

Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form
All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scag.ca.gov.
Late submissions will not be accepted.

Date:

10/22/20

Jurisdiction Subject to This Appeal Filing:

(to file another appeal, please use another form)

City of Tustin

Filing Party (Jurisdiction or HCD)

City of Tustin

Filing Party Contact Name

Matthew S. West

Filing Party Email:

mwest@tustinca.org

APPEAL AUTHORIZED BY:

Name: Allan Bernstein

PLEASE SELECT BELOW:

- ☐ Mayor
- ☐ Chief Administrative Office
- ☐ City Manager
- ☐ Chair of County Board of Supervisors
- ☐ Planning Director
- ☒ Other: City Council

BASES FOR APPEAL

- ☐ Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- ☐ Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
 - ☐ Existing or projected jobs-housing balance
 - ☐ Sewer or water infrastructure constraints for additional development
 - ☐ Availability of land suitable for urban development or for conversion to residential use
 - ☐ Lands protected from urban development under existing federal or state programs
 - ☐ County policies to preserve prime agricultural land
 - ☐ Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
 - ☐ County-city agreements to direct growth toward incorporated areas of County
 - ☐ Loss of units contained in assisted housing developments
 - ☐ High housing cost burdens
 - ☐ The rate of overcrowding
 - ☐ Housing needs of farmworkers
 - ☐ Housing needs generated by the presence of a university campus within a jurisdiction
 - ☐ Loss of units during a state of emergency
 - ☐ The region's greenhouse gas emissions targets
 - ☐ Affirmatively furthering fair housing
- ☒ Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

FOR STAFF USE ONLY:

Date _____

Hearing Date: _____

Planner: _____

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Late submissions will not be accepted.

Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):

Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

The mandated objects listed in subdivision (d) of Government Code Section 65584 aim to increase housing supply in equitable and sustainable ways. The City of Tustin is submitting the attached appeal in an effort to ensure the housing supply allocated to its community is sustainable, considering the changed circumstances overtaking our communities.

The COVID-19 pandemic is the most significant event to disrupt the world, US, State and local Orange County economy in 100 years. The devastating effects on the economy have been reported extensively by academic and real estate economists since March 2020. SCAG itself documented significant impacts to employment, taxable sales, economic output and other economic indicators.

When the RHNA allocation estimates were formulated, our City was experiencing a significantly different reality. This change in circumstances has made the data utilized obsolete and the allocations imposed on our City unsustainable, given the current and future changes to the economy. The attached RHNA Appeal Memo provides an analysis of the effects of COVID-19 on our City's economy, and a suggested reduction to ensure an equitable and sustainable housing allocation

Brief Description of Appeal Request and Desired Outcome:

The City of Tustin's appeal request is based on changed circumstances, pursuant to GOV Section 65584.05(b). Specifically, Tustin is requesting a revision to the employment portion of our allocation to reflect the decrease in employment numbers caused by the current COVID-19 pandemic, as well as its effects on the commercial and retail economies in the upcoming years. Tustin is requesting an allocation decrease of 1,718 units, or a 63.2% decrease on the 2,717 units allocated to the Job Accessibility portion of the RHNA allocation methodology.

Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):

Reduced 1,718 Added _____

List of Supporting Documentation, by Title and Number of Pages

(Numbers may be continued to accommodate additional supporting documentation):

1. Attachment A: RHNA Appeal Letter (8 pages)
2. Attachment B: Works Cited (2 pages)
- 3.

FOR STAFF USE ONLY:

Date _____

Hearing Date: _____

Planner: _____

October 26, 2020

Southern California Association of Governments (SCAG)
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017
ATTN: Kome Ajise, Executive Director

6TH CYCLE RHNA ALLOCATION APPEAL

Dear Mr. Ajise,

In accordance with applicable California Government Code provisions, the City of Tustin ("City" or "Tustin") is formally submitting an appeal for a revision to the City's 6th Cycle Regional Housing Need Allocation ("RHNA"). The City asserts that the revision is necessary to provide consistency with California Government Code Section 65584(d).

EXECUTIVE SUMMARY

The economic data and forecasts from the Southern California Association of Governments ("SCAG"), the University of California, Los Angeles ("UCLA"), the California Employment Development Department ("EDD"), the Orange County Transportation Authority ("OCTA") and well-respected and reputable commercial real estate and investment firms such as CBRE, Cushman and Wakefield ("C&W") and Moody's were consulted in order to determine the impacts resulting from the severe and significant change of circumstances on existing employment and employment growth in the City. Based on these data sources, the following methodology to project employment post-Pandemic has been applied:

1. 2020 baseline or starting employment has been reduced by 9.99% pursuant to changes in payroll employment in Orange County between June 2019 and September 2020, as reported by the EDD.
2. Future employment growth between 2020 and 2045 has been reduced by 33% (pursuant to Cushman & Wakefield data that estimates a 50% increase in the amount of square footage needed per employee resulting in significantly less employees within offices and other commercial buildings).

When applying these percentages to the employment information provided to SCAG by the City previously in June 2019 (before the COVID-19 Pandemic), the total 2020 current employment in Tustin decreased by approximately 10% (based on #1 above), or a reduction of a total of 5,300 jobs. In other words, the baseline starting point for employer is lower due to job losses resulting from COVID-19.

With regard to future employment, nearly 75% of projected employment is based in the Tustin Legacy Specific Plan Area, which includes the planned redevelopment of a former military base. This projected development, and subsequent employment growth, are largely reliant on market conditions which have changed drastically since April 2019. Pursuant to the information referenced in item #2 above, the employment growth between 2020 and 2045 was reduced by 33%, or by 11,209.

In summary, the baseline total employment in 2020 is reduced and the annual growth after 2020 is also reduced. As a result, total project employment growth is expected to decrease by 63% as a result of COVID. Applying this percentage change to the jobs accessibility and job growth portion of the RHNA methodology would result in a **RHNA decrease of 1,718 units, for a revised RHNA designation for the City of 5,135.**

BASIS FOR APPEAL

According to SCAG's 6th RHNA Cycle Appeals Procedures and Government Code Section 65584.05, filed appeals must include a statement as to why the revision is necessary to further the intent of the objectives listed in Section 65584. The City is filing this appeal based on item #3 in the Procedures which states the following:

"Changed Circumstances – That a significant and unforeseen change in circumstance has occurred in the jurisdiction after April 30, 2019 and merits a revision of the information previously submitted by the local jurisdiction. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred."

The COVID-19 pandemic ("Pandemic") is the most significant event to disrupt the world, United States, and local Orange County economy in 100 years. The devastating effects on the economy have been reported extensively since March 2020, including by SCAG itself. SCAG published a white paper titled "The Potential Economic Impacts of COVID-19 in the SCAG Region" ("SCAG Report") in May 2020 (prior to the July/August spike in cases in Orange County), which documents significant impacts to employment, taxable sales, economic output and other economic indicators.

Other sources, such as economic forecasts from UCLA as well as a number of well-respected commercial real estate and investment firms, have documented changes to existing and future employment.

Those anticipated changes in employment growth significantly change the total RHNA allocation applicable to Tustin using SCAG's Methodology.

DATA

Numerous reputable data sources were consulted in reviewing COVID impacts to date as well as forecasted/future impacts. The sections below detail the facts and data that were reviewed to develop the methodology used to calculate the reduced RHNA for the City.

It is important to note that the COVID Pandemic has extended beyond what many economic experts had originally predicted and is an evolving situation. To date, no vaccine is available and it is unknown when vaccines will be available. Even when the vaccine is available, it will take months, if not years, to vaccinate the population to the point where the economy can full open again. **During the October 20, 2020, Orange County Supervisor's meeting, Health Officer, Dr. Clayton Chau, stated that he does not expect Orange County to reach the Yellow Tier - the least restrictive tier in the State's reopening plan - until the summer of 2021.** The Yellow Tier only allows most non-essential businesses to reopen at a maximum 25% to 50% capacity according to the California Department of Public Health. This is a much longer time period than almost all reporting to date has referenced. So, the economic impacts from COVID will extend further into the future than the available data suggests.

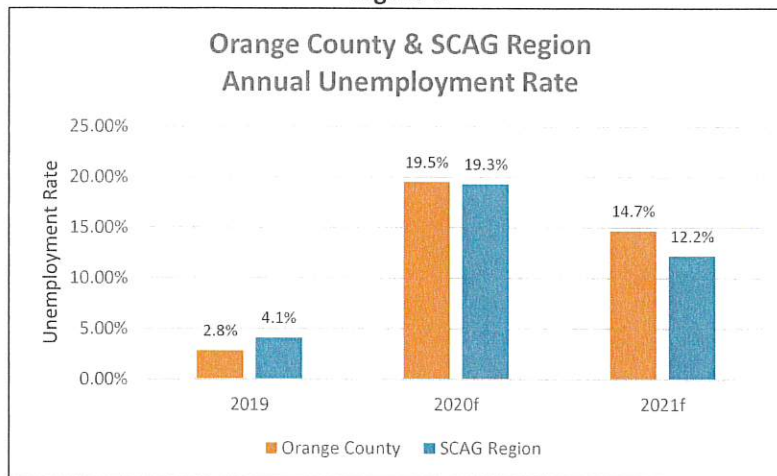
Therefore, it is likely that the "Social Distanced" economy will continue into the foreseeable future and that the economy will not be fully open for a year or more. Many experts agree that the longer the economy is hindered and limited, the longer the recovery will take. It should also be noted that because the recovery is expected to extend over multiple years, the growth that was projected in the southern California region prior to the Pandemic will be impossible to achieve. It will take years for the economy just to get back to "Square One," or where we were in 2019. Therefore, one thing is certain - the projected growth in the SCAG region economy will not happen the way that was predicted prior to April 30, 2019.

Employment

The stay-at-home orders issued by the State of California ("State" or "California") in March 2020 have led to unprecedented disruption in the labor markets, decreased consumer spending, and fundamentally altered the way people work. The SCAG Report predicts average **unemployment rates of 19.3% in 2020 and 12.2% in 2021 in the SCAG region**, as shown in Figure 1. These unemployment rates represent a stark contrast to the near record-low unemployment rate of 4.2% in California in June

2019, when the City provided answers for the Local Planning Factors survey administered by SCAG for the 6th Cycle RHNA allocations.

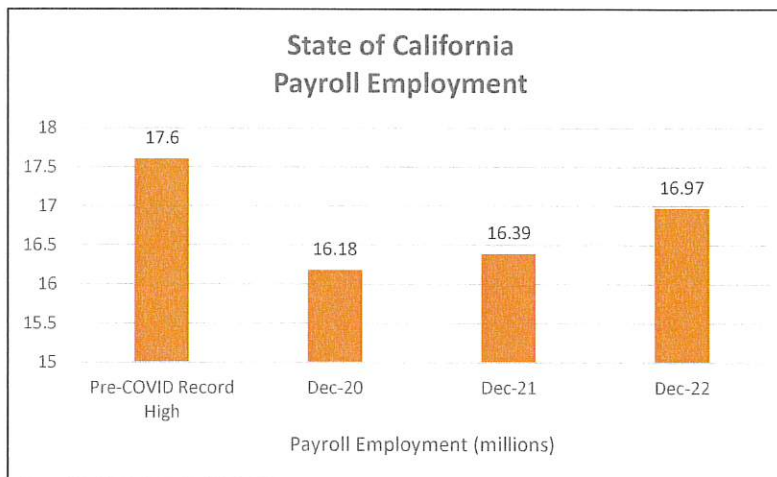
Figure 1



Source: Southern California Association of Governments

Furthermore, the UCLA Economic Forecast released in September 2020 suggests a full recovery to pre-recession levels of economic activity is not expected until after 2022 in the State. Specifically, the forecast projects that total payroll employment in the State will reach 16.97 million by the end of 2022, which would represent 630,000 fewer jobs than the previous high, as shown in Figure 2 below. In other words, employment will not even be restored to 2019 levels until after 2022.

Figure 2



Source: UCLA

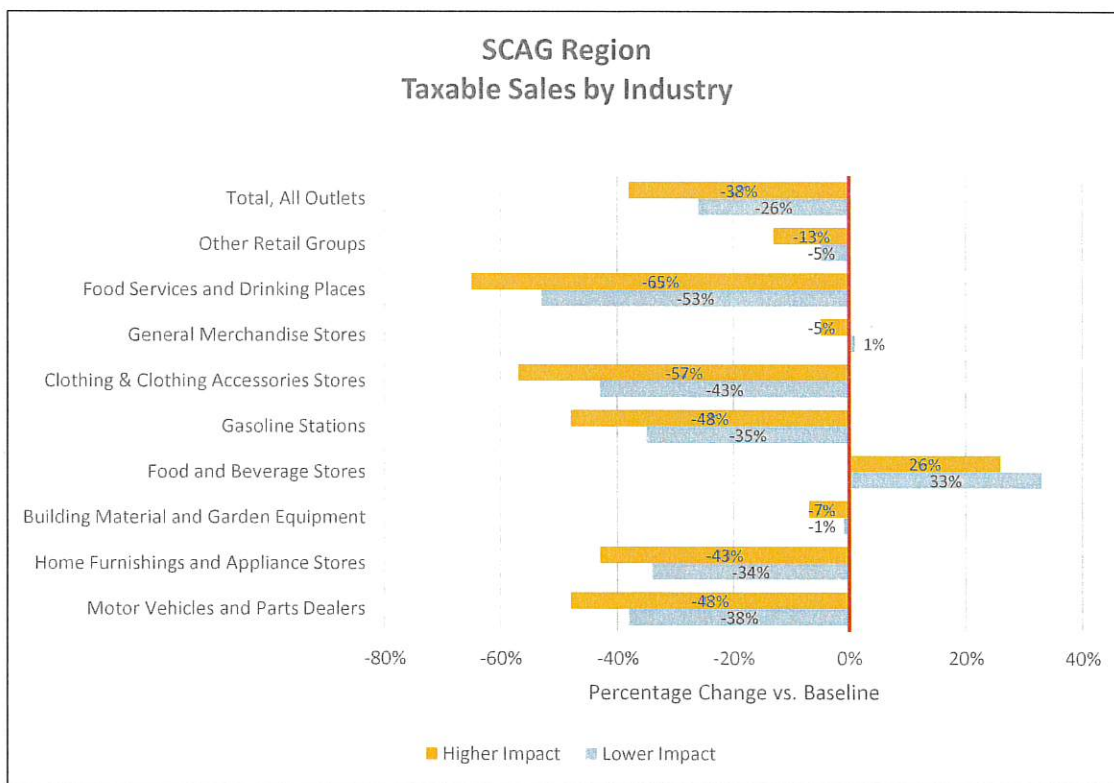
Taxable Sales

The SCAG Report further suggests that **taxable sales in the region could decrease by 26% to 38% over 2020 and 2021**. The largest decreases in taxable sales can be found in the following industries:

- Food Services and Drinking Places: -53% to -65%
- Clothing and Clothing Accessories Stores: -43% to -57%
- Home Furnishings and Appliance Stores: -34% to -43%

The decrease in consumer spending in these industries translates to decreases in total employment and employment growth in the City, as these industries make up a large portion of total retail employment in Tustin. Figure 3 below provides a detailed breakdown of changes in taxable sales by industry in the SCAG region over 2020 and 2021.

Figure 3



Source: Southern California Association of Governments

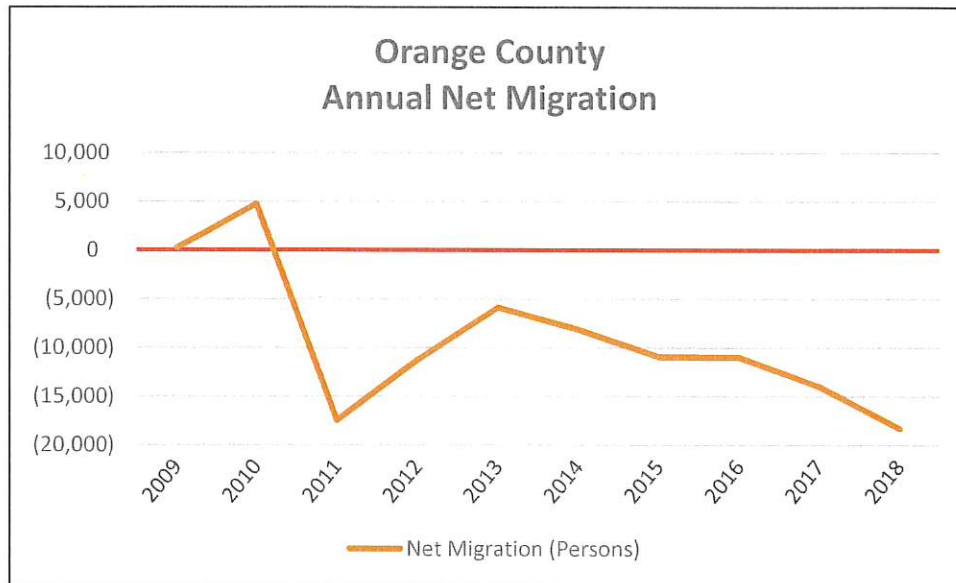
At the onset of the Pandemic, it was initially thought that the stay-at-home orders would be temporary; however, a second wave of COVID-19 cases in June and subsequent spikes have extended the lockdown. As mentioned previously, **Dr. Clayton Chau, the Orange County Health Officer, stated on October 20, 2020 that he does not expect Orange County to reach the Yellow Tier - the least restrictive tier in the State's reopening plan - until the summer of 2021**. The Yellow Tier only allows most non-essential businesses to reopen at a maximum 25% to 50% capacity according to the California Department of Public Health. Therefore, the economic impacts of the pandemic will likely be felt in Orange County and Tustin for many years after businesses are allowed to reopen.

Negative Net Migration

In addition to the economic impacts of the pandemic, the County has experienced negative net migration over the past decade (pre-COVID). This trend is expected to be exacerbated by the Pandemic as more employees work from home, allowing them to relocate inland or out of state, where housing costs and population density are lower.

The pre-COVID negative net migration in the County has increased year-over-year since 2013, as detailed in Figure 4 below. According to Federal Reserve Economic Data ("FRED") reported as of September 3, 2020, **Orange County recorded net migration of negative 18,311 persons in 2018**. This represents a **211% increase in annual negative net migration from 2013**.

Figure 4



Source: Federal Reserve Economic Data (FRED)

Commercial Real Estate (Affecting Employment)

RETAIL

Decreases in consumer spending due to the Pandemic, per the SCAG Report, have had a negative impact on the retail segment of the commercial real estate industry.

Additionally, according to a 2020 Orange County Q2 market report from CBRE, **the 2nd quarter of 2020 saw a 72% reduction in lease activity, while vacancy increased 6% year-over-year in the Orange County market**. CBRE predicts **lease rates for neighborhood, community and strip centers to decrease 14.4% by the end of 2020**. According to CBRE, the large annual increase in vacancy shows that the Pandemic is acting as a further catalyst for retail closures that had already been occurring in the years leading up to COVID-19. These trends signal long-term impacts for retailers as the pandemic has accelerated the transition from brick and mortar stores to online shopping. This will likely lead to less development of retail space in areas like the Tustin Legacy Specific Plan Area even as businesses reopen, resulting in a subsequent decrease in employment growth in the City.

It is important to note development only moves forward when revenues can exceed costs. If lease revenues are declining and costs are increasing (due to social distancing and sanitation requirements), it threatens the economics of retail development within the region. Given the online shopping shift, it is unlikely that retail development will return to previous levels.

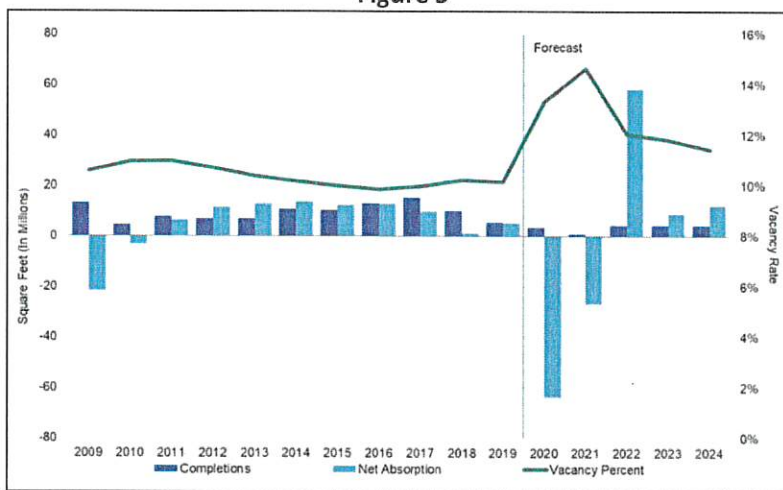
OFFICE

The Pandemic has caused an unprecedented shift in the workplace as many office employees have been forced to work from home due to the stay-at-home orders. This has significantly impacted the office segment of the commercial real estate industry. Cushman & Wakefield ("C&W") reported that office vacancy increased in the 3rd quarter of 2020 while Orange County's year-to-date total net absorption of negative 1.8 million square feet marks a significant contrast to the positive 330,195 square feet in net absorption recorded during the same period of 2019. C&W also reported that the negative effects to demand for office space are 20% more severe than what occurred during the Great Recession of 2008 and 2009. It is very important to note that in 2020, the full effects on the office market are not realized as strict lease agreements are in place. The full COVID effect on the office market will likely be felt in the next 2-5 years when leases start to expire.

A March 2020 report from Moody's Analytics forecasts increased vacancy rates and decreased new development that extend beyond 2024, as shown in Figures 5 and 6 below.

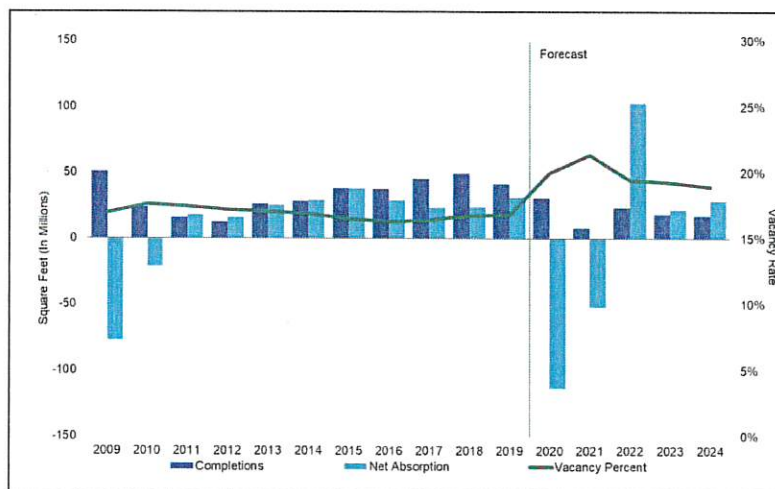
California Retail Market Forecast

Figure 5



California Office Market Forecast

Figure 6



Source: Moody's Analytics

Current data indicates that the impacts of the Pandemic on the office market are not expected to be temporary. According to a survey by the OCTA (August 13, 2020), **nearly two-thirds of employees who live in Orange County prefer to maintain their current (elevated) remote working situations after the pandemic recedes.** Companies are further incentivized to prolong work from home activities as they save on costs associated with office leases. As a result of increased work from home activity, C&W anticipates **office demand to be 15.8% lower over the 2022-2030 period, which would require a permanent 50% increase in per worker footprints to offset the decrease in demand.**

Furthermore, decreases in air travel will likely have a significant impact on the office market surrounding John Wayne Airport. Total passenger counts at the airport decreased from 860,000 in September 2019 to 275,000 in September 2020, representing a decrease of 68% year over year. Year-to-date passenger counts decreased 63% from 2019 to 2020. This trend will likely lower demand for new office development in the City resulting in suppressed employment growth.

ANALYSIS/REVISED RHNA APPEAL AMOUNT

The economic data and forecasts from SCAG, UCLA, EDD, OCTA and well-respected and reputable commercial real estate and investment firms were consulted in order to determine the impacts resulting from the significant change of circumstances on existing employment and employment growth in the region and the City. The following methodology to project employment post-Pandemic, based on data sources, was utilized:

1. **Estimated 2020 employment is reduced by 9.99%** pursuant to changes in payroll employment in Orange County between June 2019 and September 2020, as reported by the EDD.
2. **Employment growth between 2020 and 2045 is reduced by 33%** (pursuant to a C&W report that estimates a 50% increase in the amount of square footage needed per employee resulting in less employees within offices and other commercial buildings).

When applying these percentages to the employment information previously provided to SCAG by the City in June 2019 (pre-COVID), the total 2020 current employment in Tustin decreased by approximately 10% (based on #1 above), or a total of 5,300 jobs.

It is important to note that the future employment projections (beyond 2020) submitted to SCAG by the City were largely based on development occurring in the Tustin Legacy Specific Plan Area, which includes the planned redevelopment of a former military base. More specifically, 74% of the projected employment growth in the City was expected to occur within this area. However, the projected development and subsequent employment growth were largely contingent on market conditions that were present prior to the onset of the pandemic. **Since then, as previously noted, commercial real estate has been significantly impacted by the Pandemic, including large reductions in taxable sales and shift of employees working from home.**

In summary, the baseline total employment in 2020 is reduced as a result of COVID-19 job losses and the annual growth after 2020 is also reduced pursuant to the data presented in this appeal letter. As a result, **total projected future employment growth is expected to decrease by 63% as a result of COVID.** Applying this percentage change to the jobs accessibility and job growth portion of the RHNA methodology would result in a **RHNA decrease of 1,718 units, for a revised RHNA allocation to the City of 5,135 units.**

Table 1 on the following page provides a detailed illustration of the RHNA appeal calculations resulting from the reductions in existing employment and employment growth as a result of the change of circumstances. According to SCAG's Final RHNA Methodology, each jurisdiction's RHNA allocation is determined by calculating the projected housing need, including the need generated by the jurisdiction's population near transit (HGTA) and the jurisdiction's job accessibility. Employment and employment growth is a key metric used by SCAG to calculate the RHNA for each jurisdiction. the baseline total employment in 2020 is reduced and the annual growth after 2020 is also reduced.

Applying the reductions to current and future employment pursuant to items #1 and #2 (shown on the previous page), the RHNA methodology would result in a **decrease of 1,718 units, for a revised RHNA allocation to the City of 5,135 units.**

Table 1

Changes in Circumstance - Employment City of Tustin											
	2020	2025		2030		2035		2040		2045	
	Total Emp.	Emp. Growth	Total Emp.	Emp. Growth	Total Emp.	Emp. Growth	Total Emp.	Emp. Growth	Total Emp.	Emp. Growth	Total Emp.
Employment Growth Pursuant to Data Submitted to SCAG in June 2019	53,029	1,802	54,831	6,921	61,752	4,827	66,579	3,173	69,752	1,008	70,760
Adjustment	(5,300) (10% per EDD ¹)	(601)	change in employment growth per C&W report Sep '20 ²	(2,307)	change in employment growth per C&W report Sep '20 ²	(1,609)	change in employment growth per C&W report Sep '20 ²	(1,058)	change in employment growth per C&W report Sep '20 ²	(336)	change in employment growth per C&W report Sep '20 ²
Revised Employment Growth	47,729	1,201	48,931	4,614	53,545	3,218	56,763	2,115	58,878	672	59,551
Total Employment Growth from 2020 to 2050 Pursuant to Data Submitted to SCAG in June 2019										17,731	
Revised Total Employment Growth 2020 to 2050 (Using Original 2020 Employment)										6,522	
Difference										11,209	
Percentage Change in Employment Growth between June 2019 Data and Revised Employment Growth Projections										-63.2%	
RHNA Allocation Reduction											
Total RHNA Allocation										6,853	
Portion of RHNA Allocation Pursuant to Step 2a of RHNA Methodology - Job Accessibility										2,717	
Adjustment Pursuant to Revised Employment Growth Projections										-63.2%	
Total Reduction in RHNA Allocation										(1,718)	
Revised Total RHNA Allocation										5,135	
¹ Total 2020 Employment was adjusted down by 9.99%. This percent decrease represents the decrease from the June 2019 to the September 2020 Nonfarm Employment Estimates presented by the California Employment Development Department.											
² Employment Growth was adjusted down by 33.33%. Per a September 2020 study performed by Cushman & Wakefield, in order to offset lower office space demand created by work from home trends between 2022-2030, companies will have to expand worker footprints by 50% permanently. Increasing square footage per employee by 50% will, in turn, decrease employment growth by 33.3% annually.											
Source: Southern California Association of Governments											

We thank SCAG in advance for your time and careful consideration of the facts and data presented in this appeal letter. It is our hope that SCAG will not continue with the RHNA allocation that was calculated pre-COVID and before the devastating and lasting impacts were felt to the SCAG region, including Tustin.

Facts and logic dictate that data on growth and demand pre-COVID cannot possibly be utilized moving forward without modifications and revisions based on the new normal and reality of the post-COVID economy, which is not only expected to result in longer-term shifts and changes to the local Southern California economy, but will likely be a more prolonged recovery because no vaccine or cure for COVID exists today and the timing on a vaccine is completely unknown. There is no data that indicates when the COVID restrictions will be eased in Orange County. The best information to date is the statement from Orange County's Health Officer, Dr. Chui, who predicts that the Orange County will not advance to the Yellow Tier for approximately 1 year. It is our hope that a recovery will occur at the earliest possible date, but even the top health experts in the country do not know when that day will come. Given these facts and the data summarized above, the logical, rational and responsible approach forward is to plan for COVID impacts on employment during the majority or entirety of the 6th cycle term (2021-2029).

Sincerely,



Matthew S. West, City Manager
City of Tustin

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