

Memorandum

To: Steering Committee members
 From: CASA Co-Chairs
 Date: December 7, 2018
 Re: CASA Compact Updates and proposed additions and changes

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This memo provides you with both a recap of the Technical Committee meeting held on Monday, December 3rd and proposed updates and changes to the Compact.

Technical Committee Meeting Recap

The CASA Compact has been posted as part of the Steering Committee meeting package. Earlier this week on Monday, December 3rd the Technical Committee voted on the Compact using a gradients of agreement system.

The votes were overwhelmingly positive with 28 members voting favorably, and 1 voting negatively. The thoughts shared by the Technical Committee were also very positive reflecting an appreciation for the accomplishments to date, individual commitments to continue the work on selective issues, and the importance of holding the Compact together as a package as we work to move it through the California Legislature.

There was also robust public comment with broad support for the tenant protection elements, an appreciation for both the importance and depth of the overall Compact work, and some concerns about how the regional housing entity governance structure will work. Overall, the public comment was 15 speakers supportive, 8 expressing concerns or opposed; and 4 sharing comments but not overtly supportive or opposed.

Proposed Compact Updates and Changes

The items below are a combination of words or concepts inadvertently left out of the Compact, clarifications where needed, and changes proposed based on Technical Committee meeting.

1. Recommendations for Compact Element #2 Emergency Rent Cap

1a) Under the Pass-Throughs section, the following changes are proposed:

Delete: A landlord should be able to pass through a percentage of capital improvements and expenses to renters, not to exceed a fixed dollar amount per year.

Replace with: A landlord should be able to pass through actual operating expenses increases including water and sewer, wastewater, trash, electric and gas using industry standards such as the RUBS system (Ratio Utility Billing Systems). The costs of capital improvements inclusive of a 4% return on investment that are necessary to maintain the building(s) with reasonable upgrades and maintenance items to address health and safety, shall be allowed to be passed through to tenants on an amortized basis, per IRS standards.

1b) Add the following language at the end of the Compact Element:

Add new language: **Administration:** This Compact Element will likely require some type of oversight function.

2. Recommendations for Compact Element #3 Emergency Rent Assistance and Access to Legal Counsel

Under the Desired Effect, the following changes will be made:

Substitute: “Bay Area” for “Alameda County” in Paragraph 2

Add the following sentences after Paragraph 2:

There is a recognition of the importance of keeping people housed, and a significant portion of funding identified to help with housing instability will likely be earmarked to emergency rental assistance.

This Compact Element is not intended to supersede any local government programs that might be more expansive than what is contemplated herein.

3. Recommendations for Compact Element #5 Minimum Zoning Near Transit

3a) Under Minimum Zoning Near Transit, the following language in blue will be added:

Add in language in blue:

High quality bus service: Residential uses up to 36’ tall with development standards (such as lot coverage, setbacks, density limits, and maximum unit size) should be allowed within ½ mile of bus stops with at least 15-minute headways at peak periods and 30-minute headways on weekends.

Major transit stop: Residential uses up to 55’ tall (75’ tall with density bonus) that have development standards similar to those above (such as lot coverage, setbacks, density limits, and maximum unit size) should be allowed within 1/4 -mile radius of major transit stops (rail stations and ferry terminals).

Neither development standards nor other zoning and design controls should mandate densities lower than those prescribed above. These shall not be used to reduce density where higher local standards or plans apply.

3b) Under the Sensitive Communities section here and elsewhere in the Compact, make the following change:

Substitute: Wherever the phrase “opt-out period” has been used inadvertently, it will be substituted with “deferral period”.

3c) Replace Figure 5: Map of Transit Access and Sensitive Communities

Replace: Current Figure 5 Map will be replaced with an updated Map of Transit Access and Sensitive Communities attached as Exhibit A.

The updated map contains the following changes:

1. Removes the Community Air Risk Evaluation (CARE) communities designated by the Air District since it is based on air quality indicators. Sensitive Communities are now the intersection of two adopted definitions of disadvantaged communities, that of MTC and Bay Conservation and Development Commission (BCDC).
 2. Consequently, adds additional areas to the Sensitive Communities, including parts of West Bay (East Palo Alto), San Francisco (Richmond District) and North Bay (San Rafael, Santa Rosa, Napa and Fairfield).
4. Recommendations to Compact Element #7 Expedited Approvals and Financial Incentives for Select Housing

4a) Under the Desired Effect, the following sentence will be added at the end of the paragraph:

Add: The intent of this element is that it does not overrule local inclusionary zoning.

4b) Under Qualifying Projects, add the following sentence:

Add: Complies with all proposed labor standards contained in SB 35 and shall include prevailing wages and trained apprentices to help grow the construction workforce.

4c) The following bullet shall be deleted and restated as follows:

Delete:

- Restricts at least twenty percent (20%) of on-site housing units to middle-income households (approximately 80% to 150% of AMI depending on local market conditions) with an average affordability of 110% of AMI.

Replace with new sentence with changes shown in blue:

- Restricts at least twenty percent (20%) of on-site housing units to middle-income households **through recorded long-term deed restrictions (that may range from 80% to 150% of AMI depending on localized rents and market conditions)** with an average affordability **not to exceed** 110% of AMI.

5. Recommendations to Compact Element #9 Funding and Financing the CASA Compact

5a) Under Funding Gap, the following sentence shall be added to the end of the paragraph:

Add: Any regional impositions that duplicate similar local impositions shall be reduced proportionally.

5b) Under the Potential Sources section, add the following section before the final sentence of the paragraph:

Add: CASA also recommends exploring with other stakeholders whether a ‘mega measure’ involving transportation and funding could be pursued.

5c) Under Potential Sources, the following language in blue will be added to the second sentence:

Add the language in blue: In principle, new revenue would be raised from a range of sources to spread the responsibility among different sectors of the economy.

6. Recommendations to Compact Element #10 Regional Housing Enterprise

Under the Roles and Responsibilities section, amend the Monitoring and reporting section as follows:

Strike, replace and add language shown in strike format and blue in the first sentence to amend the section to read:

Monitoring and reporting – the RHE ~~may~~ will coordinate with MTC/ABAG and local jurisdictions to collect relevant specified data....

7. Recommendations to Calls for Action section

7a) In Call for Action: Redevelopment 2.0 in the Call to Action section, the following word will be deleted:

Delete one word shown in strike format: Pass legislation enabling the re-establishment of redevelopment agencies in California....

7b) In Call for Action: Proposition 13 Reforms Fiscalization of Land Use, correct this title to read as follows:

Delete language in strike format: ~~Proposition 13 Reforms~~ Fiscalization of Land Use

8. Recommendation to the Local Best Practices section

8a) Delete the section contents in their entirety and replace with the language in Exhibit B.

Exhibit A – New Map

The following Figure 5: Map of Transit Access and Sensitive Community Areas shall be substituted into the Compact. A larger version of the map will be provided at the Steering Committee meeting.

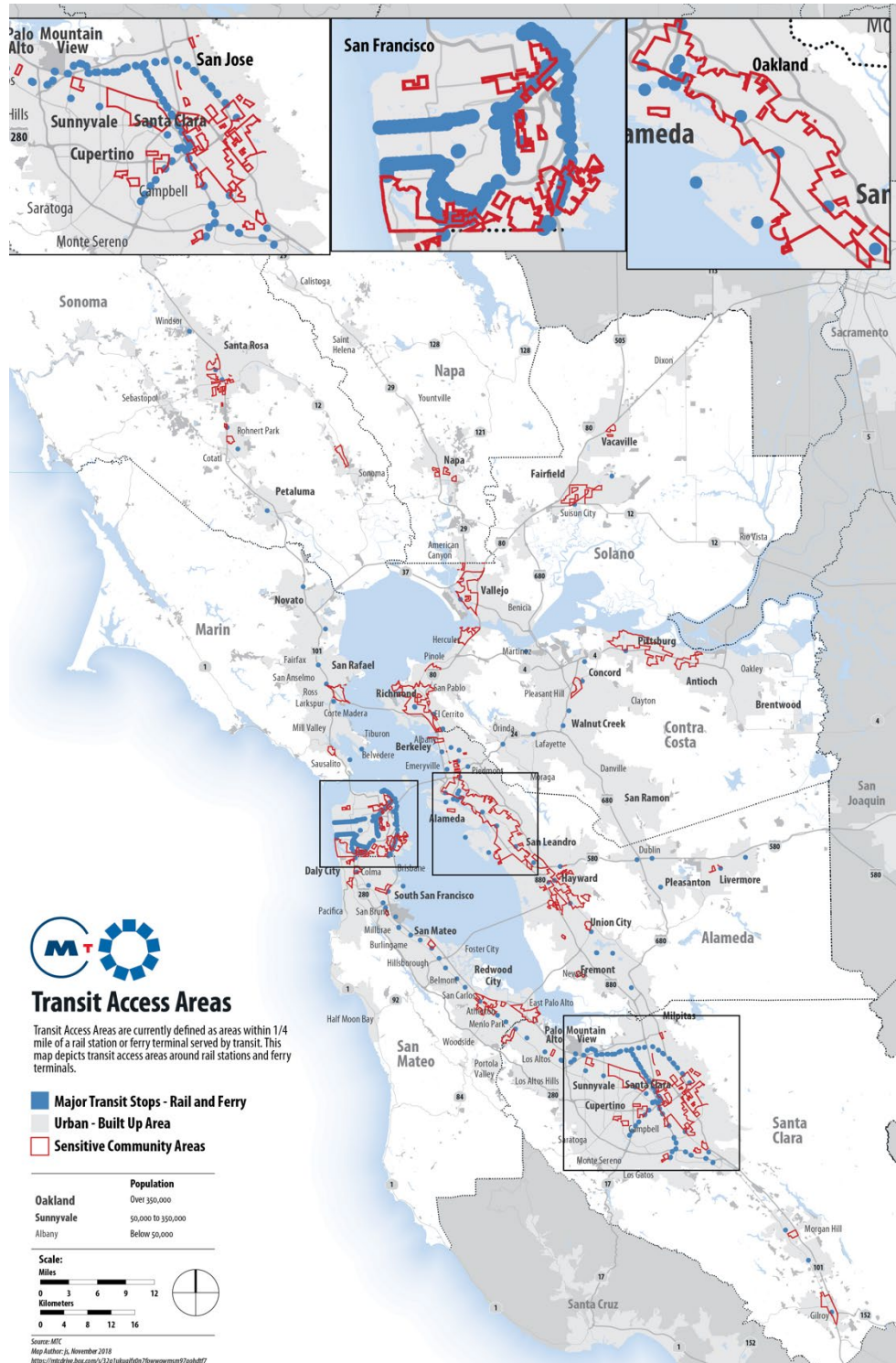


Exhibit B – Local Best Practices

The following new Local Best Practices section shall be substituted into the Compact.

Local Best Practices

This section describes local best practices that are relevant to the CASA Compact.

Protection, Preservation and Production (3-Ps) Framework

While many jurisdictions in the Bay Area focus on one or two of three Ps, the City of Oakland was one of the first to codify the 3-P framework in a citywide policy developed through a multi-stakeholder process. The underlying policy outcome for Oakland was to address housing insecurity in a rapidly changing community that faces both historic disinvestment as well as very high displacement pressures.

City of Oakland

In 2016, the Oakland Housing Cabinet developed a comprehensive plan, called *Oakland at Home – Recommendations for Implementing A Roadmap Toward Equity*, to address the city’s chronic housing affordability and homelessness crisis. The plan outlines a three-pronged strategy to protect renters, preserve existing affordable housing by taking it off the speculative real estate market and produce more affordable and market-rate housing.

The plan identifies several strategies under each “P” designed to significantly improve housing affordability in Oakland. CASA borrowed this concept from Oakland’s plan to form the three Ps framework.

Rent Stabilization

13 jurisdictions in the Bay Area have adopted some form of rent stabilization policies. This section highlights two such examples, in the City of Richmond and County of Sonoma.

City of Richmond

In 2016, Richmond residents approved Measure L, which established the *Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance*. The ordinance applies to all multifamily properties, including duplexes. The annual rent increase is set at 100% of the Consumer Price Index. Landlords are required to file all notices of rent increase, termination of tenancy, and change of terms of tenancy notices with the Rent Program. Landlords and tenants may petition the *Rent Board* for an Individual Rent Adjustment.

The city established a Rent Board, an appointed governing body, and a Rent Program Department to administer the program. The department is set up to function on a cost-recovery basis, with no financial assistance from the city’s general funds. Funding for the department comes from Rental Housing Fee, which must be paid by all Richmond Landlords on an annual basis.

City of Santa Rosa and County of Sonoma

On October 9, 2017, the Governor of California issued an Executive Order declaring a state of emergency in Napa and Sonoma Counties due to widespread damage caused by wildfires. California Penal Code section 396 prohibits price gouging (defined as increases over 10%) for necessary goods and services after the governor declares a state of emergency, including rental housing and hotels.

The City of Santa Rosa adopted additional protections for tenants, which allow renters to file civil lawsuits for violations. The county also adopted protections for tenants in mobile home parks. In addition, the county adopted several *Urgency Ordinances* to address the immediate need for housing for persons displaced by the wildfires.

The Urgency Ordinance allows: the use of recreational vehicles and trailers as homes, with an emergency temporary permit; a Safe Parking Program for RVs, trailers and campers, to be parked overnight on county-owned land (basic services such as bathrooms, showers, and warming stations are provided); year-round occupancy in seasonal farmworker housing; replacement schools and child care centers in specific zones without a use permit; and long-term rental of bed and breakfasts, inns, resorts.

Just Cause Eviction Protections

10 jurisdictions in the Bay Area have already adopted some form of just cause eviction protections for renters. This section highlights one such example, in the City of East Palo Alto.

City of East Palo Alto

East Palo Alto has adopted both a *Just Cause for Eviction* as well as a *Rent Stabilization Ordinance* to protect tenants in the city from harassment and displacement due to rising market pressures on the city's existing housing stock. The just cause policy applies to both mobile home parks and residential rental units, including single family dwellings. The ordinance identifies fourteen just causes for eviction, establishes a noticing and filing requirement (with the city rent board) and gives tenants the right to request documentation of all rent payments and charges. The program is funded entirely through fees, half of which are passed on to tenants.

Access to Legal Counsel

City and County of San Francisco

In June of 2018, San Francisco voters approved Proposition F that guarantee free legal representation for any renter facing eviction, regardless of income. Proposition F calls for full-scope representation within thirty days of an eviction notice or filing of an unlawful detainer action. San Francisco estimates that as many as thirty-five hundred tenants a year will be eligible for the free services, for which it earmarked \$5.8 million over the first two years of the program. San Francisco also currently spends \$4.4 million a year on eviction-related services such as counseling, education, outreach and basic no-cost or low-cost legal services.

Rent Assistance

26 jurisdictions in the Bay Area provide some form of tenant assistance. This section highlights one such example, in the County of Sonoma.

County of Sonoma

Lastly, the county's *Home Tenant-Based Rental Assistance Program* (TBA) provides rent subsidies to homeless families in shelters, survivors of domestic violence, seniors and persons with HIV/AIDS. Only very low-income individuals are eligible to receive this assistance. They are referred by emergency shelters, transitional shelters, non-profit service providers, the County's Human Services Department and the Division of Adult and Aging Services. The TBA program is administered similarly to the US Department of Housing and Urban Development's Section 8 program.

Acquisition and Rehabilitation of Affordable Units

30 jurisdictions in the Bay Area have established some form of a preservation program to support acquisition, rehabilitation and protection of affordable units occupied by low-income renters. This section highlights one such example, in the City and County of San Francisco.

City and County of San Francisco

Launched by the Mayor's Office of Housing and Community Development in 2014, San Francisco's *Small Sites Program* (SSP) is an acquisition and rehabilitation loan program for small multifamily rental buildings. The program was created to protect and establish long-term affordable housing throughout San Francisco. SSP is funded through multiple sources, including voter-approved bonds, inclusionary housing fees, and the city's *Housing Trust Fund*.

As of May 2018, the program has acquired 160 units in 25 buildings, serving 327 residents that earn less than 65% of the Area Median Income. The units are located in the following neighborhoods: the Mission District, Downtown/Civic Center, South of Market, Castro/Upper Market, Haight Ashbury, Bernal Heights and Richmond.

Homebuyer Assistance

28 jurisdictions in the Bay Area have established some form of a homebuyer program. This section highlights two such examples, in the cities of Napa and Oakland.

City of Napa

Napa's *Down Payment Assistance Program*, funded with grants from the State of California Department of Housing and Community Development, provides assistance to lower-income first time home buyers in the form of a silent (deferred) loan of up to \$150,000. To qualify, an applicant must meet income and credit restrictions and cannot have owned a home in the last three years. Homes must be located within city limits and cannot be bigger than 3 bedrooms and 2 baths.

City of Oakland

Hello Housing, a regional non-profit organization, has partnered with the City of Oakland and the Alameda County Treasurer-Tax Collector's Office, to acquire and convert formerly blighted and tax-defaulted properties into permanently affordable housing for low-and-moderate income residents. Hello Housing and three local developers have acquired 26 vacant, a majority of which will be developed into single-family homes for ownership and two properties into multifamily affordable rental units to house approximately 15 to 20 families. Construction on the first homes is now underway with occupancy on many of the homeownership properties expected in late 2018 and early 2019.

Permit Streamlining

50 jurisdictions in the Bay Area have adopted some form of permit streamlining policies. This section highlights two such examples, in the County of Sonoma and the City of San Jose.

City of Santa Rosa and County of Sonoma

In the aftermath of the wildfires in Sonoma in 2017, the City of Santa Rosa adopted multiple policies to expedite the permitting process for those who wanted to rebuild. There included: establishing a *Resilient City Permit Center* with dedicated staff; exemptions from environmental review; expansion of damaged nonconforming residential structures to added living areas, ADUs, and JADUs; increasing the allowable residential floor area in mixed-use projects from 50 to 80 percent; and delaying collection of fees until near occupancy. The county also established a *Resiliency Permit Center* to expedite permitting, and relaxed rules related to accessory dwelling units (ADUs).

City of San Jose

In 2014, the City of San Jose formed an ad-hoc committee to explore permit streamlining for small businesses as well as for major projects. Based on the committee's recommendations, the city created a planning desk dedicated to small projects and recently established an electronic plan review system to simplify permitting. The electronic system has resulted in time and cost savings for both the city as well as the applicant. The system provides real-time updates on the status of the approval process.

Fee Waiver

26 jurisdictions in the Bay Area offer some form of fee waivers to housing developers. This section highlights one such example, in the City of Sunnyvale.

City of Sunnyvale

Sunnyvale charges all new rental housing projects an impact fee of \$9 to \$18 per habitable square feet. If a developer opts to provide affordable units on-site instead of paying the housing impact fee, the city credits the developer \$300,000 per very low-income unit and \$150,000 for every low-income unit, up to the total housing impact fee amount owed by the project. In case any fee obligation remains after the affordable unit developer credits are applied, the developer may opt to provide additional affordable units to reduce the fee to zero.

These developer credits are based on the subsidy amounts required to develop affordable units, which the 2014 rental impact fee nexus study determined to be \$302,496 for a very low-income unit and \$146,233 for a low-income unit. The city also waives the park and recreation fee for affordable units.

Housing Overlay Zoning

24 jurisdictions in the Bay Area have adopted some form of a zoning overlay for housing projects. This section highlights one such example, in the City of Menlo Park.

City of Menlo Park

Menlo Park's *Affordable Housing Overlay* (AHO) zone was established to encourage the development of housing for low, very low and extremely low-income households on housing opportunity sites identified in the city's adopted Housing Element. The AHO establishes development standards for these sites and is designed to benefit all affordable housing projects, including market-rate developments that provide a higher share of low- and very low-income units than what is called for in the State's *Density Bonus Program*.

New Revenue and Organizational Capacity for Housing

Multiple cities and counties in the Bay Area have raised new revenue for housing in the last two election cycles and/or adopted a regional or sub-regional approach to solving the housing crisis. This section highlights two such examples, in the counties of Santa Clara and Sonoma.

County of Santa Clara

In June 2016, Santa Clara voters approved Measure A, a \$950 million affordable housing bond program to build and preserve 5,000 affordable housing units countywide. The bond proceeds will help stabilize housing for the county's most vulnerable populations including veterans, seniors, the disabled, low and moderate-income individuals or families, foster youth, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses. Measure A priorities include advancing supportive housing for special needs populations, including homeless and chronically homeless persons and increasing housing supply for extremely low-income populations.

As of June 2018, the first year of implementation, the county approved \$111 million for 10 projects that will add more than 800 multifamily units in 6 cities. The county also approved \$25 million for a first-time homebuyer program.

County of Sonoma

The City of Santa Rosa and the county are moving forward with establishing a joint powers authority, called the Renewal Enterprise District (RED), with the explicit goal for regionalizing housing production; pooling and leveraging financing and funding; sharing risks and benefits of development in new ways; streamlining environmental review and providing confidence in good projects; and putting equity, affordability and climate solutions in the center of local economic strategy.

When established the RED will focus housing development in specific geographies; define project criteria for which incentives and streamlined permitting processes are appropriate; pursue new models for public-private partnerships; expand, pool, and leverage public and private financing in new ways; explore the most strategic use of publicly-owned land; and leverage the regional housing planning tools and resources of MTC/ABAG

Cross-Jurisdictional Collaboration

This section highlights the unique process in San Mateo County to coordinate housing strategies across jurisdictions, including conducting a "nexus" study for setting impact fees.

Cities in the County of San Mateo

The 21 Elements Effort

21 Elements is a multi-year, multi-phase collaboration of all twenty-one San Mateo County jurisdictions, along with partner agencies and stakeholder organizations. The project aims to support jurisdictions in developing, adopting, and implementing local housing policies and programs. It is a forum for sharing resources, successful strategies and best practices. The project is co-sponsored and coordinated by the San Mateo County Department of Housing (DOH) and the City/County Association of Governments of San Mateo County (C/CAG).

The project recognizes that cities in the county often struggle with similar housing issues and consider similar solutions. 21 Elements helps those cities find policies that are right for them, working with their neighbors in a supportive, cooperative environment. Respecting local control, 21 Elements makes it easier to adopt innovative policies that address important housing needs. From affordable housing to accessory dwelling units, 21 Elements has resources to help.

Grand Nexus Study

Through a multi-jurisdiction collaborative process, 15 cities in San Mateo County and the City of Palo Alto embarked on developing a nexus study for their respective linkage fee programs. This project, which came to be known as the Grand Nexus Study, reduced costs by 75 percent and helped establish best practices. Customized, jurisdiction-specific reports focusing on local conditions were completed and provided to each participating city in the second half of 2015.

Affordable Housing Needs Allocation

In the fourth Regional Housing Needs Allocation (RHNA) cycle, 11 of San Mateo County's 21 jurisdictions engaged in "housing unit trades." Five of these jurisdictions accepted additional unit allocations for proposed development adjacent to their city limits. Three additional jurisdictions who had already adopted a land use plan that calls for more housing development also accepted additional allocations. In all, these trades covered a total of 396 units, or 2.5% of the total 8-year allocation for the county. While numerically insignificant, the trades represent an important accomplishment for these 11 jurisdictions as they work together on multiple other efforts to meet the county's housing crisis.