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November 9, 2021

Chris Zapata, City Manager
City of Sausalito
420 Litho Street
Sausalito, CA 94965

RE: City of Sausalito Letter Regarding ABAG Administrative Committee RHNA Public Hearing – Comment Letter on All Appeal Deliberations and on City of Sausalito Appeal

Dear Mr. Zapata:

On behalf of the ABAG Executive Board members and staff, thank you for your partnership throughout the Regional Housing Needs Allocation (RHNA) process and for your comment letter on the RHNA appeal deliberations.

The City notes in its comment letter that the April 12, 2021 letter from HCD is limited to confirmation that ABAG's adopted RHNA methodology furthers the RHNA objectives. ABAG-MTC staff concurs with this statement. ABAG-MTC staff's response to the City of Sausalito's appeal cites this letter from HCD only in response to arguments from the City related to whether the final RHNA methodology advances the statutory objectives. However, several of the arguments in the City's appeal represented critiques of the final RHNA methodology or recommended changes to the methodology, such as the City's suggestion to include methodology factors related to overcrowding and vacancies. In these instances, ABAG-MTC staff noted that a critique of the methodology was not a valid basis for an appeal.

Working with the Housing Methodology Committee (HMC), ABAG conducted a multi-year effort to develop and adopt the final RHNA methodology that involved significant participation from local governments, regional stakeholders, and members of the public throughout the process. The basis for an appeal outlined in Government Code Section 65584.05(b)(2) is not intended to provide an opportunity to change the RHNA methodology that has already been adopted by the ABAG Executive Board. Instead, Government Code Section 65584.05(b)(2) requires the appellant jurisdiction to show that ABAG did not correctly apply the adopted RHNA methodology when determining the jurisdiction's draft RHNA. Accordingly, ABAG-MTC staff's response to the City's appeal noted where arguments by Sausalito challenged the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, which is outside the scope of the appeals process.

The City's comment letter also asserts that ABAG did not analyze factors in Government Code Section 65584.04(e) for each member jurisdiction. The two factors where this is specifically identified in statute are "each member jurisdiction's existing and projected jobs and housing relationship" and "the opportunities and constraints to development of

additional housing in each member jurisdiction.” As noted in the ABAG-MTC staff response to the City’s appeal, the final RHNA methodology addresses each of these factors through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint was developed using the UrbanSim 2.0 land use model, which incorporates parcel-specific data about locations of existing housing and jobs; local plans and zoning; and physical site characteristics, including development constraints such as steep hillsides.

Use of parcel-specific data enables the evaluation of the jobs-housing relationship and development opportunities and constraints at the jurisdiction level. Accordingly, the Final Blueprint incorporates information about each jurisdiction’s existing and projected jobs and households as well as each jurisdiction’s potential for future development. As noted in the response to the City’s appeal, while only county and sub-county projections are included as part of the adopted Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology. While the April 12, 2021, letter from HCD only confirms the final RHNA methodology achieves the statutory objectives described in Government Code Section 65584, the methodology also meets all of the requirements established by Government Code Section 65584.04. Pages 34 through 43 of [ABAG’s Draft RHNA Plan](#) provide additional information about how the methodology meets these requirements.

Contrary to the City’s conclusion in its comment letter, ABAG-MTC staff did consider the analysis of development capacity provided by the City in its appeal. However, the City’s capacity analysis did not conclusively demonstrate that it cannot accommodate its draft RHNA allocation. In particular, the City excluded areas with natural hazards and environmental constraints from its analysis, which is not consistent with Housing Element Law. As noted in the ABAG-MTC staff response to the City’s appeal, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development.”¹ The HMC extensively considered whether to include a factor related to natural hazards in the RHNA methodology, and ultimately decided not to do so. While the City is correct that Housing Element Law does not restrict ABAG from reducing potential development capacity on sites subject to hazards, there is also nothing in statute *requiring* that ABAG do so.

Additionally, HCD’s guidance that hazard risk should be considered when evaluating potential sites in a jurisdiction’s Housing Element does not, in fact, demonstrate that hazards should be a factor in determining each jurisdiction’s capacity for growth. Instead, this guidance is consistent with ABAG-MTC staff’s response to the City’s appeal, which states:

“Throughout the region, it is essentially impossible to avoid all hazards when siting new development, but jurisdictions can think critically about which areas in the community have the highest hazard risk. Notably, the residents of new development are likely to be safer from hazards than current residents living in older structures, as new construction is built to modern standards that more effectively address hazard risk. In developing its Housing Element, Sausalito has

¹ Government Code Section 65584.04(e)(2)(B) states “The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.”

the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.”

As noted on page 6 of the *ABAG 2023-2031 RHNA Appeals Procedures*, “The burden is on the applicants to prove that adjustment of the Allocation is appropriate under the statutory standards set forth in Government Code.” As reaffirmed in this letter, the adopted RHNA methodology does adequately consider development opportunities and constraints at the member jurisdiction level, consistent with Government Code Section 65584.04. The City of Sausalito’s appeal does not identify any mistakes in the application of the adopted RHNA methodology and thus does not fulfill the requirements outlined by Government Code Section 65584.05(b)(2). Lastly, the City’s capacity analysis did not demonstrate conclusively that the City could not accommodate its draft RHNA allocation.

As a result, Sausalito has not shown that an adjustment to its draft RHNA allocation is appropriate under the statutory standards set forth in Government Code, which supports the preliminary decision made by the ABAG Administrative Committee to deny the City of Sausalito’s RHNA appeal.

Once again, we appreciate the City of Sausalito’s engagement throughout the RHNA process.

Sincerely,



Therese W. McMillan
Executive Director

TWM: GA

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