finds that there is a mechanism for individual commercial developers to seek a variance, adjustment, or reduction of the amount of the fee, or a waiver of the requirement for the fee through an administrative procedure; and

WHEREAS, according to the 2013 Nexus Study, a considerable portion of working San Diegans are homeless or at risk of homelessness; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the aforementioned statements, along with the record from the public hearings of November 4, 2013, November 21, 2013, and December 10, 2013 (including but not limited to public testimony received, staff testimony and reports provided, and the nexus study dated August 2013 as supplemented October 2013), considered either individually or collectively, form a basis upon which the City Council rests its decision to adopt O-20333, which amends Chapter 9, Article 8, Division 6 of the San Diego Municipal Code by amending sections 98.0601, 98.0604, 98.0606, 98.0608; by repealing 98.0609; by amending sections 98.0610, 98.0611,

98.0614, 98.0615, 98.0618, 98.0619, and Appendix A, all related to Housing Impact Fees on Nonresidential Development in the City of San Diego.

BE IT FURTHER RESOLVED, that the Chief Executive Officer of the San Diego Housing Commission shall notify the City Council, the Housing Authority of the City of San Diego, and the City Clerk of any revisions of Chapter 9, Article 8, Division 6, Appendix A undertaken pursuant to San Diego Municipal Code Section 98.0619, and that, upon receipt of such notification, the Clerk shall at that time replace that Division's Appendix A with the revised version of Appendix A.

APPROVED: JAN I. GOLDSMITH, City Attorney

By *KM Halsey*
Keely M. Halsey
Deputy City Attorney

KMH:als
12/04/13
Or.Dept:SDHC
Doc. No.: 683153

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 12/10/13.

ELIZABETH S. MALAND
City Clerk

By *Jeanette J. ...*
Deputy City Clerk

Approved pursuant to Charter section 265(i):

(date)

TODD GLORIA, Council President

Passed by the Council of The City of San Diego on DEC 10 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DEC 24 2013

Date of final passage _____.

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Elizabeth Maland, Deputy

(Seal)

Office of the City Clerk, San Diego, California
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