To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

RECOMMENDATION
Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.

FISCAL IMPACTS OF RECOMMENDATION
Staff time from Health, Housing and Community Services (HHCS), Planning and the City Attorney’s Office will be needed to complete a feasibility analysis. The Affordable Housing Mitigation Fee (AHMF) is one of the primary revenue sources for the Housing Trust Fund, and enacting policies that would divert this revenue may impact the City’s ability to fund non-profit affordable housing developments over the long term, which would significantly impact the number of housing units available to the very low income and homeless populations.

CURRENT SITUATION AND ITS EFFECTS
Maintaining an effective inclusionary housing strategy and facilitating housing for the city’s homeless residents is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

Staff appreciate the Homeless Commission’s intent to ensure the City’s inclusionary housing policies are serving the community’s best interests. On April 23, 2019, Council adopted a referral to the City Manager to examine potential reforms to the AHMF and staff recommends incorporating the Homeless Commission’s recommendations as part of the current referral. This referral is currently the fourth ranked Re-Weighted Range Voting priority as of June 11, 2019. The Affordable Housing Mitigation Fee is subject to various state laws and regulations. Its interaction with development is complex. Staff recommend a feasibility analysis so that the impact of each of these recommendations can be fully described and evaluated for Council’s consideration.
1. **Requiring inclusionary housing over the Affordable Housing Mitigation Fee.**
The City established its current AHMF for rental housing in July 2011 in response to the California Court of Appeal’s decision that prevented inclusionary housing requirements for rental residential developments. The State legislature recently adopted AB 1505, which overrules this prohibition and could allow the City to return to the previous inclusionary model in use prior to the Court prohibition. Further analysis by staff and a formal feasibility study would be necessary to justify this change and ensure the new ordinance would be consistent with AB 1505’s established standards. Council should consider the critical role the AHMF plays in providing funding for new affordable housing developments via the Housing Trust Fund program when considering changes to the City’s current inclusionary program.

2. **Requiring an increased number of inclusionary units when the inclusionary option is utilized.**
This could be included as part of a feasibility analysis and/or a new nexus study. Council should consider the balance between a developer’s ability to subsidize affordable units and produce a project with financially feasible returns. Additionally, if the goal is to increase creation of inclusionary units this could have the opposite effect.

3. **Providing incentives to developers to elect the inclusionary unit option over the Affordable Housing Mitigation Fee option.**
The State’s Density Bonus law is a frequently-utilized incentive to provide inclusionary units by allowing new residential development to be built at a higher density than is allowed under local zoning if the project includes affordable units for low-income households. The draft Adeline Corridor Specific Plan proposes a new onsite affordable housing incentives for market rate projects that take advantage of the plan’s height and density increases. This could serve as a pilot for implementation elsewhere in the city if adopted.

4. **Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the Affordable Housing Mitigation Fee in those geographical boundaries or Council districts;**
The feasibility of this proposal would need to be evaluated.

5. **As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.**
The AHMF ordinance requires 40% of all the units targeting 50% AMI households be reserved for holders of the City’s Shelter + Care certificates, which serve residents who are identified as chronically homeless.
BACKGROUND
In 1986, the Council adopted an Inclusionary Housing Ordinance in response to the need for affordable housing. Under the ordinance, residential projects with five or more units (or that are part of projects on property zoned to accommodate five or more units) are required to include a percentage of housing units that are affordable to low-income households.

The 2009 State court case *Palmer/Sixth Street Properties v. City of Los Angeles* precluded the City from applying the Inclusionary Housing Ordinance to rental housing developments. The Council adopted the AHMF ordinance in response to this change, requiring new residential projects to pay a mitigation fee with the option to provide affordable units in their project in-lieu of the fee. Staff are currently researching how the recent adoption of AB 1505 effects the City’s inclusionary housing options.

ENVIRONMENTAL SUSTAINABILITY
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
Staff recommend further study on each of the changes recommended by the Homeless Commission due to the multiple technical constraints associated with inclusionary housing.

ALTERNATIVE ACTIONS CONSIDERED
Council could maintain the current standards and protocol established by the AHMF ordinance.

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