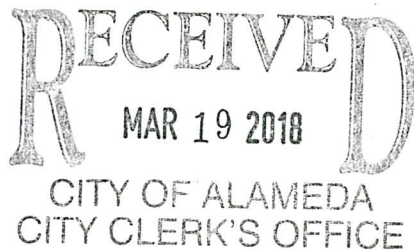


**DOCUMENTS DELIVERED TO ALAMEDA CITY CLERK BY  
BOATWORKS LLC**

1. Comments on behalf of Boatworks by the Law Offices of Thomas D. Roth
2. Comments on behalf of Boatworks by DFA
3. Comments on behalf of Boatworks by Robert McGillis
4. Five volumes of Boatworks Trial Exhibits
5. Four volumes of record on appeal (2014 DIF appeal by City)
6. Deposition transcripts for Amy Wooldridge (Day 1 and 2), Deborah Potter, Andrew Thomas, Carlos Villarreal, Jennifer Ott, and Liam Garland, in the trial court action on the 2014 DIF

Dated March 19, 2018

Please note: Items 4 through 6 are very large documents and are on file in the City Clerk's office.



**LAW OFFICES OF THOMAS D. ROTH**  
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**By Hand Delivery**

March 19, 2018

City Council c/o  
Lara Weisiger, City Clerk  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

Jill Keimach  
City Manager  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

**Re: Boatworks LLC's Comments and Objections Concerning  
March 20, 2018 City Council Regular Agenda Item 6-C  
(City of Alameda Park and Recreation Facilities Impact  
Fee and Nexus Study;<sup>1</sup> and Ordinance Amending  
Municipal Code Chapter XXVII, Section 27-3 to Re-Adopt  
Park and Recreation Fee; and Documentation Submission**

Dear Staff:

This firm represents Boatworks, LLC ("Boatworks"), and on Boatworks' behalf files comments and objections on the above-referenced agenda item.

In the staff report on this agenda item, staff acknowledges that the Alameda County Superior Court previously invalidated the 2014 parks and recreation impact. Nonetheless, it has continued to collect that illegal fee. **Any developer paying that fee should do so under protest, and seek a refund of the fee once the Court of Appeal upholds the trial court's ruling.**

Staff also asserts that the revised 2018 Nexus Study takes into

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<sup>1</sup> Although the Nexus Study is dated December 28, 2017, it was not made available until February 15, 2018.

consideration the legal flaws identified by the court. It is unclear how exactly the new Nexus Study does that since it repeats the same mistakes previously identified in the 2014 Nexus Study.

Below, we identify these and other legal flaws in the 2018 Nexus Study. We also include with these comments, separate comments and objections prepared by (1) Mr. Greg Angelo, DFA; and (2) Mr. Robert McGillis, both consultants for Boatworks.

Staff asserts that the 2018 Nexus Study shows that the 2014 park and impact fee is reasonable. It does nothing of the sort.

The 2018 Nexus Study employs two different methods for determining reasonable park and recreation fee authority, but unfortunately, the City insists on including wholly unreasonable assumptions in its application of both methods, leading to false and unreasonable conclusions. In both cases, the City misses a fundamental requirement of the Mitigation Fee Act which is to establish a future need for acquiring additional land for parks. Just like 2014, the City still has no need. Yet, the City bases its fee determination largely on the need for land. The two methods arrive at similar conclusions because they both are based on the same false assumption.

While the 2014 fee failed to comply with the Mitigation Fee Act requirements, the 2018 Nexus Study makes the same mistakes, and yet, claims authorization to increase the fee by an additional \$3,000 per home, **or a 26 percent increase over the illegal 2014 fee.**

A footnote in the staff report asserts that the 2018 Nexus Study uses a “conservative” estimate of land value of \$2 million per acre for park land, but that is a **42 percent increase** from the value used by the City in its 2014 Nexus Study. Staff also claims that the Nexus Study didn’t assign any land value to much of the land currently owned by the City, but other than about 20 acres acquired for Jean Sweeney Park, the City fails to identify what City land it assigned a value of zero.

The City’s proposed Ordinance simply repeats the 2014 Ordinance’s shell Mitigation Fee Act findings verbatim except to substitute the 2018 Nexus Study as the basis.

### *Comments and Objections to the 2018 Nexus Study*

On page 1, the 2018 Nexus Study asserts that Court held that the 2014 Nexus Study did not adequately justify the parks and recreation fee. That is inaccurate. The Court held that the City’s parks and recreation fee violated the requirements of the Mitigation Fee Act, not merely that the City failed to “adequately justify” or “adequately support” the fee. (See also, p. 5.) The 2018 Nexis Study’s characterization of the Court’s ruling is just “spin.”



On page 2, the 2018 Nexus Study describes the two methods used to determine the fee authority. The attached DFA analysis shows how the City incorporated the same false assumption in both methods, invalidating the results in both approaches.

On page 4, the 2018 Nexus Study relies on the City's General Plan in justifying the Nexus Study.

On page 6, the 2018 Nexus Study asserts that "facility standards" "ensure that new development does not fund deficiencies associated with existing development." That statement is false when the facility standards are manipulated or gamed, as they have been here.

On page 6, the 2018 Nexus Study asserts that "the costs of park and recreation facilities are considered to be equal to the current value of these facilities, which is determined based on City data regarding development costs for recent projects and the replacement cost of existing facilities." This assumption is inconsistent (and indeed the opposite) from the Nexus Study's premise that the City doesn't look at future costs under this methodology. So, the City can't use both premises.

The City also improperly uses the "replacement" cost rather than the depreciated cost in determining present asset value. The effect of this is to require new development to pay to refurbish rundown facilities, even when it is not using DIF monies to expand those facilities to facilitate a greater population.

On page 6, the 2018 Nexus Study asserts "The City's current level of service is calculated by determining the collective value for the City's existing inventory of park and recreation facilities." In a footnote, the Study notes that "the current values of existing park and recreation facilities are calculated based on the City's recent project costs for land acquisition and improvements for new park and recreational facilities, as well as the replacement cost or value of existing facilities." In other words, the new park fee is based on the need to acquire land for parks, when Boatworks has previously established in the litigation that the City does not need land for future parks. The City still has no need for land for parks.

On page 6, the 2018 Nexus Study asserts "As the fee amount is calculated based on the existing level of service, the amount of the fee does not depend on the estimated cost of future park and recreation facilities that the City intends to develop." To the contrary, there is a relationship between the existing level of service and the need and cost of future facilities. Since under this method, the amount of the fee is based on assumptions made in calculating the existing inventory, if the City includes land costs or values in its calculation, then it necessarily carries that assumption forward in determining the park fee. Again, because the City does not need additional land for parks, the City's revised



calculation remains in error and in violation of the Mitigation Fee Act.

On page 7 in a discussion of the system standard method, the 2018 Nexus Study asserts “The City’s future level of service is calculated by determining the collective value of its planned 2040 inventory of park and recreation facilities (excluding facilities the City expects to replace or phase out of service in 2040).” In a footnote, the Study notes “the current values of existing and future facilities are calculated based on a combination of recent project costs for land acquisition and improvements for new park and recreational facilities, replacement cost or value of existing facilities and the projected costs for future improvements.” So, under this approach, too, the City has assumed that it needs additional land for parks in the future, when that is not the case.

On page 7, the 2018 Nexus Study asserts “The calculated fee amounts in this report under both methods result in similar maximum justified fee levels, which further suggests that both methods are reasonable.” No it doesn’t. Since the City included the same false assumptions in both methods, it is not surprising that they both have similar results. A true test of the reasonableness would be to eliminate the false assumption that the City needs land for parks.

On page 8, the 2018 Nexus Study asserts “Broadly speaking, the cost of each facility includes the land that it occupies and any structures or improvements needed to make it useable by the public.” That is true “broadly,” but it is an erroneous use of the existing inventory method to include the cost of land in a situation where the City has obtained all the land it needs (and more) for future parks at no cost. The City’s 2018 analysis continues to ignore this fundamental fact, and unique circumstance in the City of Alameda. That is unreasonable and in violation of the Mitigation Fee Act.

On page 9, the 2018 Nexus Study asserts “The land value per acre assumption is assumed to be \$2 million per acre, as further explained in Appendix C, this is a conservative estimate of the actual replacement value of land in Alameda. Of note, no land value (\$0) is shown in the land value column for the facilities located at Alameda Point, to reflect the no- cost conveyance of the land from the Navy to the City of Alameda.” Thus, the City continues to assume that it will need land for parks in the future. By zeroing out the cost of Alameda Point land, the City reduces its error compared to the 2014 Nexus Study, but it retains a significant error. By assuming any cost for other non-Alameda Point land in its existing inventory, it carries forward the assumption that future facilities’ estimated cost needs to include the cost of land at \$2 million per acre. Nope. Since the City received hundreds of acres at no cost for park purposes, **the City has no need to buy any additional park land through 2040, or longer.** Thus, the City’s modified assumption remains unreasonable and in violation of the Mitigation Fee Act.

On page 12, the 2018 Nexus Study states that “Table 2.5 reflects an allocation of the Citywide portion of the cost attributable to the Alameda Point



Sports Complex development in Alameda Point, which allocates \$10 million to the Alameda Point development and the remaining \$35.2 million to the City's DIF program. The \$10 million allocation is a policy decision that the City has made regarding Alameda Point's contribution to future improvements." So in a mere 3 years, the City's estimate of the cost of the Alameda Point Sports Complex has risen from \$20 million in 2014 to \$45.2 million in 2017, or **a 126 percent increase**. The City has provided no backup documentation showing why the cost of the complex has risen so dramatically, given that the facility's design has not changed and the City obtained the land for free. The 2018 Nexus Study merely states that the estimate was "based on engineer's estimate from the Master Infrastructure Plan." But the previous estimate in 2014 also was based on the MIP. This increase is unreasonable and undocumented.

On page 12, the 2018 Nexus Study states that "The total maximum justified fee includes a two percent (2%) administrative charge to fund costs that include: a standard overhead charge applied to all City programs for legal, accounting, and other departmental and administrative support, and fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses." In this Study, the park and recreation fee is increased to \$14,273 for each single family home. The City has not shown why a higher fee justifies a higher amount for administrative charges. In other words, 2 percent of \$14,273 is higher than 2 percent of the previous study's \$12,000 fee. Two percent might be reasonable up to a point, but once administrative costs are figured in the overall cost, a higher fee by itself does not justify collecting more for administration costs. The City needs to estimate its reasonable administration costs and then charge a fee that it related to that cost estimate.

On page A-1, the 2018 Nexus Study states "This updated 2017 Parks Nexus Study instead develops a ratio measured in terms of dollar value per resident and no longer includes the language criticized by the Court suggesting that the fee assumes a certain acreage of land acquisition." Yet, simply changing the "language" is not the issue. The 2018 Nexus Study continues to assume that the City needs to purchase land to build future parks which is false except with respect to a very small area adjacent to Jean Sweeney Park. The City misinterprets the *Lemoore* case to give it carte blanche authority to tie the fee to existing asset value, rather than analyzing the unique circumstances in Alameda's case. In *Lemoore*, the city did not have hundreds of acres of land it obtained for free that it could use for future infrastructure. Alameda does. Yet, the 2018 Nexus Study ignores this.

On page A-2, the 2018 Nexus Study states it will not include the present value of the land it obtained for free in Alameda Point. But this is half a loaf. The City still assumes that it will need to consider future land costs by including the present value of land for all other parks. That carries forward the false assumption that land costs will be a future cost when they will not be.



In Appendix D, the City draws a distinction between passive and active parks. In the litigation on the 2014 Nexus Study, the trial court ruled that the City failed to show that it “intended, based on a factual determination, to ignore the General Plan in its characterization” of these areas as park rather than open space. The trial further held that “[t]his accounting sleight of hand . . . is a violation of the Mitigation Fee Act because it creates a false parks to population basis which leads to false conclusions regarding the amount of parks attributable to the projected growth of population.” Boatworks argued to the trial court that when a government changes its view or interpretation, it must at the very least explain the rationale for its change. *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.* (“State Farm”) 463 U.S. 29 (1983); *National Association of State Utility Consumer Advocates v. FCC*, 457 F.3d 1238, 1253 (11th Cir. 2006)[“Unexplained inconsistency is . . . a reason for holding an interpretation to be an arbitrary and capricious change.”] Once again, the City fails to explain why it is rejecting the City’s General Plan and its grant applications to the federal government which characterized certain areas as “open space,” while now it calls them “active” parks.

The 2018 Nexus Study also continues to illegally purport to authorize pre-existing deficiencies.

The Mitigation Fee Act prohibits a local government from using impact fees to fund existing deficiencies in infrastructure needs. Gov’t Code, § 66001(g).

Here, the 2018 Nexus Study claims that simply using the standard-based or “existing inventory” approach guarantees that new development does not fund pre-existing deficiencies in infrastructure. But there is no such guarantee when the “existing inventory” is falsified, or “gamed,” or in light of evidence that the City had existing deficits in park and recreation facilities and is using DIF revenues to correct those deficiencies.

Numerous City planning documents show that the City has repeatedly claimed (dating back to the 1990s) that it was experiencing a deficiency in parks in certain areas of the City. The City’s General Plan includes Policy 6.1.d which is to promote the development and retention of private open space “to compensate for the shortage of public open space.” In other words, the City’s stated official position is that it has a “shortage” of open space. In this official planning document, the City doesn’t claim it has a shortage of future needs, but rather a pre-existing “shortage” in the current system. In its 1996 Community Reuse Plan for Alameda Point, the City asserted that it needed to “use land and facilities” “to provide recreational opportunities which are in short supply elsewhere in the community.” In 2004, the City applied to the California Department of Parks and Recreation for a state grant to purchase land for the proposed Estuary Park in the City’s northern waterfront area. In its application, the City represented to State Parks that “the new park would serve a sector of the City that is short of park space . . .” The City told State Parks that this park and open space deficiency had existed since 1991, but had never been remedied. The City’s grant application was



supported by numerous letters from members of the California Legislature, the East Bay Regional Park District, the Alameda Unified School District, the Alameda Boys & Girls Club, the Alameda Soccer Club, and the San Francisco Bay Trail Project arguing that existing deficits needed to be remedied.

All of this is clear evidence that the City and park supporters asserted and believed in 2004 and 2005 that the City had an existing deficit of parkland, shoreline trails, open space parklands and sports fields specifically in the northern waterfront section of the City. Since the City never obtained the grant from State Parks, and never developed the park, the park deficit in the northern waterfront sector still existed when the City adopted the 2014 DIF and Nexus Study. Similarly, in 2012, the City's Park Improvement Assessment found that certain areas of the City had an existing deficit in parks. For instance, the study found that the area near the planned Jean Sweeney Open Space Park (to be funded by the 2014 DIF) was "currently underserved" in terms of parks. In addition, the former City Parks Director confirmed that the additional area near the newly planned "Estuary Park," known as the wedge neighborhood (being funded by the 2014 DIF), was an area that had long been deficient in parks. This, too, is evidence that in 2012, just before the adoption of the 2014 DIF, the City had concluded that several areas of the City were deficient in parks.

In addition to having insufficient parks in certain areas of the City, the City has battled a deficit in sports fields since the 1990s. "Sports fields" means softball and baseball diamonds, as well as soccer, football, rugby and lacrosse fields. The City first began efforts to address its lack of sports fields through the development of a "sports complex" planned to be located in Alameda Point. In December 1999, the National Park Service ("NPS") approved the City's application for a public benefit conveyance of 57 acres for a proposed Alameda Point Sports Complex. As a public benefit conveyance, the City didn't have to pay for the land but got it for free from the federal government. (*Miami Bldg. & Const. Trades Council, AFL/CIO v. Secretary of Defense*, 493 F.3d 201, 203 (D.C. Cir. 2007) ["A public benefit conveyance is the transfer of 'surplus real property ... to State and local governments . . . at up to 100 percent public benefit discount for public benefit purposes,' including 'education, health, park and recreation, the homeless, historic monuments, public airports, highways, correctional facilities, ports, and wildlife conservation.'"].)

In its 1999 NPS application, the City represented to the federal government that the proposed sports complex would "provide much needed facilities for existing programs that are in high demand, due to greater numbers of participants and expanded seasons (soccer, youth baseball leagues and adult sports . . ." The City thus was emphasizing that it needed the sports fields for current demand for "existing programs." The City planned for the sports complex to provide 4 softball fields, 6 to 8 soccer fields and other facilities. The sports complex has never been built.

In December 2008, the City participated in a study called the Alameda



Point Sports Complex Master Plan. The sports complex design and number of fields was based on “an analysis of the sports and recreation needs of the City of Alameda . . . ,” as determined by the Sports Complex Task Force, City Park staff and the community. The 2008 Sports Complex Master Plan concluded that the City at that time was confronted with “increased pressure on outdoor sports facilities due to a greater number of participants and extended seasons (particularly for soccer and softball).” The Master Plan declared that the sports complex “will provide much needed facilities for existing programs that are in high demand . . . .” It also noted an existing “high demand” for “additional playing fields.”

According to the 2008 Master Plan, “it is anticipated that the soccer fields at the Alameda Sports Complex would be in use almost constantly during both soccer seasons.” Thus, the Plan stated clearly that if the soccer fields were built at the proposed sports complex, they would simply satisfy existing demand. Also, the Plan stated that in 2008 there were “no designated football fields on park property in the City of Alameda . . . .”

Hence, in 2008, the Master Plan found an immediate need for soccer and football fields that was not being addressed. The sports complex was considered to be the solution to address these existing recreation needs. But the sports complex wasn’t built.

In July 2012, the City Council adopted Resolution No. 14717 accepting a Citywide Park Master Plan and Urban Greening Plan “as a [nonbinding] planning study for possible future actions.” The Resolution noted that the Plan assessed existing needs as well as future needs. The Resolution also found that the Plan uncovered “a shortfall of athletic fields (one full-size baseball and four rectangular fields). . . .” So, in 2012, because no sports fields had ever been constructed, the City had an existing shortfall of 5 sports fields to meet the then current demand.

This was also confirmed in another component of the City’s Urban Greening Plan known as the “Parks Improvement Assessment.” That assessment concluded that there was an “immediate shortfall in sports fields.” The City’s assessment opined that in order to address this immediate, existing shortfall, the City needed “one 90’ diamond field and two 60’ diamond fields, as well as five rectangular multi-use fields.” Accordingly, while the City’s 2012 Resolution declared an existing shortfall of five sports fields, the actual assessment had found an existing shortfall of eight sports fields.

No part of the sports complex has ever been constructed. No sports fields have been added to the City’s inventory since the City’s assessment in 2012. Despite the obvious relevance of this information, the City’s Nexus Study failed to discuss the 2008 Alameda Point Sports Complex Master Plan’s and 2012 Parks Improvement Assessment’s findings that there was an existing shortfall in sports fields in the City.



Any use of park impact fee revenue to fund pre-existing park or recreation facility deficiencies violates the Mitigation Fee Act, Gov't Code § 66001(g). That provision states that "[a] fee shall not include the costs attributable to existing deficiencies in public facilities . . ." (Id.)

The City may "include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan." Gov't Code, § 66001(g). The park fee revenue that will be discussed below is not being used to "refurbish" existing facilities, since the sports complex and the two parks at issue don't exist. Also, the park fee revenue is not being used to achieve an adopted level of service consistent with the general plan, since the general plan doesn't establish a level of service for "parks."

How do we know that the park fee revenue is being used to remedy existing shortfalls? We can ascertain that by comparing the City planning studies above with the 2018 Nexus Study.

Table 2.5 of the 2018 Nexus Study lists the park facility projects that the City intends to fund with park fee revenues. That list includes the Alameda Sports Complex and Estuary Park. The 2018 Nexus Study concluded that the new park fee would pay for \$46 million of the total \$66 million cost.

The 2008 Sports Complex Master Plan contemplates that the facility would add 5 soccer fields and 4 baseball or softball diamonds. The City plans an additional baseball field and a rectangular field at Estuary Park. Combined these two facilities alone will add 6 soccer/football fields and 5 baseball/softball diamonds.

The City in 2012 identified an existing shortfall of eight sports fields, including five rectangular multi-use fields, and three diamond fields. The Sports Complex alone will build five rectangular fields and four baseball diamonds. That facility thus eliminates the existing deficit in sports fields and adds an extra baseball diamond. Stated differently, eight of the nine sports fields needed to correct the existing field deficit are provided by the Sports Complex. Eighty-nine percent of the City's expenditure on sports fields at the new Sports Complex (8 out of 9) remedy existing sports field deficits, and yet, the 2018 Nexus Study provides that 69 percent of the total facility costs will be covered by the DIF. Thus, at least some of the pre-existing sports field deficiencies will be remedied by the new 2018 DIF. The park fee is paying to correct the existing deficiency in sports fields. That is flatly prohibited by Gov't Code, § 66001(g).

Likewise, the City's 2012 Parks Improvement Assessment found that areas near the "Beltline" property (now known as "Jean Sweeney") were "currently underserved" in terms of parks. Yet, the City is using DIF funds to build a park in



that precise area of the City, i.e., remedying what it had identified as an “existing” deficiency. Because the 2018 Nexus Study allocated more than \$19 million in DIF revenue to build Jean Sweeney Open Space Park, Table 2.5, the City is violating Gov’t Code § 66001(g) to remedy an existing deficiency.

The 2018 Nexus Study again fails to explain why in 2001 it determined that new development should be responsible for 8 percent of the cost of the new sports complex, but now the City without any explanation concludes that new development must pay for 70 to 100 percent of the sports complex.

When the government changes its view or interpretation, it must explain the rationale for its change. *State Farm, supra*, 463 U.S. 29; *National Association, supra*, 457 F.3d at 1253 [“Unexplained inconsistency is . . . a reason for holding an interpretation to be an arbitrary and capricious change.”]

The 2001 Nexus Study concluded that new development would be responsible for 8.1 percent of the need for the sports complex. Stated inversely, 92 percent of the sports complex’s total cost was attributable to “correcting existing deficiencies.” This conclusion was consistent with the 2008 and 2012 City planning studies where the City concluded that there was an existing shortfall of about eight sports fields.

Now, the City opines that 70 to 100 percent of the need for the sports complex and its planned sports fields would be created by new development. In 2001, the City said it was 8 percent. In 2018, the City said it was 100 percent. What changed? Absolutely nothing.

“An agency cannot simply disregard contrary or inconvenient factual determinations that it made in the past, any more than it can ignore inconvenient facts when it writes on a blank slate.” *Organized Village of Kake v. U.S. Dept. of Agriculture*, 795 F.3d 956, 969 (9th Cir. 2015), quoting *FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 537 (2009) (Kennedy, J., concurring).

The 2018 Nexus Study should have explained why it reached essentially the opposite conclusion that the City’s 2001 Nexus Study did. The Mitigation Fee Act requires that the City establish that there is “a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.” Gov’t Code, § 60001(a)(4). The 2018 Nexus Study concluded that new development is 70 to 100 percent responsible for the needs that the sports complex and its nine sports fields will fulfill. But the City’s planning documents show the City has had a deficit in sports fields since at least 2008, if not earlier. The City’s 2001 Nexus Study seemed to reach the same conclusion since it allocated 92 percent of the parks and recreation funding needs to correcting existing deficiencies. Such a drastic change in the City’s position without explanation (and indeed without even acknowledging the City’s previous conclusion that there was a sports field deficit) fails to establish a “reasonable relationship” between the need and the type of development subject to the fee

since the need has not been properly established. That violates Gov't Code, § 60001(a)(4).

Boatworks submits with these comments additional back up information in multiple boxes, including:

- ✓ 5 volumes of planning studies and other reports and emails (Boatworks' proposed trial exhibits in the on-going litigation regarding the 2014 Nexus Study)
- ✓ Deposition transcripts from the on-going litigation regarding the 2014 Nexus Study
- ✓ 4 volumes of appellate record in the on-going litigation regarding the 2014 Nexus Study (sans the declaration of James Edison)

Please include these items in the record before the City Council. Thank you.

Sincerely,

  
Tom Roth

cc: Rick Jarvis (letter only by mail)  
Janet Kern (letter only by mail)

Attachments (listed above)  
DFA Analysis  
McGillis Analysis





Development & Financial Advisory

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## NEXUS STUDY REVIEW AND ANALYSIS

To: Boatworks LLC  
From: Greg Angelo, Development & Financial Advisory  
Date: 3/14/2018  
Re: Review of City of Alameda Park and Recreation Facilities Impact Fee Update and Nexus Study

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I have been retained to review and evaluate the City of Alameda ("City") Park and Recreation Facilities Impact Fee Update and Nexus Study, dated December 28, 2017 ("2018 Nexus Study"). Although the Study is dated December 28, 2017, it was not made available until February 15, 2018. The 2018 Nexus Study is characterized as an update of the park and recreation facilities component of the Development Impact Fee Update and Nexus Study dated June 18, 2014 ("2014 Nexus Study").

The 2018 Nexus Study states it "is designed to remedy all of the flaws that the Court found in the 2014 Nexus Study." (p. 1.) However, my opinion is that the 2018 Nexus Study repeats and in some cases exacerbates material flaws in the 2014 Nexus Study. More specifically, the 2018 Nexus Study fails to meet Mitigation Fee Act requirements, including a demonstration of how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. The 2018 Nexus Study again fails to fairly establish a need for certain infrastructure and ignores the City's unique circumstance of owning hundreds of acres of land obtained at no cost and attempts to conceal this material fact. The Study includes flawed and incorrect assumptions and seeks to hide those by reciting that its overall methodology is widely accepted.

### I. Fee Study Methodology & Overview

Existing Standard Method: Under this method, the 2018 Nexus Study states, "new development is required to fund the expansion of park and recreation facilities based on the City's current service standard." Here the 2018 Nexus Study asserts that "as the fee amount is calculated based on the existing level of service, the amount of the fee does not depend on the estimated cost of future park and recreation facilities..." (p. 2.)

Establishing a nexus (as required by the Mitigation Fee Act) does require establishing a need, which drives the overall cost of the fee. Implicit in that relationship is the idea that the need will drive the cost charged to new development for future park and recreation facilities. The 2018 Nexus Study ignores the "need" by disregarding the most critical component of the fee amount all together – that new park land is not necessary in Alameda.

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## SACRAMENTO ■ ORANGE COUNTY

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Document 2

The 2018 Nexus Study mis-interprets and mis-applies the Existing Standard Method.

*The existing standard method formula is on page 6 and calculated on table 2.6. On page 6, the 2018 Nexus Study states, "the City's current level of service is calculated by determining the collective value for the City existing inventory of park and recreation facilities."*

The 2018 Nexus Study application of the existing standard method here is based on the flawed premise that there is no relationship between the basis for collecting the fee (the amount of the fee revenue and its underlying components, land, development, facilities) and the use of the funds (cost of the facilities). Whether the City needs to purchase future park land is relevant to the fee authority and revenue under the Mitigation Fee Act. In a situation like here, where the facts show no land is needed for future parks, the City cannot reasonably include the cost of such land in determining the overall fee authority. The park and recreation fee derived is primarily based on land values, which comprises 65% of the total value of park and recreation facilities inventory. (See table 2.4 for \$389 million total value. Land comprises \$251.6 million). The City doesn't require funds for park land acquisition, which means that the City would use the excess funds for improvements and special use facilities. In other words, because the City already owns land at no cost, the City wouldn't be spending impact fee funds collected from development on land, so by consequence the City would be collecting \$251.6 million more than needed while maintaining the City's existing level of service.

**See Tables on the following pages illustrating Existing Standard Methodology changes from the 2014 Nexus Study to the 2018 Nexus Study**

System Standard Method and Flaws in Its Application:

The 2018 Nexus Study introduces the system standard method as an alternative to calculate park and recreation fees. It was not used for calculating park and recreation fees in the 2014 Nexus Study. The 2018 Nexus Study notes that Boatworks' expert argued that the 2014 Nexus Study should have used this methodology rather than the existing standard methodology. Methodology alone wasn't the error in the 2014 Nexus Study. In applying the system standard methodology, the 2018 Nexus Study again masked the erroneous underlying assumptions under the argument that this "methodology" is an accepted methodology. The methodology is only as good as its inputs. "Garbage in, garbage out."

The 2018 Nexus Study grossly misrepresents the relationship between the Level of Service and *needed* park and recreation improvements.

As stated on page 7 of the 2018 Nexus Study, "*under the system standard method, new development pays its fair share of planned facilities that are needed to serve the City's future population in 2040....*" Just as it did in its application of the existing standard method, the 2018 Nexus Study also mis-applies the system standard methodology by ignoring the material fact that the City of Alameda owns all the land it needs for future parks through 2040, which it obtained from the federal government at no cost to the City. In fact, the City owns land in excess of future park land needs. This is a relevant issue when evaluating the 2018 Nexus Study application of the system standard method because \$377.6 million, or 85% of the cost derived in establishing the fee authority under the system standard method, is comprised of the same "inventory values" established under the existing inventory approach.



By comparison, the 2018 Nexus Study considers what is needed when establishing Planned Facilities (\$66 million, see Table 3.4), but then argues that the fee does not depend on the estimated cost of future park and recreation facilities, implicitly concluding that the park land need and associated costs are irrelevant or related. (p. 2: *“the amount of the fee does not depend on the estimated cost of future park and recreation facilities the City intends to develop”*). Thus, the 2018 Nexus Study is internally inconsistent.

Eighty-five percent (85%) of the two methodologies overlap, with the majority of the overlap comprising of land inventory values. The inclusion of land inventory values in the system standard formula overstates the required level of service and the *“.... fair share of planned facilities that are needed to serve the City’s future population in 2040....”*

The park and recreation fee derived is primarily based on land values, which comprises 57% of the total system value. (See table 3.5 for \$443.7 million total system value. Land comprises \$251.6 million). The fact the City doesn’t need funds for park land acquisition, means the City would use the funds for improvements and facilities. In other words, the City would be collecting \$251.6 million more than needed to maintain the City’s existing level of service. As noted in the Fee Study, *“this method...calculates the maximum justified fee level assuming the City provides additional facilities to serve new development based on a future system of park and recreation facilities that the City plans to have in place by 2040.”* When correctly utilized, this method collects needed funds to pay for needed future land and facilities, to maintain an equitable level of service. The Fee Study has improperly applied the methodology by setting up a formula that grossly over charges by \$251.6 million.

## II. Changes from 2014 Nexus Study

Below is a summary of the changes made to the 2018 Nexus Study compared to the 2014 Nexus Study.

- Demographic data was updated, increasing existing population from 73,100 to 78,395 and new growth population increased from 8,260 to 9,355. Also, density assumptions, meaning people per household was increased from 2.66 to 2.82 for single family homes and 1.90 to 1.93 in multi family homes. These changes result in an increase in the fee calculation because the fee is calculated on a “per capita” or per person.
- The system standard method was used as an alternative to estimate park fees.
- The existing inventory method no longer calculates a level of service standard based on acres/1,000 residents, nor does it itemize the respective cost components (parkland and improvements). The Fee Study changed the language to now state the fee is based on a “ratio of community and recreation asset value to population.” (See appendices summary, first bullet point.) The amount of land “cost” in the 2014 Nexus Study was \$251,675,462 and the 2018 Nexus Study land “value” is \$251,620,000. This is after a reduction in acreage and an increase in asset “value.”
- Park land values increased from \$1,437,000 per acre to \$2,000,000 per acre. The City uses an invalid method for establishing land values. See comments in section III of this memo, pertaining to land valuation methodology.
- Park improvement values increased from \$435,000 per acre to \$427,500 - \$791,400, for passive parks and active parks, respectively.

- Special use facilities value increased from \$14,935,738 to \$41,226,500. This is due to an increase in estimated unit cost and the addition of 4 facilities: Franking Park Pool Building, Lincoln Park Pool Building, Encinal Boat Ramp, and Grand St Boat Ramp. (See Table 2.3.)
- The land and facilities “values” were presented as “costs” in the 2014 Nexus Study. *This is a consistent maneuver with the application of the respective methodologies moving away from solving for a future cost and taking the position that the fee does not depend on the estimated cost of future facilities.*
- Parkland inventory was amended as follows: (See Table 4 below.)
  - reducing the number of acres in the City park inventory from 175.14 acres to 145.72 acres, including the deletion of Estuary Park, Washington Dog Park, wildlife conservation, Portola and Jean Sweeney.
  - removing land value from parks located in Alameda Point and a portion previously acquired at Jean Sweeney Park
  - re-classifying several parks previously identified as “active” to “passive”
- In conjunction with the increase in population growth, the net result is a lower Level of Service ratio of parks/1,000 population. The ratio reduces from 2.4 park acres/ 1,000 to 1.86 park acres/ 1,000, thereby reducing new development’s park acreage requirement to meet existing levels of service. (See Table 4 below).
- Planned Park Facilities list increased from \$26,450,000 to \$66,136,000. (See Table 3 below.)

See the tables below illustrating the impacts of the changes from the 2014 Nexus Study to the 2018 Nexus Study:



**TABLE 1 – EXISTING STANDARD METHODOLOGY | DATA ASSUMPTIONS**

DATA ASSUMPTIONS: 2014 to 2018 REVISIONS		
	2014 Nexus Study	2018 Nexus Study
<b>Parks Service Population</b>	<b>Table 6.1</b>	<b>Table 2.1</b>
	Population	Population
Existing	73,100	78,395
New	8,260	9,355
Total	81,360	87,750
<b>Park Land Inventory</b>	<b>Table 6.2</b>	<b>Table 2.2</b>
Parkland	157.51	93.83
Open Space	17.63	51.89
	175.14	145.72
<b>Park Facilities Unit Costs</b>	<b>Table 6.4</b>	<b>Table 2.2</b>
	Estimated Cost/Acre	Estimated Value/Acre
Land Acquisition / Valuation of Inv	1,437,000	2,000,000
Parkland Improvements	435,000	791,400
Parkland Improvements		427,500
Special Use Park Facilities	94,800	282,916
Total Cost / Acre	1,966,800	2,669,512.76
<b>Fee Derivation by Cost Component</b>		
Land Value	251,675,462	251,620,000
Improvement Value	76,185,683	96,154,900
Facility Value	14,931,948	41,226,500
	342,793,092	389,001,400
<b>Existing Parkland Standard</b>	<b>Table 6.6</b>	<b>NA</b>
	Estimated Cost/Acre	Estimated Cost/Acre
Total Parkland Acreage	175.14	145.72
Service Population	73,100	78,395
Existing Standard	2.40	1.86

**Note: Existing Parkland Standard:** The 2018 Nexus Study departed from providing this calculation, as it was calculated in the 2014 Nexus Study. This calculation shows that the City's existing standard of park inventory to service population is actually much lower (about 23 percent) than the City asserted in 2014.

**TABLE 2 – EXISTING STANDARD METHODOLOGY | FEE REVENUE CALCULATION**

Park Facilities to Accommodate New Development						
	2014 Nexus Table 6.7			NA- DFA Illustration		
	2014 Nexus Calculations			Based on 2018 Nexus Study Data		
Facility Needs	Land	Improvements	Total	Land	Improvements	Total
Facility Standard	2.40	2.40	2.40	1.86	1.86	1.86
Service Population	8260	8260	8260	9,355	9,355	9,355
Facility Needs (acres)	19.82	19.82	19.82	17.39	17.39	17.39
Parkland Cost per Acre	1,437,000	529,800	1,966,800	1,726,736	945,113	2,671,849
Total Cost   Fee Revenue	28,487,088	10,503,000	38,990,088	30,026,215	16,435,000 <i>per Fee Study</i>	46,461,215 46,420,000

**Notes:**

\*Per Fee Study indicates actual calculations in the Fee Study. Appear to be rounding differences from DFA calculations.

\*2014 Nexus Study described results as "Total Cost of Facilities", 2018 Nexus Study described results as "Fee Revenue".

\*Parkland Cost per Acre – 2018 Nexus Study Land amount of \$1,726,736 is the overall applied rate per acre, that accounts for the 2018 Nexus Study's exclusion of land value for Alameda Point parks.

Based on the 2018 Nexus Study revised population growth estimates, (9,355 residents, Table 2.1 of the 2018 Nexus Study) and revised inventory of parkland (145.72 acres, Table 2.2 of the 2018 Nexus Study), new development's "fair share" of park mitigation equates to 17.39 park acres. This is a reduction from the 2014 Nexus Study, which calculated a need of 19.82 acres. This is relevant because it shows that the 2018 Nexus Study concludes new development's impact on park needs has declined by 12.2%. But it also is true that the 2018 Nexus Study assumes that 17.39 acres of land need to be purchased, which is not accurate.

Based on the City's assumptions and application for improvement costs, the calculation in Table 2 above illustrates the City's true need, \$16,435,000, to maintain its existing level of service, approximately 35% (\$16.4m / \$46.4m) of the 2018 Nexus Study estimate of \$46,420,000. The City has not demonstrated a need to buy more park land, but continues to base its fee authority determination on that premise.



**TABLE 3 –PLANNED PARK & RECREATION FACILITIES**

Planned Park & Recreation Facilities			2014 Nexus Study Table 6.9	2018 Nexus Study Table 2.5
DIF No	City Project No	Project Name	2013 Project Cost	2017 Project Cost
1	New	Adding maintenance vehicles to fleet	100,000	100,000
2	New	Encinal Boat Ramp Facility Expansion	500,000	210,000
3	98-27	Alameda Point Sports Complex	10,000,000	35,168,000
4	94-25	Expansion of Playgrounds & Equipment	2,400,000	
5	94-26	Recreation Supply Storage & Park Maintenance Yard	1,500,000	1,950,000
6	New	Jean Sweeney Open Space Park Construction	7,500,000	18,200,000
	New	Jean Sweeney Land Acquisition		958,000
7	New	Estuary Park Construction	4,000,000	9,100,000
8	New	Main Street Linear Park Improvements	450,000	450,000
			26,450,000	66,136,000

Notes:

Alameda Point Sports Complex total cost increased from \$20 million to \$45.2 million.

Adjustment to share of cost between Alameda Point development and Citywide fee program, increasing Citywide fee share from 50% up to 78%.

In just three years, the City increased the Planned Park and Recreation facilities cost by 109%\*\*. This is due in large part to a massive increase in the estimated project cost for three park facilities: Alameda Point Sports Complex (126% increase in cost, 252% increase in cost allocation to the City development impact fee program), Jean Sweeney Open Space Park (143% increase) and Estuary Park (128% increase).

*\*\* (Alameda Sports Complex cost increase from \$20 million to \$45.2 million)*

**TABLE 4 –PARK INVENTORY**

<b>Parkland</b>	<b>2014 NEXUS STUDY Table 6.2</b>	<b>2018 NEXUS STUDY Table 2.2</b>
Alameda Point Multi-Purpose Field	4.80	4.80
Bayport Park	4.25	4.25
Bill Osborne Model Airplane Field	1.30	1.30
City View Skate Park	0.55	0.55
Encinal Boat Ramp	0.09	0.09
Estuary Park	8.00	
Franklin Park	2.98	2.98
Franklin Pool	0.09	0.09
Godfrey Park	5.38	5.38
Grand St Boat Ramp	0.09	0.09
Harrington Soccer Field	2.02	2.02
Hornet Field	3.56	3.56
Jackson Park	2.28	moved to Passive
Krusi Park	7.46	7.46
Lexington Fields at Alameda Point	5.00	5.00
Leydecker Park	5.88	5.88
Lincoln Park	7.80	7.80
Lincoln Park Pool	0.09	0.09
Littlejohn Park	3.45	3.45
Longfellow Park	1.14	1.14
Main Street Dog Park	1.30	1.30
Main Street Linear Park	11.00	moved to Passive
Main Street Soccer Field	4.70	4.70
Marina Cove Park	3.20	3.20
McKinley Park	1.22	1.22
Neptune Park	3.08	moved to Passive
Rittler Park	4.81	4.81
Shoreline Park	31.83	moved to Passive
Tillman Park	4.00	4.00
Towata Park	1.55	moved to Passive
Washington Dog Park	5.70	
Washington Park	14.71	14.71
Wildlife Conservation	0.24	
Woodstock Park	3.96	3.96
<b>Total - Parkland</b>	<b>157.51</b>	<b>93.83</b>



Highlighted parks were excluded from assignment of a land value in establishing total value. See Table 2.2. The Fee Study adjustments for removal of certain properties that had been previously classified as parks and the exclusion of land costs for parks located in Alameda Point was offset by park land valuation increases. The net result in land value basis for establishing the new fee is effectively zero. See land values in Table 1 above.

**TABLE 4 –PARK INVENTORY (CONTINUED)**

<b>Open Space   Passive &amp; Rec Facilities</b>	<b>2014 NEXUS STUDY Table 6.2</b>	<b>2018 NEXUS STUDY Table 2.2</b>
Portola Triangle	2.15	
Jackson Park		2.28
Main Street Linear Park		11.00
Neptune Park		3.08
Portola Triangle		2.15
Towata Park		1.55
Shoreline Park		31.83
Jean Sweeney Open Space Park	22.00	
<b>Total - Open Space</b>	<b>24.15</b>	<b>51.89</b>
Open Space % of Park Credit	73%	100%
Open Space Park Equivalent	17.63	51.89
<b>TOTAL PARK ACREAGE</b>	<b>175.14</b>	<b>145.72</b>
<b>POPULATION</b>	<b>73,100</b>	<b>78,395</b>
<b>PARK ACREAGE per 1,000 POPULATION</b>	<b>2.40</b>	<b>1.86</b>

**TABLE 5 – SYSTEM STANDARD METHODOLOGY | DATA ASSUMPTIONS & COST PER RESIDENT**

DATA ASSUMPTIONS: 2014 to 2018 REVISIONS		
	2014 Nexus Study <i>Nexus Table 6.1</i>	2018 Nexus Study Table 3.1
Parks Service Population	Population	Population
Existing	73,100	78,395
New	8,260	9,355
Total	81,360	87,750
Park Land Inventory	Table 6.2	Table 3.2
Parkland	157.51	79.47
Open Space	17.63	51.89
	175.14	131.36
<i>See attached detail for adjustments.</i>		
Park Facilities Unit Costs	Table 6.4	Table 3.2
	Estimated Cost/Acre	Estimated Value/Acre
Land Acquisition / Valuation of Inventory	1,437,000	2,000,000
Parkland Improvements	435,000	791,400
Parkland Improvements		427,500
Special Use Park Facilities	94,800	313,844
Total Cost / Acre (SU based on active)	1,966,800	2,700,440.53
Fee Derivation by Cost Component		
Land Value	251,675,462	251,620,000
Improvement Value	76,185,683	84,790,000
Facility Value	14,931,948	41,226,500
	342,793,092	377,636,500
Plus Planned Facilities	26,450,000	66,136,000
Total System Value	369,243,092	443,772,500
		Table 3.5 & 3.6
Value of Existing Park & Recreation Fac.		377,636,500
Value of Planned Park & Recreation Fac.		66,136,000
Total System Value (2040)		443,772,500
Service Populaton (2040)		87,750
Cost Per Resident		5,057



In comparison, the system standard method estimates \$443.7 million in “system value” compared to \$389 million under the existing standard method. This net difference is due to a removal of certain facilities no longer anticipated to be in service in 2040 and adding in future Planned Facilities. The validity of the application of the methodology is discussed in prior pages.

### III. Fee Study Appendices – Evaluation & Comments

#### Appendix A-1, A-2

Bullet Point #1: The 2018 Nexus Study has simply revised language, but the fee calculation approach is unchanged. The practical use of the methodologies identified in the 2018 Nexus Study is to derive a fee that is sufficient to maintain existing service levels.

The 2018 Nexus Study quantified new development’s share of facility costs under both the existing standard method and the system standard method. The 2018 Nexus Study offered the following methodology and information:

Existing Standard:	
Improvements Value:	\$ 96,154,900 (*Fee Study derived value per acre \$427,500 - \$791,400)
Special Use Facilities:	<u>\$ 41,226,500</u> (*Fee Study derived value)
Total Value:	\$137,381,400

Existing Service Population:	<u>78,395</u>
Cost per Resident:	\$1,752

Using the existing standard method, the cost per resident equals \$1,752. This is compared to the 2018 Nexus Study calculation of \$4,962 per resident. At a rate of \$1,752 the City maintains its existing level of service because the City already obtained land at no cost, therefore to maintain City service levels, only improvements and special use facilities need to be funded via the fee program. *\*\*Assumption that each of these improvement cost categories are accurate.*

#### Appendix A-2

Bullet Point #5: This method of establishing Improvement Values based on current development cost is contradictory to the Fee Study position that “the 2018 Nexus Study simply looks at the existing asset value of the City’s existing parks and recreation facilities...”

Existing assets should be based on depreciated values, not replacement cost value. As the Fee Study points out, “the amount of the fee does not depend on the estimated cost of future park and recreation facilities that the City intends to develop.” Furthermore, the 2018 Nexus Study has established improvement values ranging from \$427,500 per acre to \$791,400 per acre. These estimates are reportedly (page A-2) based on costs for Jean Sweeney Park. Based on the project description provided on the City’s website, Jean Sweeney Park is understood to be a highly amenitized park and open space facility, as described:

*The Sweeney Park Master Plan includes natural playgrounds; a large group picnic area with a gazebo, picnic pavilion and lawn; a community garden, urban orchard and demonstration gardens; plaza areas, potentially including public art; an open classroom area; bicycle and walking trails; small picnic areas; a natural open landscape area with California native, drought-tolerant plants and pedestrian-only hiking trails; bike skills loop, plus restrooms and amenities. On the far west side is a 1-acre community garden and 1-acre demonstration garden and urban forest.*

Unlike Jean Sweeney Park, a number of other City parks, such as the Main Street Dog Park, are in inferior condition with fewer or minimal amenities and therefore should be valued as such in order to properly establish the existing service level basis for charging new development. (See McGillis Analysis submitted herewith.)

An audit of all City park and recreation facilities should be considered to establish proper existing park and recreation inventory values and special use facility unit cost.

#### Appendix A-3

Bullet Point #1: The System Standard methodology employed is misused in that its use of inventory valuations are flawed, consistent with the Existing Standard flaws noted in A-1 & A-2 above. The Fee Study offered the following methodology and information:

##### System Standard:

Improvements Value:	\$ 84,790,000 (*Fee Study derived value per acre \$427,500 - \$791,400)
Special Use Facilities:	\$ 41,226,500 (*Fee Study derived value)
Planned Facilities:	<u>\$ 66,136,000</u> (*Fee Study derived value)
Total Value:	\$192,152,500

Existing Service Population:	<u>87,750</u>
Cost per Resident:	\$2,190

Using the System Standard Method, the Cost per Resident equals \$2,190. This is compared to the Fee Study calculation of \$5,057 per resident. At a rate of \$2,190 the City maintains its existing level of service because the City already obtained land at no cost, therefore to maintain City service levels, only improvements, special use facilities and planned facilities need to be funded via the fee program.

*\*\*Assumption that each of these improvement cost categories are accurate.*

#### Appendix A-3

Bullet Point #3: The validity of the Fee Study methodology for determining land values is highly questionable. The decision to use land sales comprising residential lots, sizes as small as .02 acres, to extrapolate park land value is unsound. If you remove this one "land comp", the valuation reduces by 33%, to approximately \$1.5 million per acre, indicating both the selection of land comparables (small expensive residential neighborhood lots) as well as the weighted average application employed in the 2018 Nexus Study, do not result in valid indicators of park land values. Furthermore, only two of the "land comps" in either the Loopnet Sales Comparisons list or the 2014 Appraisal Comparison list, are equal to 1.0 acre or larger – which is more characteristic of public park land.



#### **IV. Summary**

The 2018 Nexus Study attempts to cover up misapplication by focusing on the merits of the methodology as applied in other jurisdictions under a different set of circumstances. The legitimacy of any study and use of methodology is only as good as its inputs. The 2018 Nexus Study fails to remedy the flaws found by the Court with the 2014 Nexus Study, and simply repeats and exacerbates those previous errors.

**NEXUS STUDY REVIEW AND ANALYSIS**

To: Boatworks LLC

From: Robert McGillis AIA

Date: 3/14/2018

Re: Review of City of Alameda Park and Recreation Facilities Impact Fee Update and Nexus Study

**EXISTING STANDARD METHOD**

The 2018 Nexus Study uses the existing standard method to determine levels of service

This chapter calculates park impact fees using the ***existing standard*** method. Under this method, new development will fund the expansion of park and recreation facilities **at the same level of service that the City currently provides to its existing residents.**

(p. 8.)

The 2018 Nexus Study grossly exaggerates the status of improvements and level of service when describing and calculating the values for its existing inventory of parks and recreation facilities.

A quick look at the existing inventory of "active" and "passive" parks in the City shows that the City artificially inflates the value of existing facilities.

The 2018 Nexus Study describes the City's park facility inventory, facility standards, and park facility costs.

Facilities are divided into two categories: "active" park and recreation, and "passive" park and recreation.

The improvement value assumptions shown in Table 2.2 are based on actual recent construction cost contracts and cost estimates to develop the active and passive components of Jean Sweeney Park, which are being built in three separate phases.<sup>7</sup> As with the second phase of Jean Sweeney Park, the City's passive parks typically include site improvements such as grading, utilities, landscaping, pathways, benches, and limited hardscape improvements while active parks also include interactive park and recreational improvements, such as playgrounds, athletic fields, boat launches, and other structures and amenities.

(p. 9.)

Passive parks provide natural habitat and landscaping with minimal amenities such as benches, picnic tables, trails, grass and landscaping. These parks require a lower level of capital development. In contrast, active parks often include these minimal amenities but also include highly interactive park and recreational amenities such as playgrounds, athletic fields and tennis or basketball courts.

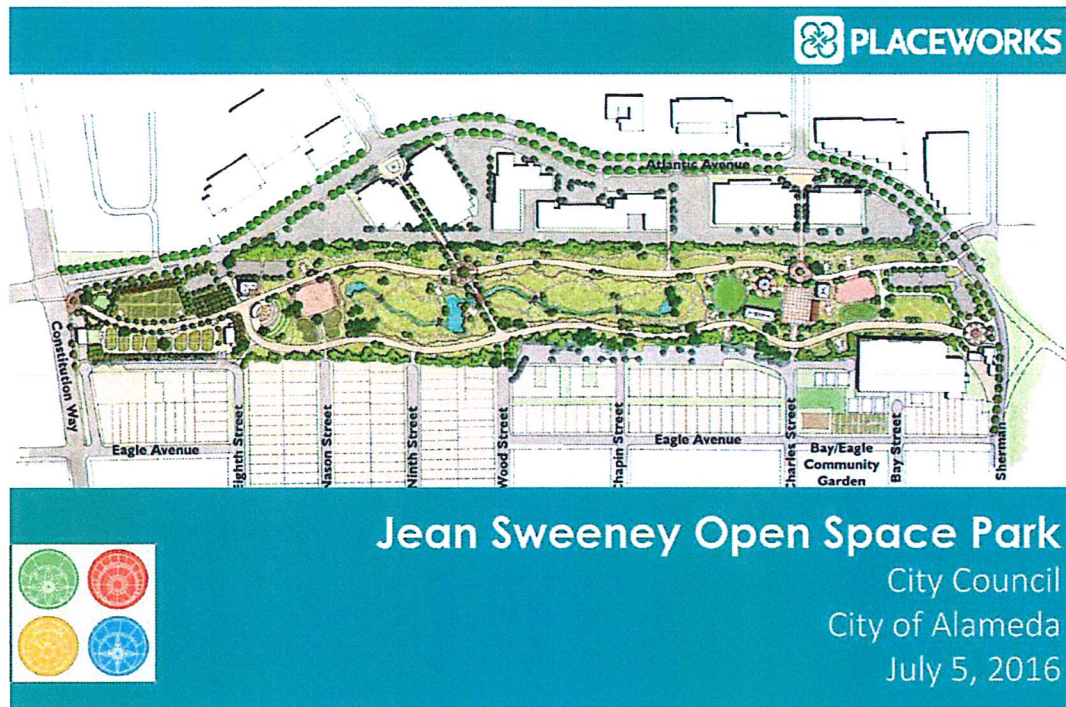
(p. 9, Footnote 6.)

Jean Sweeney Park is used as the comparative project to describe existing levels of service at all other parks in the City. This assumption is false, since Jean Sweeney is presently being developed and other parks in the City were constructed decades ago under lesser (and more inexpensive) development standards. This results in the 2018 Nexus Study artificially inflating the value of its current inventory.

Document 3

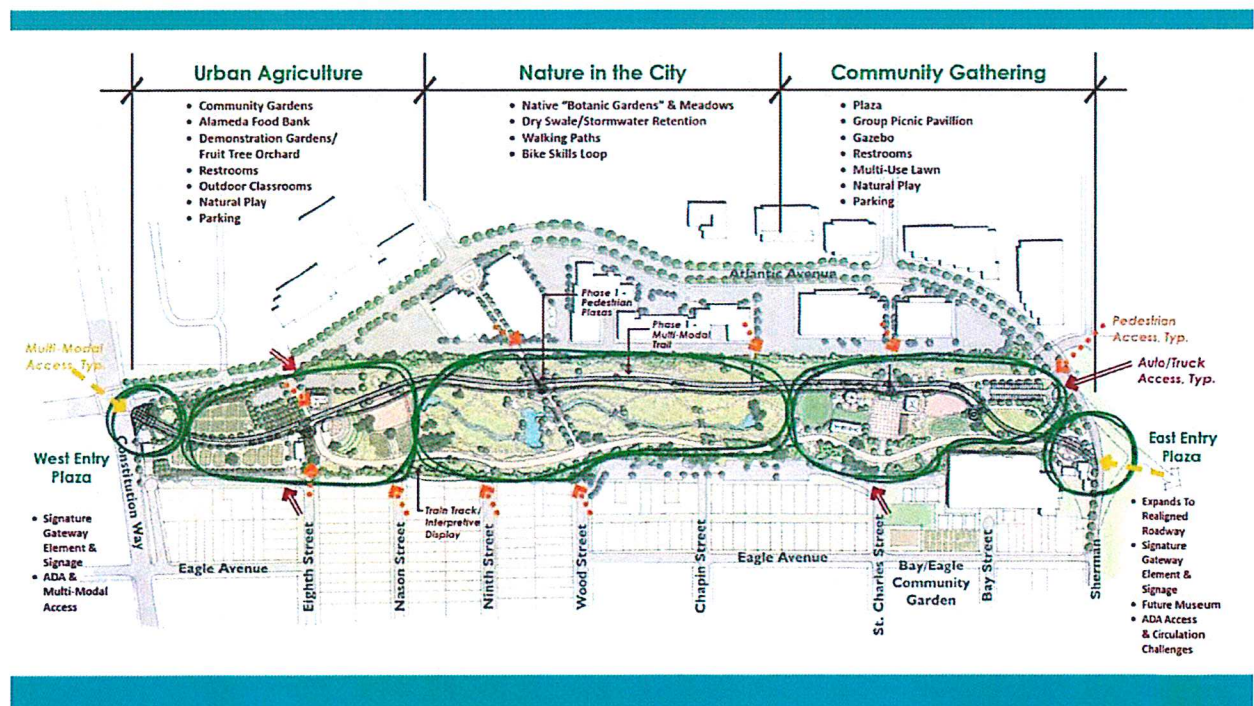


Here is what the Jean Sweeney Park will look like: (Images from July 5, 2016 City Council Meeting / Item 6B / Presentation of Jean Sweeney Open Space Park



## Master Plan Site Context

*A Park of Many Parks...*





The 2018 Nexus Study claims that this same level of service proposed for Jean Sweeney Park is currently being provided at all other Parks. That is not accurate.

The following existing parks are listed as Active Parks in the 2018 Nexus Study, Table 2.2

**Main Street Dog Park (Active Park = \$1,028,800 in improvements per 2018 Nexus Study claim)**

Existing Conditions: Gravel and dirt surrounded by a chain link fence. No paving, no lighting, no landscaping no drainage, no building improvements. Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Main Street Dog Park – Aerial View





Main Street Dog Park / March 3, 2018 = "Active Park"





Main Street Dog Park / March 3, 2018 = "Active Park"



Main Street Dog Park / March 3, 2018 = "Active Park"



**Main Street Soccer Park ( \$3,719,600 in improvements per 2018 Nexus study claim)**

Existing Conditions: = Irrigated Grass and a porta pottie. No lighting, and no building improvements. Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Main Street Soccer Field – Aerial View





Main Street Soccer Park / March 3, 2018 = “Active Park”



Main Street Soccer Park / March 3, 2018 = “Active Park”



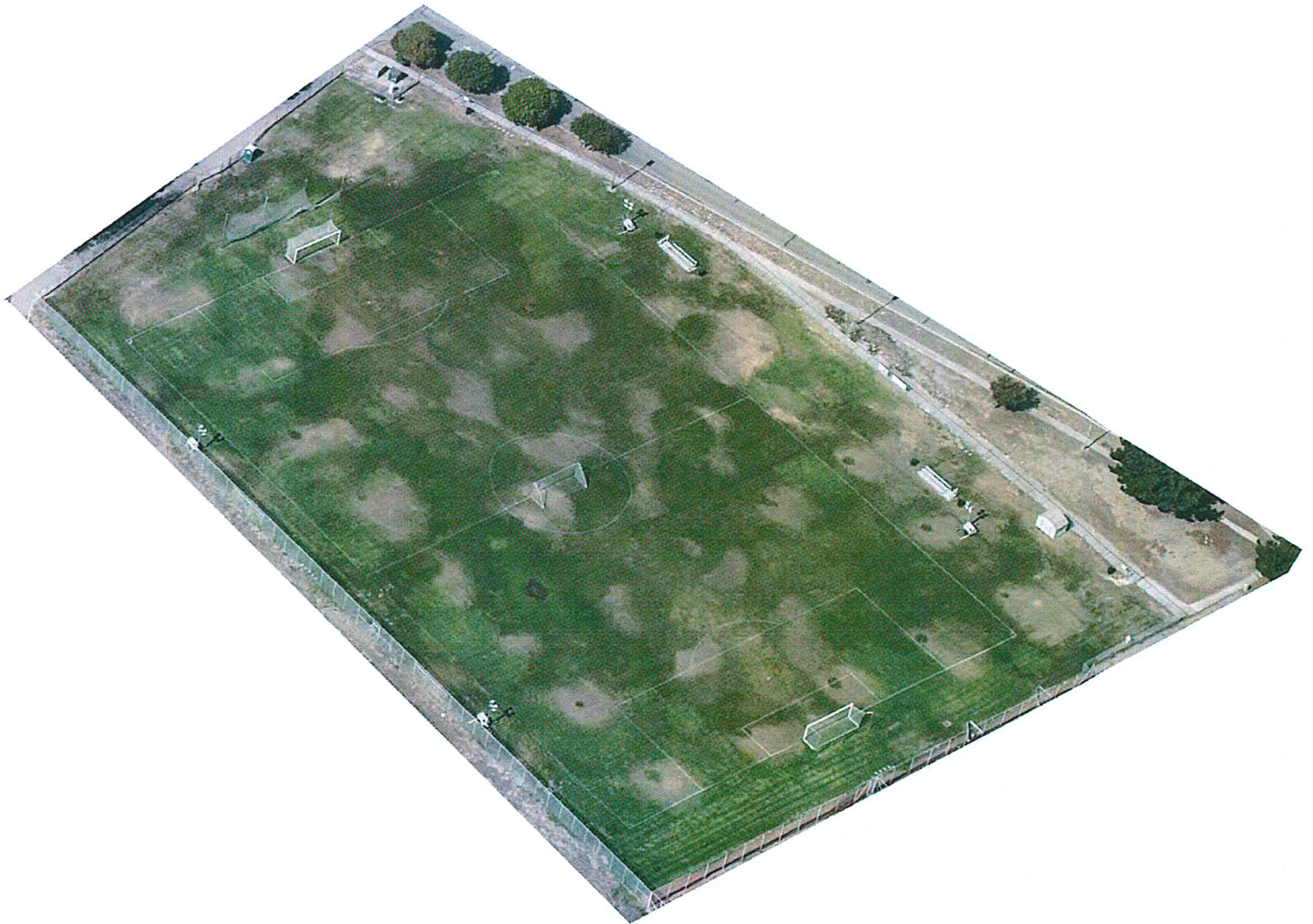


Main Street Soccer Park / March 3, 2018 = "Active Park"



**Hornet Field= Active Park ( \$ 2,817,400 in improvements per 2018 Nexus Study claim)**

Existing Conditions: Locked gate with stern warnings that the field is "Private Property" and trespassers being subject to arrest. Improvements consist of partially irrigated grass, chain link fence at the perimeter and a porta pottie. No permanent lighting and no building improvements. Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Hornet Soccer Field – Aerial View





Hornet Field / March 3, 2018 = "Active Park". Private Property- No Trespassing. Not accessible to the public



Hornet Field / March 3, 2018 = "Active Park" Note: Lights are provided by local soccer club





Hornet Field / March 3, 2018



Hornet Field / March 3, 2018 = "Active Park" Note: Lights are rental lights provided by local soccer club  
No Toilet facilities or building improvements.



**Bill Osborne Model Airplane Field: (Active Park - \$1,028,820 in improvements per Nexus Study claim)**

Existing Conditions: Unirrigated grass, a few shed structures, a porta pottie and some paved areas.

Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Bill Osborne Model Airplane Field – Aerial View



Bill Osborne Model Airplane Field / March 3, 2018 = "Active Park"





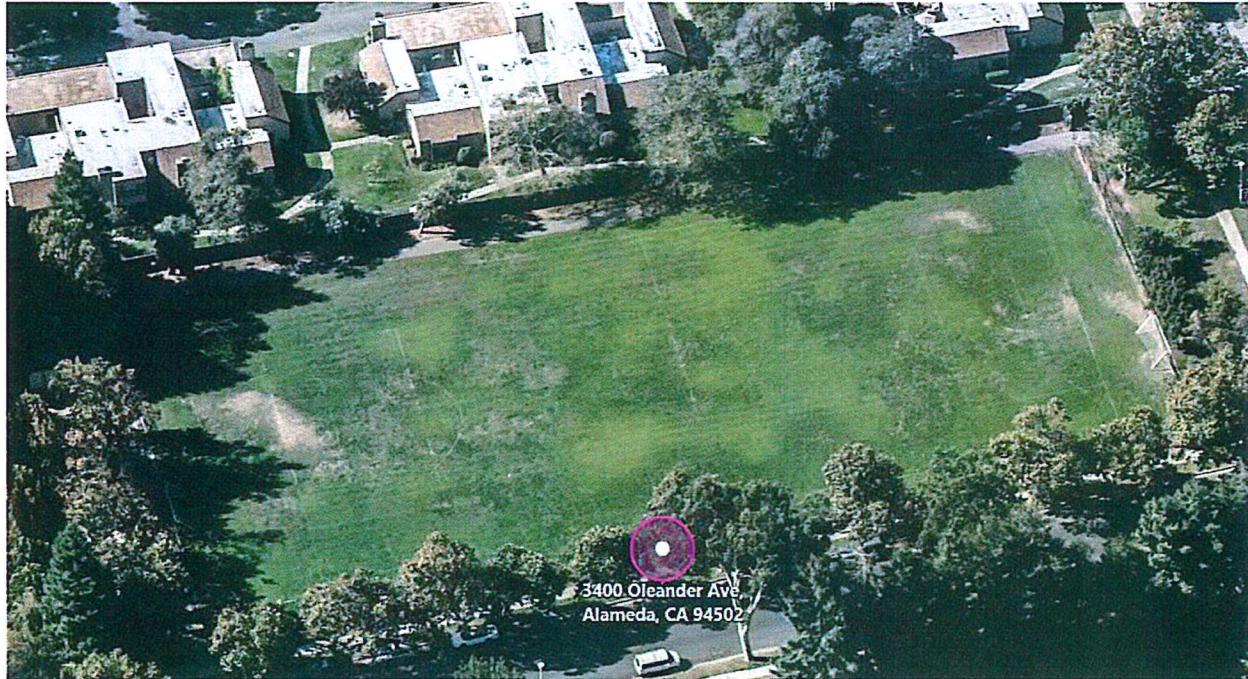
A blue portable toilet is situated inside a fenced enclosure made of chain-link fencing. The enclosure has a single door that is currently open. The toilet has a white sign on its side that reads "United" and "800-322-2283". The site is a gravel-covered area with green grassy hills in the background under a cloudy sky. A green metal container is visible to the right of the enclosure.

Bill Osborne Model Airplane Field / March 3, 2018 = "Active Park"



**Harrington Field (Active Park - \$1,598,628 in improvements per 2018 Nexus Study claim)**

Existing Conditions: Grass, paved areas, sand box, picnic benches, toilet facilities. Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Harrington Field – Aerial View



Harrington Soccer Field / March 3, 2018 = "Active Park"





Harrington Field / Sand Lot



Harrington Field / Pic-Nic Benches



**Lexington Fields at Alameda Point (Active Park - \$3,957,000 in improvements per 2018 Nexus Study claim)**

The Five Acres of Lexington Fields at Alameda Point are fenced off and are available for use solely by local soccer clubs. There are no park "facilities" here.

These fields sit between the old, abandoned, dilapidated, and unused barracks at Alameda Point.

They are essentially unimproved. No proper irrigation systems, no lighting systems, no building improvements, no toilet facilities (only porta-potties). The grass is maintained to try to keep it playable for soccer games.

Per **Table 2.2** (Page 10) and **Table 3.2** (Page 18) The Value listed for this park based upon **EXISTING IMPROVEMENTS** (Land value has been excluded) is **\$3,957,000**

Additionally, **Footnote #2 under Table 3.2** (Page 18), says this about Lexington Fields (\$3,957,000) and the City View Skate Park (\$435,300) :

Certain Alameda Point Facilities indicated in Table 2.2 [sic – should read 3.2] have been excluded here because they will not be in place after the development of Alameda Point

Yet, the values of Lexington Fields are included when tallying the Total Value Summary. See attached Tables 2.2 & 3.2. City View Skate Park is also included in Table 3.2.





## PASSIVE PARK

**Main Street Linear Park is listed as a "Passive Park" in the Existing Inventory:**  
**(Passive Park - 11 Acres = \$4,702,500 in claimed improvements)**

Paved walking path, benches, bike racks, some path lighting. Thus, the 2018 Nexus Study's assumption regarding the level of development or the sunk costs is false with respect to this park.



Main Street Linear Park / March 3, 2018 = "Passive Park"



Main Street Linear Park / March 3, 2018 = "Passive Park"