CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT
MEETING DATE: August 22, 2018

PREPARED BY: Leslie Little, Assistant City Manager for Community Development
APPROVED BY: City Manager

APPROVE RESPONSE TO GRAND JURY REPORT - AFFORDABLE HOUSING

RECOMMENDATION(S)
Authorize the City Manager to file the Response to the Civil Grand Jury Report, "Affordable Housing Crisis *Density is our Destiny*", with the Presiding Judge of the Santa Clara County Superior Court.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities
Supporting Our Youth
Seniors
and Entire Community

2018 Strategic Priorities
Regional Initiatives

GUIDING DOCUMENTS
General Plan/Housing Element

REPORT NARRATIVE:
On June 21, 2018, the City of Morgan Hill received a report from the Santa Clara County Civil Grand Jury entitled "Affordable Housing Crisis *Density is our Destiny*" containing findings and recommendations made after investigating certain aspects of affordable housing production countywide. The subjects of the report were all the cities in the county, and the County of Santa Clara.

In accordance with Penal Code Section 933(c) which requires that a governing body of a public agency or department which has been the subject to a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the finding and recommendations pertaining to matters under the control of the governing body. The City of Morgan Hill's proposed response is attached for review and consideration.

As required by California Penal Code § 933.05 (a) the City of Morgan Hill has responded to each **finding** by indicating one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Morgan Hill has responded to each **recommendation** with one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

COMMUNITY ENGAGEMENT:
This report is intended to inform the community.

ALTERNATIVE ACTIONS:
The City of Morgan Hill is required to respond to the Grand Jury report by September 20, 2018. There are no aternative actions.

FISCAL AND RESOURCE IMPACT:
There is no direct fiscal impact associated with this action.

CEQA (California Environmental Quality Act): Not a project
Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment are not considered a project by CEQA.

LINKS/ATTACHMENTS:
1. Grand Jury Response - Final Report
2. Grand Jury Response - Final Report

CITY OF MORGAN HILL

17575 Peak Avenue
Morgan Hill, CA 95037-4128
TEL: (408) 779-7271
FAX: (408) 779-3117
www.morganhill.ca.gov

August 22, 2018

Peter L. Hertan, Foreperson
Santa Clara County Civil Grand Jury
Superior Court Building
191 North First Street
San Jose, CA 95113

Dear Mr. Hertan:

Thank you for your letter dated June 18, 2018, transmitting the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled, "Affordable Housing Crisis *Density is our Destiny*" (Report).

In accordance with Section 933 and 933.05 of the California Penal Code, the following are the City of Morgan Hill's responses to the findings and recommendations contained in the June 21, 2018 Report.

As required by California Penal Code § 933.05 (a) the City of Morgan Hill has responded to each **finding** by indicating one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Morgan Hill has responded to each **recommendation** with one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

SCCCGJ Finding 1b

Mass Transit stations (Caltrain, VTA, BART) create opportunities for BMR units.

Response: Morgan Hill generally agrees in principle, however must disagree that all existing transit stations function as viable mass transit purveyors, and until they do, any auto dependent areas such as Blossom Hill Station, Morgan Hill, San Martin, and Gilroy are not able to serve mass transit clients without ample parking. As there are no alternatives to automobiles, and significant transit dis-investment continues in the southern regions of the County, building BMRs on transit properties which are needed to accommodate parking, is not and should not be a near term opportunity for these areas. These areas need improved transit service before additional housing density can be accommodated and function well.

SCCCGJ Finding 1c

Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs.

Response: Morgan Hill disagrees partially with the finding. The market has significant impact on a community's ability to achieve density using a density bonus. Morgan Hill adopted a Downtown Specific Plan in 2009, actively placing the most- dense residential zoning in the City in Downtown adjacent to the Caltrain Station. It has been the goal of the City to attract additional housing to its Downtown to support transit as well as the city's Downtown core and businesses. Morgan Hill, with 1:8 housing units permanently restricted for affordable households, has a considerable number of those households located within ½ mile of the transit center. Using redevelopment as well as partnerships with the development community, hundreds of units have been achieved. The loss of redevelopment funding, and land assembly tools, has been a significant factor limiting density and the production of additional housing units, not aggressive use of density bonus programs. Market conditions have been such that developers have not been willing or eager to embrace greater densities in these locations, due in part to the fact that active transit does not exist from Downtown Morgan Hill. Caltrain service schedules three trains daily in the morning and three trains daily (M-F) in the evening only. There is no train service on weekends. Bus service is equally limited, with recent bus service cuts, and additional cuts to Rapid Bus Service contemplated. As a result, housing units require parking for auto dependent residents, and market wise, the private development community has been unwilling to test smaller, denser, units.

When requested, the City of Morgan Hill has honored all density bonus requests.

SCCCGJ Recommendation 1b

Cities should identify parcels within one-half mile of a transit hub that will help them meet their (LI) and moderate income BMR objectives in the current RHNA cycle, by the end of 2019.

Response: The recommendation has been implemented.

The City of Morgan Hill has already identified parcels within one-half mile of the transit hub. The list of potential housing sites is contained within the City's adopted 2016 Housing Element. The City's advanced planning staff consistently updates opportunity sites on a map, which resides on the City's website.

SCCCGJ Recommendation 1c

Cities should revise their density bonus ordinances to provide bonuses for LI 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.

Response: The recommendation requires further analysis. For the reasons stated in Finding 1c, the City of Morgan Hill may not be able to accommodate additional LI and moderate-income units without fully functioning transit, without creating major impacts to the form and function of local neighborhoods. The City Council will review the recommendation and make a determination as to the reasonableness of this action by January 1, 2019. Concerns exist about creating inadequate neighborhoods via density bonus, specifically providing parking concessions which force low income residents, who are often located miles from jobs, and completely auto dependent to live in sub-standard housing conditions, without adequate parking for their families. Due to very limited transit access, Morgan Hill residents are auto dependent to access not only their jobs, but also basic services and needs such as groceries, drug stores and physician services.

SCCCGJ Finding 2a

Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents.

Response: The City of Morgan Hill agrees with this finding, however, encourages the Grand Jury to recognize that not all cities have benefit from this robust expansion. South County cities have been viewed by the market as housing centers, not as employment centers, thereby causing the private investment and enhanced tax and revenue base enjoyed by cities to the north, to elude south county cities. All cities in the County to do not experience the benefits of this development; rather without benefit, are experiencing the impacts, including greater commuting times.

SCCCGJ Finding 2b

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

Response: The City of Morgan Hill agrees, however, not all employers create the same impacts countywide. Just as not all employers such as distribution, assembly/production and advanced manufacturing can afford the higher cost of real estate, rent, and overhead as many other technology businesses in the county can. Many cities such as Morgan Hill have employment land yearning for investment. Employers better distributed into areas such as Morgan Hill, where their workforce live, could easily mitigate roadway and transportation network impacts. Indeed, they could also help stabilize and secure the long term fiscal health of all cities, not just a few fortunate. Part of the answer must be that employers/employment must be more evenly disbursed near housing.

SCCCGJ 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.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable for several reasons. 1) Impact fee structures vary throughout the region. Because of this, a one size fits all approach to fee establishment can unduly impact communities differently. (For example,

Morgan Hill has fees for Habitat Conservation and Agricultural Mitigation which few or no other communities in the County share, which means a new fee, on top of inclusionary requirements would impact the cost of development differently. 2) The recommendation cannot be implemented for all cities county-wide because it is not reasonable to charge a fee on an industry which is absent or at the very least, not robust in the Morgan Hill development marketplace. These high tech, high employment, asset rich industries are clustered near the Peninsula epicenter, and distribute their impacts regionally, but not their benefits proportionately. Further fees and assessments would only act to further deter employment land development near existing workforce housing which the City so badly needs. Fees in other cities, may encourage employment disadvantaged cities to become more attractive locations for business, thereby placing jobs closer to the workforce in housing rich cities, mitigating clogged transportation infrastructure, and providing necessary fiscal support for all communities. In addition, it is not reasonable to assume that some non-tech type industries, which are vital to support the tech titans, can support said fees. Not all business is the same.

SCCCGJ 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.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. See response to Recommendation 2a.

SCCCGJ 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.

Response: Agree. A sub-region may facilitate additional collaboration around meeting BMR requirements. The Cities Association of Santa Clara County has been actively evaluating formation of a county-wide sub-region and has asked all cities in the county to act to indicate their interest in the sub-region concept by September 28, 2018. Subsequently, the Cities Association Board will determine whether to move forward with a sub-region. If the Board votes in favor, then each city and the County would need to adopt a resolution to join the sub-region.

SCCCGJ 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.

Response: Disagree. All cities are required to produce housing at all income lees. High housing cost cities cannot trade away their BMR requirements in a sub-region or through other trades allowed by State law. Once again, not all cities are the same. High-cost v. low-cost cities bear little relationship to the need of the workforce to have housing provided at all income levels in all areas of the county. Additionally, some cities have made historical efforts to embrace housing at all affordability levels. Those cities should be recognized, not asked to do more. BMR development is not necessarily just a function of high cost v. low cost economics. It is often a function of land availability, zoning and policy.

SCCCGJ Finding 3d

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.

Response: Disagree. Morgan Hill does not believe that State RHNA legislation permits this concept of a low-cost city and high-cost city sub-region developed for the purpose of transference. In addition, a sub-region must include the County as a partner. To date sub-regions have been developed regionally, comprised of a larger region; most existing sub-regions are countywide.

To the extent that the low-cost city can meet its own RHNA need, and has produced additional units, all cities in a sub-region should be interested in giving some oversupply, to the extent produced, to other cities which could benefit, for something in return. Predicting oversupply/over production and shared housing development opportunities at the inception of RHNA cycle development, will be difficult as housing production also relies heavily on market forces. Crafting a system which relies on producing most or all affordable units in low-cost cities is troubling. This forces households living in low cost cities, which are generally further from employment centers, to be auto dependent, and to live in homogeneous low housing cost environments, lacking appropriate income diversity. Ignoring social equity issues, Morgan Hill does not believe that RHNA legislation permits this. Also, there are some natural constraints to providing affordable housing in cities located further from employment centers.

As public transit continues to dis-invest in certain low-cost communities, in order to service high employment centers, low cost communities are finding it difficult to identify sites which qualify for 9% federal tax credits, due to lack of transit access, making financing of affordable projects in these locations even more difficult. In addition, new and pending/proposed state changes to the Housing Accountability Act and RHNA (Land use and Housing Elements), AB 3194 and SB 828 respectively, are strengthening requirements which compel all communities, including "high cost" communities to address their fair share of housing at all income levels are pending in the legislature. Several of these initiatives suggest that "high cost" communities with an under representation of lower income units, should be required to produce even more deeply affordable housing than their low-cost peers.

SCCCGJ 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.

Response: Disagree. State law only allows one sub-region per County. In addition, the total amount of BMR for the Regional Housing Needs Allocation will be determined by the Council of Governments (ABAG/MTC) for each County. The sub-region must use the totals as controls in the distribution amongst the participating cities and the County. The deadline to form subregions is not later than September 2020 and the control totals (draft allocation) will be provided no later than July 2021. Therefore, the amount of the new allocation (i.e. increase in BMR) is not available by the end of 2019. Please see response to Finding 3d.

Morgan Hill does believe there is value to creating a county-wide sub-region and will act upon that recommendation in response to a request of the Cities Association of Santa Clara County on Sept. 5, 2018. However, reporting upon how the countywide sub-region will increase BMR supply by the end of 2019 is unrealistic.

SCCCGJ Recommendation 3b

A RHNA sub-region should be formed including one or more "low-cost" cities with one or more "high-cost" city, by the end of 2021.

Response: Disagree. As mentioned in the response to Finding 3c, all cities are required to produce housing at all income levels. High housing cost cities cannot trade away their BMR requirements in a sub-region or through other trades allowed by state law. Morgan Hill does believe there is value to creating a countywide sub-region and will act upon that recommendation in response to a request of the Cities Association of Santa Clara County on September 5, 2018.

SCCCGJ Finding 5a

Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements.

Response: Agree. However, not all affordable housing has been produced using only inclusionary tools. The City of Morgan Hill has provided incentives for the construction of affordable units through its Residential Development Control System (RDCS) for 40 years, and as such, permanently restricted affordable rental and ownership units are distributed amongst 69 subdivisions throughout the City. In addition, significant Redevelopment housing investments were made outside of private development inclusionary statutes. Morgan Hill's success producing affordable rental and ownership units has resulted in a ratio of 1 out of every 8 dwelling units in the City being restricted affordable units.

SCCCGJ Recommendation 5

Inclusionary BMR percentage requirements should be increased to at least 15% in Gilroy, Los Altos, Los Gatos, Milpitas, Morgan Hill, Palo Alto and Sunnyvale, by the end of 2019.

Response: The recommendation has been implemented. On July 18, 2018, the City of Morgan adopted a 15% Inclusionary Housing Ordinance. In addition, utilizing the City's residential development growth system, the city set goals for an additional 5% affordable component of all housing development in the City. State HCD reserves the right to audit any city who has greater than a 15% inclusionary ordinance to determine whether or not higher inclusionary requirements are an impediment to housing production. Therefore, Morgan Hill chose the 15% inclusionary approach, using incentives to encourage additional production. Historically, the City has used its RDCS to create between 8 – 25% affordability. Inclusionary policies have the ability for create less than half of the required RHNA units required within the housing cycle.SCCCGJ Finding 7

NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units.

Response: Agree. NIMBY opposition can be mitigated by construction of well-designed, well seated projects which scale with adjacent neighborhoods, create great neighborhood spaces, and/or weave into the fabric of the community. Often it is about size of the project, the gross numbers of units etc., and parking impacts from inadequate parking standards which overwhelm neighborhoods, causing opposition. Morgan Hill has found success with smaller scaled projects, being evenly distributed throughout the City.

SCCCGJ Recommendation 7

A task force to communicate the value and importance of each city meeting its RHNA objective for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable to ask the City to spend housing money countywide on an effort which it already engages in regularly.

The City of Morgan Hill regularly communicates the success of its model affordable housing program with the community; through website, special workshops, outreach to community organizations, and a long history of affordable housing production success. The County of Santa Clara $900M affordable housing bond measure, well supported by voters in Morgan Hill, was planned to also fund a county-wide communication strategy regarding the needs and benefits of affordable housing. Morgan Hill believes that the bond measure should be used for that purpose, allowing cities to utilize precious affordable housing dollars to finance and streamline new construction and rehabilitation projects, as well as provide resources to impact homelessness.

SCCCGJ Finding 8

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.

Response: Disagree. Morgan Hill is unsure what the issue is that is identified in this finding. Once building permits are issued, they begin construction. Morgan Hill has no history of issued permits for units which are then not constructed. All new ownership BMR units produced are sold through the City's first-time homebuyer program administered by Housekeys, our ownership housing administration partner. Their services include homebuyer education, qualification, marketing, lottery, resale. Services are advertised, and all eligible units listed available to qualified buyers on their website. All new BMR rentals are advertised by the management/ownership entity. The City maintains a list of all old and new BMR rentals, their managers, and contact information in its rental resource handbook available on the City and Housekeys website.

SCCCGJ Recommendation 8

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

Response: The recommendation has been implemented. The City of Morgan Hill maintains the status of all building permits and the status of projects awarded allocations through the Residential Development Control System (RDCS) on the City's website. Each year the City of Morgan Hill prepares a General Plan and Housing Element Annual Progress Report (APR), which documents the City's progress toward achieving its RHNA. This APR is submitted to the Governor's Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) and posted on the City's General Plan page by April 1st each year.

This concludes the City of Morgan Hill's responses to specific findings and recommendations.

The Grand Jury report Required Reponses Summary, page 30 of 45, requests Morgan Hill respond to Finding #6, however the narrative for Finding #6 which appears on page 27 of 45 does not indicate that this finding is applicable to Morgan Hill. Due to this confusion, Morgan Hill desires to clarify that the City does not offer in-lieu fees as an option, but primarily a way to pay for fractional obligations, not in-lieu of construction production

Additionally, Morgan Hill suggests that the Grand Jury report should be updated with the following important facts about the Morgan Hill housing program:

Page 6 of 45, paragraph four, states "...no city met its BMR objective in the prior cycle and only Gilroy is close to being on pace in the current 2015-2023 cycle." The City of Morgan Hill is on pace to meet its commitments. With pledged and/or planned affordable units as indicated in the graph below, the City of Morgan Hill is on pace to meet its objectives. At the very least the City has current projects in process which will meet or exceed all income categories but very low-income (VLI). Morgan Hill is optimistic that it will meet its objectives at all income levels with only 193 VLI units still currently needed in this housing cycle.

Attachment: Grand Jury Response - Final Report (1895 : Response to Grand Jury Report - Affordable Housing)

5th Cycle (2015 - 2023) Summary with Pledged Affordable Units

Morgan Hill	RHNA	Units Permitted	Units Pledged	Remaining / (Surplus)	% Complete
VLI	273	41	39	193	29.3%
LI	154	144	60	(50)	132.5%
Mod	185	84	357	(256)	238.4%
Above Mod	316	834	0	(518)	263.9%
TOTAL	928	1,103	456	(631)	168.0%

Pages 7 and 8 of 45 – After conferring with HCD at the close of the prior RHNA cycle, Morgan Hill made better progress than was previously reported during the cycle because the city under-reported BMR units.

To update the 2007 -14 report with the amended HCD accepted numbers, the following changes should be noted to "Table - Percent of 2007-2014 RHNA BMR Goal Met". The City's updated/accepted numbers indicate construction of 488 out of 812 BMR units = 60%, up from 30%. Also, updating "Table - Percent of 2007-2014 RHNA Above Market Goal Met", the updated City constructed 1064/500 = 213%, slightly lower than previously reported 257%. Finally, for "Table – Percent of 2007-2014 RHNA Total Units Goal Met", updated numbers are 1552/1312 = 118%, up from 116%. These updated tables are also contained in the City's General Plan update, *Morgan Hill 2035,* available on the city website at *https://www.morgan-hill.ca.gov/DocumentCenter/View/23167/HCD-2017-APR-Santa-Clara-County*

CITY OF MORGAN HILL

17575 Peak Avenue
Morgan Hill, CA 95037-4128
TEL: (408) 779-7271
FAX: (408) 779-3117
www.morganhill.ca.gov

August 22, 2018

Peter L. Hertan, Foreperson
Santa Clara County Civil Grand Jury
Superior Court Building
191 North First Street
San Jose, CA 95113

Dear Mr. Hertan:

Thank you for your letter dated June 18, 2018, transmitting the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled, "Affordable Housing Crisis *Density is our Destiny*" (Report).

In accordance with Section 933 and 933.05 of the California Penal Code, the following are the City of Morgan Hill's responses to the findings and recommendations contained in the June 21, 2018 Report.

As required by California Penal Code § 933.05 (a) the City of Morgan Hill has responded to each **finding** by indicating one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Morgan Hill has responded to each **recommendation** with one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

SCCCGJ Finding 1b

Mass Transit stations (Caltrain, VTA, BART) create opportunities for BMR units.

Response: Morgan Hill generally agrees in principle, however must disagree that all existing transit stations function as viable mass transit purveyors, and until they do, any auto dependent areas such as Blossom Hill Station, Morgan Hill, San Martin, and Gilroy are not able to serve mass transit clients without ample parking. As there are no alternatives to automobiles, and significant transit dis-investment continues in the southern regions of the County, building BMRs on transit properties which are needed to accommodate parking, is not and should not be a near term opportunity for these areas. These areas need improved transit service before additional housing density can be accommodated and function well.

SCCCGJ Finding 1c

Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs.

Response: Morgan Hill disagrees partially with the finding. The market has significant impact on a community's ability to achieve density using a density bonus. Morgan Hill adopted a Downtown Specific Plan in 2009, actively placing the most- dense residential zoning in the City in Downtown adjacent to the Caltrain Station. It has been the goal of the City to attract additional housing to its Downtown to support transit as well as the city's Downtown core and businesses. Morgan Hill, with 1:8 housing units permanently restricted for affordable households, has a considerable number of those households located within ½ mile of the transit center. Using redevelopment as well as partnerships with the development community, hundreds of units have been achieved. The loss of redevelopment funding, and land assembly tools, has been a significant factor limiting density and the production of additional housing units, not aggressive use of density bonus programs. Market conditions have been such that developers have not been willing or eager to embrace greater densities in these locations, due in part to the fact that active transit does not exist from Downtown Morgan Hill. Caltrain service schedules three trains daily in the morning and three trains daily (M-F) in the evening only. There is no train service on weekends. Bus service is equally limited, with recent bus service cuts, and additional cuts to Rapid Bus Service contemplated. As a result, housing units require parking for auto dependent residents, and market wise, the private development community has been unwilling to test smaller, denser, units.

When requested, the City of Morgan Hill has honored all density bonus requests.

SCCCGJ Recommendation 1b

Cities should identify parcels within one-half mile of a transit hub that will help them meet their (LI) and moderate income BMR objectives in the current RHNA cycle, by the end of 2019.

Response: The recommendation has been implemented.

The City of Morgan Hill has already identified parcels within one-half mile of the transit hub. The list of potential housing sites is contained within the City's adopted 2016 Housing Element. The City's advanced planning staff consistently updates opportunity sites on a map, which resides on the City's website.

Attachment: Grand Jury Response - Final Report (1895 : Response to Grand Jury Report - Affordable Housing)

SCCCGJ Recommendation 1c

Cities should revise their density bonus ordinances to provide bonuses for LI 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.

Response: The recommendation requires further analysis. For the reasons stated in Finding 1c, the City of Morgan Hill may not be able to accommodate additional LI and moderate-income units without fully functioning transit, without creating major impacts to the form and function of local neighborhoods. The City Council will review the recommendation and make a determination as to the reasonableness of this action by January 1, 2019. Concerns exist about creating inadequate neighborhoods via density bonus, specifically providing parking concessions which force low income residents, who are often located miles from jobs, and completely auto dependent to live in sub-standard housing conditions, without adequate parking for their families. Due to very limited transit access, Morgan Hill residents are auto dependent to access not only their jobs, but also basic services and needs such as groceries, drug stores and physician services.

SCCCGJ Finding 2a

Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents.

Response: The City of Morgan Hill agrees with this finding, however, encourages the Grand Jury to recognize that not all cities have benefit from this robust expansion. South County cities have been viewed by the market as housing centers, not as employment centers, thereby causing the private investment and enhanced tax and revenue base enjoyed by cities to the north, to elude south county cities. All cities in the County to do not experience the benefits of this development; rather without benefit, are experiencing the impacts, including greater commuting times.

SCCCGJ Finding 2b

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

Response: The City of Morgan Hill agrees, however, not all employers create the same impacts countywide. Just as not all employers such as distribution, assembly/production and advanced manufacturing can afford the higher cost of real estate, rent, and overhead as many other technology businesses in the county can. Many cities such as Morgan Hill have employment land yearning for investment. Employers better distributed into areas such as Morgan Hill, where their workforce live, could easily mitigate roadway and transportation network impacts. Indeed, they could also help stabilize and secure the long term fiscal health of all cities, not just a few fortunate. Part of the answer must be that employers/employment must be more evenly disbursed near housing.

SCCCGJ 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.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable for several reasons. 1) Impact fee structures vary throughout the region. Because of this, a one size fits all approach to fee establishment can unduly impact communities differently. (For example,

Morgan Hill has fees for Habitat Conservation and Agricultural Mitigation which few or no other communities in the County share, which means a new fee, on top of inclusionary requirements would impact the cost of development differently. 2) The recommendation cannot be implemented for all cities county-wide because it is not reasonable to charge a fee on an industry which is absent or at the very least, not robust in the Morgan Hill development marketplace. These high tech, high employment, asset rich industries are clustered near the Peninsula epicenter, and distribute their impacts regionally, but not their benefits proportionately. Further fees and assessments would only act to further deter employment land development near existing workforce housing which the City so badly needs. Fees in other cities, may encourage employment disadvantaged cities to become more attractive locations for business, thereby placing jobs closer to the workforce in housing rich cities, mitigating clogged transportation infrastructure, and providing necessary fiscal support for all communities. In addition, it is not reasonable to assume that some non-tech type industries, which are vital to support the tech titans, can support said fees. Not all business is the same.

SCCCGJ 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.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. See response to Recommendation 2a.

SCCCGJ 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.

Response: Agree. A sub-region may facilitate additional collaboration around meeting BMR requirements. The Cities Association of Santa Clara County has been actively evaluating formation of a county-wide sub-region and has asked all cities in the county to act to indicate their interest in the sub-region concept by September 28, 2018. Subsequently, the Cities Association Board will determine whether to move forward with a sub-region. If the Board votes in favor, then each city and the County would need to adopt a resolution to join the sub-region.

SCCCGJ 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.

Response: Disagree. All cities are required to produce housing at all income lees. High housing cost cities cannot trade away their BMR requirements in a sub-region or through other trades allowed by State law. Once again, not all cities are the same. High-cost v. low-cost cities bear little relationship to the need of the workforce to have housing provided at all income levels in all areas of the county. Additionally, some cities have made historical efforts to embrace housing at all affordability levels. Those cities should be recognized, not asked to do more. BMR development is not necessarily just a function of high cost v. low cost economics. It is often a function of land availability, zoning and policy.

SCCCGJ Finding 3d

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.

Response: Disagree. Morgan Hill does not believe that State RHNA legislation permits this concept of a low-cost city and high-cost city sub-region developed for the purpose of transference. In addition, a sub-region must include the County as a partner. To date sub-regions have been developed regionally, comprised of a larger region; most existing sub-regions are countywide.

To the extent that the low-cost city can meet its own RHNA need, and has produced additional units, all cities in a sub-region should be interested in giving some oversupply, to the extent produced, to other cities which could benefit, for something in return. Predicting oversupply/over production and shared housing development opportunities at the inception of RHNA cycle development, will be difficult as housing production also relies heavily on market forces. Crafting a system which relies on producing most or all affordable units in low-cost cities is troubling. This forces households living in low cost cities, which are generally further from employment centers, to be auto dependent, and to live in homogeneous low housing cost environments, lacking appropriate income diversity. Ignoring social equity issues, Morgan Hill does not believe that RHNA legislation permits this. Also, there are some natural constraints to providing affordable housing in cities located further from employment centers.

As public transit continues to dis-invest in certain low-cost communities, in order to service high employment centers, low cost communities are finding it difficult to identify sites which qualify for 9% federal tax credits, due to lack of transit access, making financing of affordable projects in these locations even more difficult. In addition, new and pending/proposed state changes to the Housing Accountability Act and RHNA (Land use and Housing Elements), AB 3194 and SB 828 respectively, are strengthening requirements which compel all communities, including "high cost" communities to address their fair share of housing at all income levels are pending in the legislature. Several of these initiatives suggest that "high cost" communities with an under representation of lower income units, should be required to produce even more deeply affordable housing than their low-cost peers.

SCCCGJ 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.

Response: Disagree. State law only allows one sub-region per County. In addition, the total amount of BMR for the Regional Housing Needs Allocation will be determined by the Council of Governments (ABAG/MTC) for each County. The sub-region must use the totals as controls in the distribution amongst the participating cities and the County. The deadline to form subregions is not later than September 2020 and the control totals (draft allocation) will be provided no later than July 2021. Therefore, the amount of the new allocation (i.e. increase in BMR) is not available by the end of 2019. Please see response to Finding 3d.

Morgan Hill does believe there is value to creating a county-wide sub-region and will act upon that recommendation in response to a request of the Cities Association of Santa Clara County on Sept. 5, 2018. However, reporting upon how the countywide sub-region will increase BMR supply by the end of 2019 is unrealistic.

SCCCGJ Recommendation 3b

A RHNA sub-region should be formed including one or more "low-cost" cities with one or more "high-cost" city, by the end of 2021.

Response: Disagree. As mentioned in the response to Finding 3c, all cities are required to produce housing at all income levels. High housing cost cities cannot trade away their BMR requirements in a sub-region or through other trades allowed by state law. Morgan Hill does believe there is value to creating a countywide sub-region and will act upon that recommendation in response to a request of the Cities Association of Santa Clara County on September 5, 2018.

SCCCGJ Finding 5a

Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements.

Response: Agree. However, not all affordable housing has been produced using only inclusionary tools. The City of Morgan Hill has provided incentives for the construction of affordable units through its Residential Development Control System (RDCS) for 40 years, and as such, permanently restricted affordable rental and ownership units are distributed amongst 69 subdivisions throughout the City. In addition, significant Redevelopment housing investments were made outside of private development inclusionary statutes. Morgan Hill's success producing affordable rental and ownership units has resulted in a ratio of 1 out of every 8 dwelling units in the City being restricted affordable units.

SCCCGJ Recommendation 5

Inclusionary BMR percentage requirements should be increased to at least 15% in Gilroy, Los Altos, Los Gatos, Milpitas, Morgan Hill, Palo Alto and Sunnyvale, by the end of 2019.

Response: The recommendation has been implemented. On July 18, 2018, the City of Morgan adopted a 15% Inclusionary Housing Ordinance. In addition, utilizing the City's residential development growth system, the city set goals for an additional 5% affordable component of all housing development in the City. State HCD reserves the right to audit any city who has greater than a 15% inclusionary ordinance to determine whether or not higher inclusionary requirements are an impediment to housing production. Therefore, Morgan Hill chose the 15% inclusionary approach, using incentives to encourage additional production. Historically, the City has used its RDCS to create between 8 – 25% affordability. Inclusionary policies have the ability for create less than half of the required RHNA units required within the housing cycle.

SCCCGJ Finding 7

NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units.

Response: Agree. NIMBY opposition can be mitigated by construction of well-designed, well seated projects which scale with adjacent neighborhoods, create great neighborhood spaces, and/or weave into the fabric of the community. Often it is about size of the project, the gross numbers of units etc., and parking impacts from inadequate parking standards which overwhelm neighborhoods, causing opposition. Morgan Hill has found success with smaller scaled projects, being evenly distributed throughout the City.

SCCCGJ Recommendation 7

A task force to communicate the value and importance of each city meeting its RHNA objective for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable to ask the City to spend housing money countywide on an effort which it already engages in regularly.

The City of Morgan Hill regularly communicates the success of its model affordable housing program with the community; through website, special workshops, outreach to community organizations, and a long history of affordable housing production success. The County of Santa Clara $900M affordable housing bond measure, well supported by voters in Morgan Hill, was planned to also fund a county-wide communication strategy regarding the needs and benefits of affordable housing. Morgan Hill believes that the bond measure should be used for that purpose, allowing cities to utilize precious affordable housing dollars to finance and streamline new construction and rehabilitation projects, as well as provide resources to impact homelessness.

SCCCGJ Finding 8

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.

Response: Disagree. Morgan Hill is unsure what the issue is that is identified in this finding. Once building permits are issued, they begin construction. Morgan Hill has no history of issued permits for units which are then not constructed. All new ownership BMR units produced are sold through the City's first-time homebuyer program administered by Housekeys, our ownership housing administration partner. Their services include homebuyer education, qualification, marketing, lottery, resale. Services are advertised, and all eligible units listed available to qualified buyers on their website. All new BMR rentals are advertised by the management/ownership entity. The City maintains a list of all old and new BMR rentals, their managers, and contact information in its rental resource handbook available on the City and Housekeys website.

SCCCGJ Recommendation 8

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

Response: The recommendation has been implemented. The City of Morgan Hill maintains the status of all building permits and the status of projects awarded allocations through the Residential Development Control System (RDCS) on the City's website. Each year the City of Morgan Hill prepares a General Plan and Housing Element Annual Progress Report (APR), which documents the City's progress toward achieving its RHNA. This APR is submitted to the Governor's Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) and posted on the City's General Plan page by April 1st each year.

This concludes the City of Morgan Hill's responses to specific findings and recommendations.

The Grand Jury Report Required Reponses Summary, page 30 of 45, requests Morgan Hill respond to Finding #6, however the narrative for Finding #6 which appears on page 27 of 45 does not indicate that this finding is applicable to Morgan Hill. Due to this confusion, Morgan Hill desires to clarify that the City does not offer in-lieu fees as an option, but primarily a way to pay for fractional obligations, not in-lieu of construction production

Additionally, Morgan Hill suggests that the Grand Jury report should be updated with the following important facts about the Morgan Hill housing program:

Page 6 of 45, paragraph four, states "...no city met its BMR objective in the prior cycle and only Gilroy is close to being on pace in the current 2015-2023 cycle." The City of Morgan Hill is on pace to meet its commitments. With pledged and/or planned affordable units as indicated in the graph below, the City of Morgan Hill is on pace to meet its objectives. At the very least the City has current projects in process which will meet or exceed all income categories but very low-income (VLI). Morgan Hill is optimistic that it will meet its objectives at all income levels with only 193 VLI units still currently needed in this housing cycle.

5th Cycle (2015 - 2023) Summary with Pledged Affordable Units

Morgan Hill	RHNA	Units Permitted	Units Pledged	Remaining / (Surplus)	% Complete
VLI	273	41	39	193	29.3%
LI	154	144	60	(50)	132.5%
Mod	185	84	357	(256)	238.4%
Above Mod	316	834	0	(518)	263.9%
TOTAL	928	1,103	456	(631)	168.0%

Pages 7 and 8 of 45 – After conferring with HCD at the close of the prior RHNA cycle, Morgan Hill made better progress than was previously reported during the cycle because the city under-reported BMR units.

To update the 2007-14 report with the amended HCD accepted numbers, the following changes should be noted to "Table - Percent of 2007-2014 RHNA BMR Goal Met". The City's updated/accepted numbers indicate construction of 488 out of 812 BMR units = 60%, up from 30%. Also, updating "Table - Percent of 2007-2014 RHNA Above Market Goal Met", the updated City constructed 1064/500 = 213%, slightly lower than previously reported 257%. Finally, for "Table – Percent of 2007-2014 RHNA Total Units Goal Met", updated numbers are 1552/1312 = 118%, up from 116%. These updated tables are also contained in the City's General Plan update, *Morgan Hill 2035,* available on the city website at *https://www.morgan-hill.ca.gov/DocumentCenter/View/23167/HCD-2017-APR-Santa-Clara-County*