

**BIA of the Greater Valley – John Beckman (with responses)**

- 1. BIA - The fee is being increased by 30%. The current Government Facility Fee had an annual escalator and was increased annually, so the fee shouldn't have been off by 30%. What is the cause of this misalignment?**

City - While the previously adopted Government Building Facility Fee did have an annual escalator, annual escalators do not always keep pace with the cost of construction, which has been the case in recent times. This is especially true for a fee program that has not been updated in 18 years. Furthermore, numerous assumptions, land uses, and legal requirements have changed in the past 18 years that affect the analysis – this includes the recently updated General Plan which included the updated and up-to-date land uses for the Nexus Study, updated persons per household and employees per 1,000 square feet assumptions, and updated AB 1600 and AB 602 requirements. The facilities sizes and the facilities included in the Government Facility Fee have also been slightly modified since the 2006 update. For example, the performing arts center and the original animal shelter have been removed, while the animal shelter expansion, multi-use community center, and public safety training facility have been included. Additionally, the police station size was updated based on the 2020 Space Needs Analysis done by LDA Partners and 2024 conceptual design and cost analysis completed by LDA Partners. It is important to note that only new development's fair share of these costs is included in the fee. At this time the proposed fee increase is not 30% as referenced but instead is proposed to be 16% for Single-Family and 10% for Multifamily.

- 2. BIA - Other than including the performing arts center without a finalized design plan I can't argue with the nexus study provided the Council really wants to increase the upfront development costs by 39% and presumably increase their capital maintenance costs by 49%. (question and answer also duplicated below under topic 5).**

City – The City has removed the performing arts center from this study. The City is not proposing a 39% increase at this time, instead, the proposed increase is 16% for Single-Family and 10% for Multifamily.

- 3. BIA - The costs used to estimate construction seem to be high. \$800-\$1232 per square foot? There is no supporting information on these costs. Would you offer some information about where these costs came from?**

City - As described in the Nexus Study, the updated costs used in the analysis are based on the escalated 2006 costs for the facilities included and the costs of recently constructed comparable facilities or planned costs included in Master Plans for the City of Tracy, the City of Stockton, the City of Cathedral City, and

the City of Moorpark. The analysis reviewed the cost per square foot in Tracy for the administration building, community center, library, police station, police training facility, and Boyd service center. In Stockton, the cost per square foot for the library and community center is included in the average. For Cathedral City, the cost per square foot for the civic center, library, police headquarters, and maintenance and operations facility were reviewed. Finally, in Moorpark, the cost per square foot for the city hall, library, and police services center were used. LDA partners provided an updated 2024 square footage needs and cost analysis for the police station. The park and public works corporation yard includes the cost of a recently constructed corporation yard building in the City. The cost for the multi-use community facility and public safety facility are based on current cost estimates from the City based on conceptual plans. These cost calculations are detailed in Appendix B of the nexus study.

**4. BIA - In Table A-1, the CIP it says there was a 2020 Needs Analysis done by LDA Partners. Would you send that over to me?**

City - The Space Needs Analysis conducted by LDA is available and was provided to the BIA via email on August 14, 2024.

**5. BIA - Also, for the Multi-Use Community Facility and the Animal Shelter Expansion it says its based on a “conceptional plan” would you send me that plan?**

City - Conceptual Plans

- a. Multi-Use Facility Moffat Blvd – Initial Proposed Conceptual Plan was sent to the BIA via email on August 15, 2024.
- b. Animal Shelter Expansion – Currently, there is not a complete conceptual plan; however, that process is supposed to kick off in the next 12 months based on the current needs of that facility. An expansion of over 100% is necessary due to the “No Kill” policy, the number of animals in the facility currently, and the ability to meet the increased needs of the community. The expected costs for this facility are based upon recent construction costs of similar facilities.

**6. BIA - And lastly, the Performing Arts Center it says it will be part of an updated Master Plan in FY 2025. So, on this one I have a concern about including an item in a fee study if the item is not actually part of a current plan. Can you explain why this is being included now instead of after it's in an existing plan?**

City – The Performing Arts Center / Amphitheater has been removed from the Government Building Facilities Fee Nexus Study. However, the Performing Arts Center has been identified as a need by the City Council and will be part of the proposed Parks and Recreation Master Plan Update that is anticipated to be completed in 2025.

- 7. BIA - So here's my questions, regarding the performing arts center, the conceptual design is supposed to be included in an updated FEZ master plan in FY 2025. Without that having been adopted it's premature to include this item in a fee update.**

City - The Performing Arts Center / Amphitheater has been removed from the Government Building Facilities Fee Nexus Study. However, the Performing Arts Center has been identified as a need by the City Council and will be part of the proposed Parks and Recreation Master Plan Update that is anticipated to be completed in 2025.

- 8. BIA - Regarding the LDA Partners design plan, the CIP shows that it was approved by City Council on August 20, 2024. Is that when it is planned to be approved? I understand the desire for a no kill animal shelter, but the cost increase and ongoing maintenance seems like they should be discussed more.**

City - The Police Station location was approved by the City Council Agenda on August 20, 2024. At the same meeting a resolution was also approved that appropriated \$200,000 from the Government Building Facilities Fee Program to hire a consultant to prepare and issue a request for proposal (RFP) for architectural design work for the facility.

As for the animal shelter expansion, currently, there is not a complete conceptual plan; however, that process is supposed to kick off in the next 12 months based on the current needs of that facility. An expansion of over 100% is necessary due to the "No Kill" policy, the number of animals in the facility currently, and the ability to meet the increased needs of the community. The expected costs for this facility are based upon recent construction costs of similar facilities.

- 9. BIA - Would you send me the full Capital Improvement Plan for the City? I'm looking at the attachment from the nexus study and it's a just a single page.**

City - A link to the City's Budget Document that has a complete list of Capital Improvement Projects for the City has been provided via email on August 20, 2024 and is below for reference.

<https://www.manteca.gov/home/showpublisheddocument/6827/638554507377170000>

- 10. BIA - On Pg 15 the Projected Growth in Workers shows 26,581 new workers. On Pg 16 the Future Service Population Growth in workers shows 9,835 workers. That is a wide discrepancy, what's the explanation?**

City - The revised projected growth in total workers in the City is 26,559. As

shown in Table 2-3 on page 16, a weighting factor of 0.37 is applied to the 26,559 which results in the 9,827. The 0.37-weighting factor for workers is based upon a 45-hour work week (40 hours of work plus 1-hour lunch break) relative to a resident's non-working time of 123 hours (168 hours per week less 45 work hours). Workers are weighed less than residents as their impact is less than a resident on the public facilities therefore a weighing factor is applied to account for this.

**11. BIA – The level of service for the buildings in question is currently 2.35 square feet per person served. The new plans call for that level of service to increase to 3.5 square feet per person served. To what extent and how, was the council informed of and made aware of this increase to the level of service?**

City - The previous fee study (2006) identified the new population for the city to be 89,862 residents and planned facilities to be 295,600 sq. ft. (service level of 3.29). Since that time the City Council provided direction regarding the facilities to be included in the Government Facilities Fee program. The Council will consider whether to adopt the Building Facilities Fee Capital Improvement Plan ("Fee CIP"), on which the proposed fees are based, at the City Council meeting. The Fee CIP uses, and expressly references, the proposed new level of service of 3.01 square feet per persons served based upon the revised CIP plan and the population estimates. In addition, the draft resolution adopting the Fee CIP contains findings regarding the proposed level of service's consistency with the City's General Plan. Should Council adopt the Fee CIP, it will also be adopting the new level of service. The General Facilities Fee Nexus Study also includes a discussion, beginning on page 24, of the existing level of service and the proposed new level of service.

**12. BIA - Other than including the performing arts center without a finalized design plan I can't argue with the nexus study provided the Council really wants to increase the upfront development costs by 39% and presumably increase their capital maintenance costs by 49%.**

City - The City has removed the performing arts center from this study. The City is not proposing a 39% increase at this time, instead, the proposed increase is 16% for Single-Family and 10% for Multifamily.

**13. BIA - Overall, the proposal represents an increase in building space per person served from 2.35 feet per person to 3.5 feet per person. That's a 49% increase in space per person. This increases the cost to new development to build projects AND it will have a significant impact on the cities budget every year going forward to maintain all of this extra space.**

City - You are correct, there is an increase in the building space per person and there will be some impact on future years' operational budget. However, the City

Council has identified these as necessary facilities to serve the growing city and provide an increased level of services and community activities. Moreover, the use of a new, increased level of service is appropriate where, as here, the existing level of service is too low to meet the City's desired standards and future facility needs.

**14. BIA - The police station presentation (see attached) says there is currently only 20,155 square feet of police space but in the proposed nexus study it shows 74,489 square feet of existing police space. Wow – please clarify that! The entire calculations for the police fee are based on 74,489 of existing space that invalidates the study.**

City - The Police Presentation shows that the Police Station is 20,155 square feet. That number does not include the Investigations / Evidence / Training / etc. spaces which are listed in the slide but their square footages are not shown on that slide. Further, the square footage information referenced in the Nexus Fee Study has been updated since this comment was received and now more accurately reflects the existing police square footage and proposed square footage for police.

**15. BIA - The performing arts center and the Moffat Community Center both appear to be premature to include in a fee study.**

City - The Performing Arts Center / Amphitheater has been removed from the Government Building Facilities Fee Nexus Study. However, the Performing Arts Center has been identified as a need by the City Council and will be part of the proposed Parks and Recreation Master Plan Update that is anticipated to be completed in 2025. The Moffat Community Center conceptual design is complete, and it is anticipated that formal architectural design will start by the end of Fiscal Year 2026.

**16. BIA - If a city were allowed to collect fees based on the conceptual ideas of what a council wanted built in the future there would be no limit on fees.**

City – As part of the General Building Facilities Fee update, the City Council will consider whether to adopt the General Building Facilities Fee Capital Improvement Plan ("Fee CIP"), which is included in the Nexus Study, pursuant to Government Code section 66016.5. If the City Council adopts the Fee CIP, then the updated fees will be based on a Council-adopted capital improvement plan, which will be annually updated pursuant to the Mitigation Fee Act.

**17. BIA - I see we are back on the schedule for October 1st. Would you send me the updated study?**

City – The revised nexus fee study was sent on September 10, 2024.

- 18. You can go to the home page but why not send us information that may help resolve this issue? Can you just send me the most recently adopted Capital Improvement Plan?**

City – A link to the adopted 2024/2025 Budget Book was provided via email on August 29, 2024 that has a list of the active Capital Improvement Projects. A proposed Capital Improvement Plan is proposed for City Council adoption as part of the Nexus Fee Study.

- 19. My other question has to do with the facilities included at the request of the city council but that do not seem to be in the Capital Improvement Plan, but I'm having a hard time tracking down the current CIP. I've looked through the city website and tried the link you provided me but I can't find it.**

City - A link to the adopted 2024/2025 Budget Book was provided via email on August 29, 2024 that has a list of the active Capital Improvement Projects. A proposed Capital Improvement Plan is proposed for City Council adoption as part of the Nexus Fee Study.

#### **California Housing Defense Fund “CalHDF” (With responses)**

- 20. CalHDF - Fee Calculations Assume that Impact Fees are the Only Source of Government Buildings Funding.**

***The nexus study has a major flaw. In addition to the issues identified below, the calculations do not factor in supplemental funding available for government buildings due to increased general fund tax revenues resulting from new development. The calculation for the fee assumes that all the funding for government buildings will come from impact fee revenues based on the proportionate share of these buildings. However, new development subject to fees will grow the city's tax base, thus making more general fund money available for the identified projects. Multifamily development, in particular, often replaces underutilized property, and comes with a property tax assessment substantially higher than existing uses. The residents of these new developments also patronize local stores, generating sales tax revenue. All impact fee calculations should account for the growth in the city's tax base that would be generated by the projected multifamily development. Failing to account for this results in fee schedules charging costs to new development in amounts far exceeding their impacts on city services and infrastructure.***

***While the nexus study identified the proportion of the new facilities assignable to the current population, there is no additional mechanism for current residents to pay their fair share for these new facilities other than***

***property and sales tax. And because new residents will be paying property taxes, sales tax, etc. in addition to the impact fees, they will be double paying for these new facilities, while existing residents will pay far less than their fair share.***

City – First, it is unlikely that the future facilities costs attributable to the City's existing population will be funded with the potential increases in General Fund revenues that could be realized from the residents and employees that occupy future development. Rather, alternative funding sources such as grants, a possible sales tax measure, or bonds, may be utilized for the existing residents' portion of the costs of construction of these facilities. Further, any increases in sales tax or property taxes will primarily be utilized to fund existing services and the operation and maintenance costs for existing and future facilities.

Second, any potential additional General Fund tax revenues that may be generated by the residents and employees that will occupy future development may be used for any general government purpose throughout the City, including the operation and maintenance of public facilities and the provision of ongoing government services to the existing and future population. While the City has the discretion to use General Fund revenues to fund the existing population's fair share costs of future general governmental facilities, these revenues may also be used for any other legal general government service. In contrast, the Government Facilities fee revenues may only be used to pay for the costs of public facilities related to new development. As such, it would be inappropriate to include potential General Fund revenues in the calculation of costs attributable to new development because those revenues are not restricted to constructing facilities needed to serve new development.

Finally, the General Government Facilities fees are only calculated and designed to include the costs of public facilities, attributable to new development, and not the costs associated with existing residents or the ongoing operation and maintenance costs for those facilities. Therefore, the fee calculation comports with statutory and constitutional requirements because it is roughly proportionate to the costs of constructing facilities related to new development.

## ***21. CalHDF - The Government Buildings Impact Fee Fails the Constitution Test***

***The City attempts to impose an impact fee on residential development to fund government buildings such as City Hall, a performing arts facility, a library, a police shooting range, a multi-use community facility, and so on. The takings clause categorically prohibits such a fee. The nexus between the proposed development and the impact for which a fee is sought must be at least somewhat unique to the development. (Dolan, supra, 512 U.S. at 391 [“No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the***

***proposed development.”] [emphasis added].) This follows from the intent behind the takings clause, which “bar[s] Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” (Tyler v. Hennepin Cnty., Minnesota (2023) 598 U.S. 631, 647.) The cost to the City to develop new buildings that will benefit the community as a whole (e.g. a performing arts center) represents a clear case of something that is not the sort of impact that will support an impact fee under the takings clause.***

***While CalHDF understands the City wishes to develop new buildings as its population grows, that wish does not equate to an impact created by new residential development. For instance, it is unclear why the City does not need a performing arts facility today, but new development will uniquely require such a facility. Municipally-owned performing arts facilities are rare in California, and new housing will not somehow create a desperate public need for operas and plays. Instead, we submit that developing a performing arts facility is a discretionary choice that has no relationship with any impact that future residents may have on facilities.***

***The City should fund its general operations through taxes. Indeed, it must. It cannot do so through “impact fees” that penalize new residential development: that is unconstitutional under the federal constitution and illegal under state law. CalHDF notes that the City will collect more money in taxes as a result of the development.<sup>1</sup> That is the appropriate revenue stream to rely on for the City’s desired new buildings.***

City – First, the General Government Facilities Fees are calculated to only include the costs of public facilities attributable to new development, as demonstrated by the Nexus Study. While all of the facilities included in the Fee CIP will benefit the community as a whole, only the portion of the costs of those facilities that is reasonably attributable to new development are included in the fee calculation. Nor is the fact that the facilities will benefit the community as a whole unusual for impact fees, which typically fund portions of facilities and/or infrastructure that benefit both the existing population and future growth (roads, bridges, water and sewer systems, etc.)

Second, as explained in the Nexus Study, the Government Facilities Fee satisfies all statutory and constitutional requirements because it has an essential nexus to the City’s interest in ensuring that there are adequate government facilities to serve new development, and the fee methodology, set forth in the Nexus Study, demonstrates that the fees are roughly proportionate to the need for new government facilities created by new development. Moreover, the fee only includes new development’s fair share of the costs of government facilities, and excludes the costs associated with the City’s existing population. As such, the fees are not more than is necessary to mitigate the impacts to public facilities resulting from new development. The City’s ongoing costs to operate the

identified facilities and the costs of funding the City's existing populations' fair share of the facilities will be funded with other revenues.

Third, the Performing Arts Center has been removed from this study. However, the City is not limited to charging impact fees to fund facilities that are similar in nature to its existing facilities. Rather, it is appropriate for the City to use impact fee revenues to expand its scope of facilities rather than to duplicate existing facilities. (See *Home Builders Assn. of Tulare/Kings County, Inc. v. City of Lemoore* (2010) 185 Cal.App.4th 554, 565.) As such, the City may include facilities in its impact fee programs that are different in purpose and nature from its existing facilities.

Finally, the City has satisfied its obligation to demonstrate that the required fees are related both in nature and extent to the impacts of new development projects. The fees are calculated to ensure that they have rough proportionality to the type of development upon which they are imposed. Indeed, the fee is calculated based on the number of people associated with the various types of development that will be required to pay the fee and the impacts of each additional employee or resident. However, should a fee payor contend that the amount of the impact fees is not reasonably related or roughly proportionate to the impacts of their particular project, under the proposed revisions to the City's Municipal Code, they can apply to the City for an adjustment or waiver of the fee.

**22. CalHDF - The Government Buildings Impact Fee Contravenes the City's Housing Element and Violates State Fair Housing Law**

***The proposed government buildings fee charges different rates to multi-family versus single-family housing developments. Such difference in rates between single-family and multi-family housing poses a problem with respect to the City's obligation to affirmatively further fair housing. (See Gov. Code, § 8899.50, subd. (b).) Residents of multi-family developments generally have lower incomes and less wealth than residents of single-family homes. Demanding more money from multi-family developments imposes an unfair burden on housing for lower- and middle-income households, while wealthier households in single-family homes enjoy a discount on their required contributions to the City treasury.***

***Given racial and ethnic gaps in wealth and income, the City runs the risk of creating a disparate impact on protected classes, specifically race, ethnicity, and familial status.***

***California has a housing crisis, and it needs more housing of all types, and especially housing suitable for lower- and middle-income families. State law has changed to reflect this, as has the implementation of the Fair Housing Act, and the City's policy must too. This need for new housing, and obligation to affirmatively further fair housing, is reflected in the City's***

***draft Housing Element. However, the government buildings impact fee will directly contravene programs and policies within the Housing Element.***

***It should be noted that the City's draft Housing Element actually admits that the City's impact fees are a constraint on housing production. From page 79 of the draft Housing Element (emphasis added), "The City has reviewed its fees and considered the fees of neighboring jurisdictions and, in concert with ongoing development and input from development community, has determined that the City's fees are higher and may constrain housing supply or affordability."***

***In addition to the City's admission that its impact fees constrain housing supply or affordability, the impact fee will contravene the below programs and policies.***

***Policy H-3.2: Development Fees. Ensure that the development impact fee structure does not unnecessarily constrain production of housing, including infill development, ADUs and JADUs, and multi-family housing.***

***As highlighted above, the City admits in its draft Housing Element that its impact fees constrain housing supply or affordability. Furthermore, because the fees are higher on a per square foot basis for multifamily housing, it contravenes Policy H-32 in an additional manner.***

***Program 23: AFFIRMATIVELY FURTHER FAIR HOUSING "This program facilitates equal and fair housing opportunities by taking meaningful actions to affirmatively further fair housing (AFFH) and address impediments identified in the analysis located in the Background Report. In summary, the City offers higher opportunity areas but faces challenges in promoting and providing a range of housing types and prices suitable for lower-income households. Providing a range of affordable housing can help foster more inclusive communities and increase access to opportunities for persons of color, persons with disabilities, and other protected classes ..."***

***While the City commits to affirmatively furthering fair housing in its Housing Element, including "promoting a range of housing types and prices suitable for lower-income households," its government buildings impact fee punishes residents of multifamily housing with a larger impact fee on a per square foot basis than what is paid by residents of single-family dwellings. Given that people of color are much more likely to reside in multifamily dwellings, and race and ethnicity are protected characteristics, the impact fee structure violates state law. (See Gov. Code, § 8899.50.).***

City – First, while the per square foot fee for multi-family housing is more than the

per square foot fee for single-family housing, the fee per dwelling unit, used to calculate the square foot fees, is more for single-family than for multi-family units. (See Table 3-4 of Nexus Study.) The fees for single and multi-family units are calculated based on the average densities of each unit type, derived from the U.S. Census data. These densities are then multiplied by the cost per new resident to determine the per-unit fees.

Historically, the City charged fees on a per-unit basis, with the fees for multi-family units set a lower level than the single-family unit fees. However, under recently enacted Government Code section 66016.5, the City must “calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development,” unless it makes certain findings. Moreover, a city “that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.” To comply with this new law, the City used the average square footage of single-family and multi-family units recently constructed in the City to calculate a per-square-foot fee. Notably, the 1,200 square foot average used to calculate the multi-family fee is a conservative metric as it is based on the average unit size of building permits in the City the past year and other current City comparables for multi-family development, which is largely based on condominiums and townhomes. The 1,200 square foot average was also rounded up to be conservative and, although based on the average of comparables, it is slightly greater than the average dwelling unit recently constructed in the area, which results in a lower per square foot fee. Most importantly, while the per square foot fee for multi-family development may be higher than single family development, the fees paid per dwelling unit will likely be lower for the vast majority of multi-family units because most multi-family units will be smaller than single family units. Indeed, a 1,000 square foot multi-family unit will actually pay less under the updated fees than it would under the City’s current fee program.

Second, the proposed fees are consistent with the City’s Housing Element and comply with the city’s obligation to affirmatively further fair housing laws because, as explained, the fees do not exceed the calculated impacts of new multi-family development. The fees are also similar or less than most of the City’s neighboring jurisdictions, as will be shown in staff’s presentation regarding the proposed fees, so they will not be a comparative constrain on housing supply or affordability. The proposed fees are also consistent with the City’s General Plan policies, as described in the Nexus Study, because they will help ensure that the City maintains a high quality of life, appropriate levels of service, and addresses anticipated development patterns and impacts on facilities and infrastructure. The proposed fees, which do not exceed the costs of providing public facilities to serve new growth, properly balance the needs of the City and the City’s interest in not unnecessarily constraining the production of housing.

## Attachment 5 – Comments Received

Finally, the City has an Infill Fee Reduction Program that reduces some impact fees by up to 75% in order to encourage development in these areas. The City also has an ADU fee reduction program that reduces ADU fees considerably and charges no impact fees for JADU's in order to promote a range of housing types that are suitable for our lower income households.