

January 28, 2019

VIA E-MAIL

Mr. Manuel Muños, Associate Planner
City of Azusa
Community Development Department (Planning Division)
213 East Foothill Boulevard
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**Re: California Grand Village Project Draft Environmental Impact Report
(State Clearinghouse No. 201861063)**

Dear Mr. Muños:

Wittwer Parkin, LLP represents the Southwest Regional Council of Carpenters (“Southwest Carpenters”) and submits this letter on the above-referenced project on its behalf. Southwest Carpenters represents 50,000 union carpenters in six states, including in Southern California. Southwest Carpenters has a strong interest in addressing the environmental impacts of development projects, including the proposed California Grand Village Project (“Project”) at 1100 North Todd Avenue in Azusa, California.

The Project, as proposed, would include three components. (Draft Environmental Impact Report [“DEIR”], p. 1-1.) First, it would require the creation of the California Grand Village Specific Plan which would permit the construction of a senior living home. (*Ibid.*) Second, it would reconfigure a portion of the golf course on the existing Project site. (*Ibid.*) Third, it would involve the construction of a senior living residential community of 199 independent living residences, 28 assisted living suites, and 26 memory care suites, amenities for residents and guests, and a three-story, 253-parking space parking structure. (*Ibid.*)

In order to construct the Project, the Project Applicant is requesting adoption of the proposed California Grand Village Azusa Greens Specific Plan, approval of a General Plan Amendment to convert the Project site land use designation from Open Space to Specific Plan, approval of a Tentative Tract Map to subdivide the golf course, and a Design Review. (DEIR, p. 1-2.)

In the DEIR, the City concludes that “no significant and unavoidable impacts would occur after implementation of feasible mitigation and standard conditions of approval.” (DEIR,

p. 1-35, see pp. 1-5 – 1-34.) This is incorrect. As discussed more fully below, the DEIR is confusing, missing key analysis, and does not provide sufficient support for conclusions that the Project will have less than significant impacts in a number of areas.

I. The DEIR’s Cumulative Projects List Does Not Provide Sufficient Information.

The data provided in the Cumulative Projects List is insufficient to fully examine the listed projects. (DEIR, pp. 4-2 – 4-3.) The list does not include a description of related development or indicate when the developments will be constructed, nor does the list identify how close the developments are to the Project site. (*Ibid.*) It is, therefore, difficult for Southwest Carpenters to determine how these developments will have cumulative effects in conjunction with the proposed Project. Please update the Cumulative Projects List to, at minimum, include an expanded description of each development, an address for each development and their distance from the Project site, and projected construction dates for each project on the list.

II. The DEIR Does Not Clearly Disclose the Impact of the Project Before Mitigation.

CEQA requires that the City accurately disclose the impacts of the Project in the DEIR. (Cal. Code Regs., tit. 14 §§ 15126; 15126.2.) After the City has determined the significance of Project impacts prior to mitigation, the City must then evaluate whether these impacts will be reduced with the implementation of mitigation measures. (Cal. Code Regs., tit. 14 § 15126.4.)

The City fails to accurately disclose the environmental impacts of the Project prior to implementation of mitigation measures. For example, in the Land Use Section, the DEIR states that with respect to compliance with the City of Azusa General Plan, the Project would have a “Less Than Significant Impact With Mitigation Incorporated.” (DEIR, p. 5.1-26.) However, in the DEIR, the City never clearly discloses the level of significance of Project impacts prior to implementation of this mitigation measure. Worse, in the City’s analysis of consistency with the General Plan, the DEIR likewise fails to evaluate Project impact prior to implementation of this mitigation measure. Regarding Project consistency with General Plan policy LU 1.2, the City states “[u]pon compliance with Mitigation Measure LU-1, the Project would be consistent with Policy LU 8.9” – the City’s consistency analysis of other land use policies repeatedly relies on and refers to the faulty analysis provided for Policy LU 1.2, thus placing the soundness of the balance of the City’s consistency analysis into question. (*Id.* at pp. 5.1-14 – 5.1-17.) The City thus skips one of the most important analytical steps required by CEQA and improperly incorporates mitigation measures into its analysis of the environmental impacts of the Project. This does not accurately disclose Project impacts prior to mitigation, as required by CEQA. It also makes it difficult for the public, including Southwest Carpenters, to determine what impacts the Project will have pre-mitigation, and fails to provide decision makers and the public with an

accurate, stable, and finite project description. (Cal. Code Regs., tit. 14, § 15126 [lead agency must consider and discuss environmental impacts].)

III. The DEIR's Land Use Analysis is Inadequate.

A. The City's conclusion that the Project is consistent with the goals of the Southern California Association of Governments' Regional Transportation Plan/Sustainable Communities Strategy is not supported by the evidence.

When conducting an environmental impact analysis, an agency's determinations must be supported by evidence in the record. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code, § 21168 [applying the section 1094.5 standard to CEQA actions].) An agency cannot simply draw conclusions without analysis. (See *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511–512, 515 [*Topanga*].) It “must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Ibid.*)

The DEIR states that the Project would be consistent with Goal 6 of the Southern California Association of Governments' (“SCAG”) Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”), which is to “protect the environment and health of our residents by improving air quality and encouraging active transportation (e.g., bicycling and walking).” (DEIR, p. 5.1-11.) The DEIR explains that Project is consistent with this standard because the Project would include “new sidewalks” that would connect to a trail, and would include walkways within the Project. (*Ibid.*) This evidence does not support a conclusion that the Project is consistent with Goal 6 of the RTP/SCS because construction of a sidewalk, in itself, does not evidence that the Project will improve air quality. (See, generally, *ibid.*) The City failed to consider that the Project is not close to public transit, or that that the walkways do not connect Project residents to goods, services, or locations that are too distant for Project residents to access via anything but private transportation, which will further diminish air quality. (See *ibid.*) Similarly, the DEIR states that the Project would be consistent with RTP/SCS Goal 8, which is to “encourage land use and growth patterns that facilitate transit and active transportation.” (*Ibid.*) The City concludes the Project will be consistent with Goal 8 because the “increased residential uses within the area [as a result of the Project] would encourage the use of transit and active transportation options,” but does not provide any evidence or supporting reasoning to prove the Project would encourage the use of transit or active transportation options. (See *ibid.*) This is insufficient.

Please provide additional evidence which demonstrates that the Project is consistent with SCAG Goals 6 and 8. Specially, please provide data about how Project design will minimize vehicle trips and encourage residents to walk or take public transit to goods or services.

B. The DEIR does not adequately explain how the Project complies with the City of Azusa General Plan.

An EIR that is unclear or omits key information fails to adequately inform the public about a project's impact on the environment. (See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391 [*“Laurel Heights”*] [*“an EIR is an informational document”*] that should provide *“detailed information about the effect which a proposed project is likely to have on the environment....”*], citing Cal. Pub. Resources Code, § 21061, Cal. Code Regs., tit. 14, § 15003(b)-(e) [citations omitted].)

In its analysis of Significance Threshold LU-2 (*“Would the Project conflict with Azusa General Plan Policies or Regulations?”*), the DEIR incorrectly concludes the Project would comply with the City of Azusa General Plan (*“General Plan”*) prior to the implementation of mitigation measures. (See, generally, DEIR, pp. 5.1-12 – 5.1-26.) The DEIR states that the General Plan *“designates the Site as Open Space.”* (*Id.* at p. 5.1-13.) But the City does fails to explain that the Project is clearly inconsistent with the Open Space designation of the Project site. (*Ibid.*) Again skipping over the evaluation of Project impacts, the City instead states, *“to ensure consistency between the proposed Specific Plan and the General Plan, the General Plan Land Use Plan would be amended to change the land use designations.”* (*Ibid.*) Because the loss of open space is a core component of the Project, and the Project is in irreparable conflict with this land use designation, the loss of the Open Space designation of the Project is a significant and unavoidable environmental impact of the Project. The City's conclusion that the Project would result in a *“Less than Significant Impact with Mitigation”* is in direct conflict with all evidence in the record. (*Id.* at p. 5.1-26.)

Please correct this analysis to accurately disclose whether the Project complies with the General Plan currently in effect prior to mitigation and explain how it does or does not do so. As the Project clearly does not comply with the General Plan, please articulate specific mitigation measures that would ensure Project impacts are reduced to the greatest extent feasible, such as the purchase of comparable land within the City that will be deed-restricted as open space in perpetuity.

C. The DEIR fails to recognize that the Project does not comply with the existing zoning code and fails to make the zone change a mitigation measure.

The DEIR concludes that the Project would have a “less than significant impact” with respect to conflicts with the City’s Municipal Code and Regulations. (DEIR, pp. 5.1-27.) Yet, the City notes that the Project would not comply with existing zoning, and requires a zone change to be constructed. (*Id.* at pp. 5.1-26 – 5.1-27.) The City concludes that “no mitigation measures are required.” (*Id.* at p. 5.1-27.) Contrary to this conclusion, the evidence in the record irrefutably demonstrates that the Project would not comply with the City’s land use regulations, and in order to ensure that the Project does not have significant impacts on land use, it must obtain a zone change. Any zone change, therefore, should be classified as a mitigation measure, because, without such mitigation, the Project will not comply with existing zoning and thus will result in significant land use impacts. Please update the DEIR to remedy these deficiencies.

D. The City’s cumulative impacts conclusions are not supported by an analysis of the facts.

The City’s discussion of cumulative impacts to land use does not bridge the analytic gap between raw evidence and its conclusions. (DEIR p. 5.1-28; see *Topanga, supra*, 11 Cal.3d at 511–512, 515; Cal. Code Civ. Proc. § 1094.5; Cal. Pub. Resources Code, § 21168.) The City’s cumulative impacts analysis also fails to provide a sufficient “summary of the expected environmental effects to be produced by those projects” on the Cumulative Projects List. (See Cal. Code Regs., tit. 14, § 15130(b)(4).)

The DEIR makes conclusory statements, without analysis of individual projects, that the project would not contribute to cumulatively considerable impacts to compliance with the General Plan or with the City Municipal Code, because other projects would be analyzed for their compliance with applicable land use plans. (DEIR p. 5.1-28 – 5.1-29.) But the City does not examine any of the projects listed on the Cumulative Projects List, describe whether they are compatible with existing land uses, discuss if they would result in a considerably cumulative impact, whether such projects also seek to change the land use designations where they are located, or whether this would alter broad General Plan or Municipal Code designations in a piecemeal fashion. (*Ibid.*) Southwest Carpenters is particularly concerned about the cumulative loss of land designated or currently exists as open space, the loss of which the Project will obviously contribute to.

Please update the cumulative impacts analysis to specifically examine and discuss the developments included on the Cumulative Projects List. Please explain how close these developments are to the Project; whether these developments, specifically, comply with

applicable zoning, General Plan, and other land use designations; whether they are receiving variances, waivers, or incentives; and how these developments could foreseeably result in significant cumulative land use impacts, including to loss of open space.

IV. The DEIR Does Not Provide Sufficient Enforcement Mechanisms for Mitigation of Impacts to Biological and Cultural Resources.

An agency “shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures,” and must have a monitoring program to ensure the implementation of mitigation. (Cal. Pub. Resources Code § 21081.6 (a) and (b).) “*The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.*” (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, citing *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260-1261, Cal. Pub. Resources Code, § 21002.1(b) [emphasis in original].)

The DEIR states: “construction activities associated with the proposed Project could potentially impact nesting birds within the Site and within the immediate vicinity, which could result in a potentially significant impact.” (DEIR, p. 5.3-16.) It proposes, as mitigation, that a biologist determine whether there are migratory bird nests in on-site trees, and, if there are, create a buffer zone around the nest until the nest is no longer active, or alternatively, permit construction within the buffer zone and create a monitoring program to ensure that nests are not impacted. (*Id.* at pp. 5.3-16 – 5.3-17.) The DEIR requires the biologist to provide the City with documentation regarding whether there are migratory bird nests on site and what the biologist/Project applicant did to protect them after the fact, but does not require that the City monitor the protection of migratory bird nests, should they exist, nor receive concurrent reporting regarding the protection of nests. (*Ibid.*) This does not ensure that mitigation will actually be implemented. (Cal. Pub. Resources Code, § 21081.6 (a)(1) [“[t]he reporting or monitoring program shall be designed to ensure compliance during project implementation”]; see also Cal. Pub. Resources Code, § 21081.6(a) and (b).) Please update the EIR to include requirements that ensure that, should migratory bird nests exist on site, the City will be immediately notified and will, itself, ensure that a buffer zone around such nests is erected and construction does not occur within that buffer until these nests are no longer active.

In the DEIR’s cultural resources analysis, the City finds that the Project would have a “less than significant impact with mitigation incorporated.” (DEIR, p. 1-14.) It states that, if there is an unanticipated discovery of cultural resources or tribal cultural resources, “work in the immediate area shall halt and a qualified archeologist... shall... evaluate the find.” (*Id.* at p.

5.4-16.) The DEIR states if the discovery is “significant... additional work such as data recovery excavation and Native American consultation may be warranted,” but it does not provide any specific, enforceable protocol for ensuring protection and preservation of a significant resource. (*Id.* at pp. 5.4-16 - 5.4-17.) If paleontological resources are discovered during construction, the DEIR likewise provides that if the discovery is “significant... additional work such as data recovery excavation and Native American consultation may be warranted,” but does not explain what should occur if the find is important and does not provide enforceable mitigation measures to protect such a find. (*Id.* at p. 5.4-18.) This does not ensure enforceable protection of important resources. (Cal. Pub. Resources Code, § 21081.6 (a)(1); see also Cal. Pub. Resources Code, § 21081.6(a) and (b).) Please update the DEIR to provide enforceable mitigation mechanisms to provide for the protection of important archeological and paleontological resources.

V. The City’s Conclusion that the Project Would Not Contribute to a Cumulative Effect on Traffic Is Not Supported by Sufficient Analysis.

An EIR’s cumulative impacts analysis “shall reflect the severity of the impacts and their likelihood of occurrence” (Cal. Code Regs., tit. 14, § 15130(b).) Providing incomplete information “concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decision maker’s perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval.” (*Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431 [“*Citizens*”].)

The DEIR does not provide complete information to support its analysis that the Project would not result in cumulatively considerable impacts to traffic and transportation. The City concludes that the Project would not contribute to a cumulatively considerable increase in traffic. (DEIR, pp. 5.8-31 – 33.) Yet the Project, in conjunction with other developments, will increase traffic at Irwindale Avenue at Foothill Boulevard and Todd Avenue at Foothill Boulevard to unacceptable levels of service of E and F. (*Id.* at p. 5.8-31.)

The City states that this would not result in a cumulative significant impact because the Project would only contribute less than .02 to the V/C ratio at these intersections. (DEIR, pp. 5.8-31 – 5.8-32.) This does not support the City’s conclusion that the Project will not result in cumulative traffic impacts – the facts demonstrate that the Project *will* contribute to a cumulatively considerable increase in unacceptably poor levels of service at multiple intersections. (*Id.* at p. 5.8-31.)

The City also asserts the Project will not result in cumulatively considerable increases in traffic, because there are recommended improvements at Irwindale Avenue at Foothill Boulevard. (DEIR, pp. 5.8-31 – 5.8-32.) But the Irwindale Avenue at Foothill Boulevard improvements are not mitigation measures, and therefore, are not binding on the Project or the City of Irwindale, which has jurisdiction over these intersections. Further, crediting potential future improvements for reductions in unacceptable levels of service fails to evaluate the impacts of the Project in comparison to the environmental setting existing at the time the City issued its Notice of Preparation, as required by CEQA. (Cal. Code Regs., tit. 14 §§ 15125; 15126.2.) Providing these improvements simply as recommendations fails to ensure the Project will incorporate measures designed to reduce these significant cumulative impacts on traffic, as required by CEQA. (Cal. Code Regs., tit. 14, § 15126.4(a)(2) [“Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments”].) Due to the City’s failure to correctly implement these recommendations as mitigation measures, it fails to properly disclose Project impacts on traffic. Incorrectly identifying these measures as recommendations rather than binding mitigation fails to provide decision makers and the public with accurate information about Project impacts. (Cal. Code Regs., tit. 14, § 15126 [lead agency must consider and discuss environmental impacts].)

VI. The DEIR’s Air Quality Analysis is Incomplete.

A. The air quality analysis is deficient and uninformative.

“[A]n EIR is ‘an informational document’” aimed at providing “‘detailed information about the effect which a proposed project is likely to have on the environment....’” (*Laurel Heights, supra*, 47 Cal.3d 376, 391, citing Cal. Pub. Resources Code, § 21061 and Cal. Code Regs., tit. 14, § 15003(b)-(e).) An EIR that is unclear fails to adequately inform the public about a potential project’s impact on the environment.

First, the DEIR segregates the air quality impacts of construction from impacts from the operation of other nearby projects in both the analysis of direct, indirect, and cumulative Project-related impacts. (DEIR, pp. 5.9-24 – 5.9-25.) This makes it difficult to understand the overarching emissions of pollutants from this Project. Please provide information that identifies the total air quality impacts – rather than providing separate analyses of construction and operations related impacts.

Second, the City’s discussion of long-term operational air emissions does not adequately discuss the existing Project site’s impacts to air quality. (See DEIR, pp. 5.9-16 – 5.9-18.) This does not comply with CEQA. “To decide whether a given project’s environmental effects are likely to be significant, the agency must use some measure of the environment’s state absent the

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project, a measure sometimes referred to as the 'baseline' for environmental analysis.” (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 315.) “[A]n inappropriate baseline may skew the environmental analysis flowing from it, resulting in an EIR that fails to comply with CEQA.” (*Citizens for East Shore Parks v. State Lands Commission* (2011) 202 Cal.App.4th 549, 557, as modified Jan. 27, 2012, citing *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 87.)

The DEIR does not discuss baseline Project conditions, i.e., the amount of air pollution generated at the Project site in its current form as a golf course. (See DEIR, pp. 5.9-16 – 5.9-18.) Nor does it divulge that the construction of a large residential senior home would result in a sharp increase in air pollution emitted from the Project site. (See *ibid.*) As a result, the City does not divulge or analyze the significant increase in air pollution that will occur at the Project site. (See *ibid.*) This violates CEQA and does not provide decision makers or the public with a clear understanding of the existing conditions at the Project site or Project-related air quality impacts, thus eliminating the ability to assess how and to what extent the Project will impact air quality.

Third, in the analysis of the Project’s air quality impacts, the DEIR states that the Project would not exceed SCAQMD’s localized thresholds “after mitigation,” but does not disclose whether the Project would exceed certain localized thresholds prior to mitigation. (DEIR, pp. 5.9-20, 5.9-21 – 5.9-22.) This fails to properly disclose Project impacts, and improperly incorporates mitigation into the pre-mitigation analysis of Project air quality impacts, thus providing the public and decision makers with a skewed representation of the impacts of the Project. This undermines CEQA’s informational purposes and fails to provide a clear description of the Project or its impacts. (Cal. Code Regs., tit. 14, § 15126 [lead agency must discuss environmental impacts]; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193 [“an accurate... project description is the *sine qua non* of an informative and legally sufficient EIR”].)

Please update the DEIR to provide an accurate disclosure of air quality impacts, including from both construction and operation; provide a clear description of current pollutant emissions at the Project site and how the Project will quantifiably increase the emission of pollutants; and clearly explain the significance of Project impacts to air quality before mitigation.

B. The DEIR does not adequately examine cumulative air quality impacts.

When conducting an environmental impact analysis, an agency’s determinations must be supported by evidence in the record. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code, § 21168 [applying the Section 1094.5 standard to CEQA actions].) An agency cannot simply draw conclusions

without analysis. (See *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511–512, 515 [“*Topanga*”].) It “must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Ibid.*)

The City’s conclusion that air pollutant emissions associated with the proposed project would not be cumulatively considerable is not supported by the evidence. (DEIR, pp. 5.9-24 – 5.9-26.) Nearby development, in conjunction with the Project, will have significant and unavoidable cumulative air quality impacts. The data provided in the Cumulative Projects List shows that the developments listed will result in significant construction and will increase residential, industrial, and retail uses. (See *id.* at pp. 4-2 - 4-3.) This will result in increased vehicle trips, and will ultimately delay the South Coast Air Basin’s (“Basin’s”) timely attainment with air quality standards designed to protect human health and the environment. (*Ibid.*) Tellingly, the City does not disclose whether any of the cumulative projects it lists have been found to have significant and unavoidable impacts, to which the Project will cumulatively contribute.

The City also fails to comply with its obligations to conduct “[a] reasonable analysis of the cumulative impacts of the relevant projects.” (Cal. Code Regs., tit. 14, § 15130(b)(5).) In such an analysis, an agency must “examine reasonable, feasible options for mitigating or avoiding the project’s contribution to any significant cumulative effects” in an EIR, (*ibid.*), and “must use its best efforts to find out and disclose all that it reasonably can” (*San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984) 151 Cal.App.3d 61, 74 [“*San Franciscans*”]).

The DEIR does not “use its best efforts to find out and disclose all it reasonably can.” (*Ibid.*) In the cumulative air quality impacts analysis, the DEIR only analyzes two projects on the Cumulative Projects List included in the DEIR, does not examine other projects in the greater South Coast Air Basin region, and does not disclose the air quality impacts of each project. (DEIR, pp. 5.9-24 – 5.9-26, 4-2 - 4-3 [Cumulative Projects List].) As described *supra*, the Cumulative Projects List also lacks sufficient information to determine whether each project might contribute to cumulative air quality impacts, either on a local or regional level. (See *id.* at pp. 4-2 - 4-3.) The City must, at a minimum, provide information on all potential related projects included in the Cumulative Projects List. Crucially, the City must disclose whether any other of the projects identified in the Cumulative Projects List have been determined to result in significant and unavoidable direct, indirect, or cumulative air quality impacts.

In an FEIR or a recirculated DEIR, please provide specific pollutant projections for, at minimum, each of the approved projects listed in the DEIR and explain the projected cumulative impact of the Project in conjunction with additional development. Further, please provide a list

of all past, present, and reasonably foreseeable future projects on the Cumulative Projects List or in the greater SCAB region that have been found to result in significant and unavoidable air quality impacts.

VII. The DEIR’s Greenhouse Gas Emissions Analysis Is Insufficient.

A. The GHG analysis does not rely on relevant thresholds, regulations, or plans.

The Legislature and California Supreme Court have indicated that “an EIR is ‘an informational document’... and that ‘[t]he purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment....’” (*Laurel Heights, supra*, 47 Cal.3d at 391, citing Cal. Pub. Resources Code, § 21061 and Cal. Code Regs., tit. 14, § 15003(b)-(e).) Yet the DEIR’s discussion of potential impacts on greenhouse gas (“GHG”) emissions fails to clearly identify or analyze applicable regulations and plans in the context of the Project.

The City incorrectly relies on federal, statewide, and regional plans and regulations which were not designed to be applied at the project-level. (See *Center for Biological Diversity v. Dep’t of Fish & Wildlife* (2015) 62 Cal.4th 204 [“*Newhall Ranch*”]; DEIR, pp. 5.10-4 - 5.10-12.) The City fails to provide sufficient analytical connection between these plans and requirements for the Project itself. (See *ibid.*) These plans, for example, discuss GHG emissions requirements for manufacturers of vehicles and suggestions for the California Air Resources Board, but do not provide project-specific standards for development projects. (*Id.* at pp. 5.10-4 – 5.10-7.) This information is unnecessary and undermines the DEIR’s function as a transparent, educational document.

The DEIR also applies quantitative significance thresholds from the South Coast Air Quality Management District (“SCAQMD”). (DEIR, p. 5.10-11.) However, these are outdated interim thresholds that fail to account for the much more stringent emissions reductions requirements of SB 32, which was enacted in 2016. The use of outdated ten-year-old interim thresholds that have not been adopted by the City does not comply with CEQA. (14 Cal. Code Regs. § 15064(h)(3).) The City must adopt a greenhouse gas reduction plan in order to make the finding that the Project will not have significant impacts to greenhouse gas emissions. (*Newhall Ranch, supra*, 62 Cal.4th 204, 217.)

B. The DEIR's cumulative greenhouse gas emissions analysis is not sufficiently specific.

According to the California Supreme Court:

With respect to climate change, an individual project's emissions will most likely not have any appreciable impact on the global problem by themselves, but they will contribute to the significant cumulative impact caused by greenhouse gas emissions from other sources around the globe. The question therefore becomes whether the project's incremental addition of greenhouse gases is 'cumulatively considerable' in light of the global problem, and thus significant.

(*Newhall Ranch*, *supra*, 62 Cal.4th 204, 219, citing Crockett, Addressing the Significance of Greenhouse Gas Emissions Under CEQA: California's Search for Regulatory Certainty in an Uncertain World (July 2011) 4 Golden Gate U. Envtl. L.J. 203, 207-208.) The City does not provide sufficient information in the DEIR to determine whether the Project's incremental addition of greenhouse gasses would be cumulatively considerable and thus significant.

The City concludes that, because the Project does not exceed SCAQMD screening threshold for individual projects, cumulative "impacts would be less than significant." (DEIR, pp. 5.10-14, 5.10-20.) In addition to the issues with screening thresholds, raised *supra*, the DEIR does not examine projected growth in the City, estimate or examine what cumulative emissions from other concurrent projects might be, nor does it examine how this might relate to the Project's and the City's contributions to cumulative GHG emissions. (See *id.* at pp. 5.10-13 – 5.10-20.)

Furthermore, the DEIR does not provide sufficient threshold information about existing GHG emissions in the City. (See Cal. Code Regs., tit. 14, § 15125(a); DEIR, § 5.10.) The DEIR does not analyze what the City's current citywide emissions are, whether the City's emissions are increasing or decreasing, or whether the City as a whole is on track to meet the 2030 GHG emission goals set forth in SB 32, as broadly outlined in the 2017 Climate Change Scoping Plan or provide any other quantitative benchmark to determine whether the Project, in conjunction with other development, would significantly impact GHG emissions. (See generally *id.* § 5.10.)

What are the projected GHG emissions from construction and operation of the other projects listed in the Cumulative Projects List? Is there additional projected growth in the City of Azusa that would lead to an overall increase in GHG emissions, contrary to the requirements of AB 32 and SB 32? If so, what are the estimated emissions from such growth? What are the cumulative estimated emissions? How would such emissions compare with the emissions

reductions goals set forth in these statutes? Are there any projects within the City or nearby jurisdictions that have been found to result in significant and unavoidable greenhouse gas impacts? Is the City of Azusa on track to meet GHG emissions SB 32 greenhouse gas reductions goals, as outlined in the 2017 Climate Change Scoping Plan? Are there any valid qualitative thresholds for GHG emissions that the City could use to determine the City's current contributions to GHGs and how the Project might impact this contribution in conjunction with other development? Please provide specific, estimates, data, and analysis.

C. The DEIR does not provide adequate mitigation for GHG emissions.

The City fails to provide adequate mitigation to reduce GHG-related impacts. The City's findings that the Project would result in less than significant impacts and, thus, not require mitigation measures are not supported by evidence in the record. (See DEIR, p. 5.10-13 – 5.10-21; Cal. Code Civ. Proc. § 1094.5; Cal. Pub. Resources Code, § 21168.) The City, therefore, has failed to provide appropriate and enforceable mitigation for the greenhouse gas impacts of the Project. (Cal. Code Regs., tit. 14, § 15126.4(a)(1) ["An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy"]; Cal. Code Regs., tit. 14, § 15126.4(a)(2) ["Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments"].)

Please revisit the GHG analysis, as described, *supra*, and update GHG mitigation measures accordingly.

VIII. The City Does Not Support Its Findings Regarding Public Services with Substantial Evidence or Clear Analysis.

A. The DEIR fails to clearly analyze the Project's impacts on fire and police protection and wastewater services.

The City's CEQA determinations must be supported by evidence in the record. (Cal. Code Civ. Proc. § 1094.5; Cal. Pub. Resources Code, § 21168.) An agency cannot simply draw conclusions without analysis. (See *Topanga, supra*, 11 Cal.3d 506 at 511–512, 515.) The City states that Project operation would not require additional fire services because the Project and Specific Plan update would comply with applicable regulations, and "would not induce significant population growth." (DEIR, pp. 5.12-16 – 5.12-17.) The City concludes that the Project would result in a less than significant impact to fire protection services. (*Ibid.*) Yet the DEIR does not support this conclusion with data about existing fire stations, the proximity of station(s) to the Project, populations currently served by such station(s), fire protection response

times, the number of people the Project will serve, how this will impact existing fire protection, or the potential for the Project to induce the construction or expansion of additional public service facilities. (See *ibid.*) The City also states that the Project operation would result in a less than significant impact to police services because it would comply with applicable regulations and would not result in significant population growth. (*Id.* at pp. 5.12-17 – 5.12-18.) The City does not support this conclusion with a fact-based analysis of existing police services, police response times, or other quantitative data. (See *ibid.*) The City also concludes that the Project would not result in significant impacts to wastewater treatment, but, again, does not support these conclusions with quantifiable evidence, such as the projected amount of wastewater that Project operation will create, how much wastewater existing facilities currently treat, and how this might impact existing wastewater treatment plants' ability to serve the Project, especially during peak wet-weather 10- and 100-year flood events. (*Id.* at pp. 5.12-18 – 5.12-19.) The City's analysis and the evidence provided, therefore, does not clearly support a conclusion that the Project will have less than significant impacts on public services, particularly considering that the Project will result in a complete change to the Specific Plan and the existing land use designation.

B. The City's analysis of the cumulative impacts to public services is also deficient under CEQA.

An agency must provide a "summary of the expected environmental effects to be produced by those projects" on the Cumulative Projects List. (See Cal Code Regs., tit. 14, § 15130(b)(4).) Providing incomplete information "concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decision maker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." (*Citizens, supra*, 176 Cal.App.3d 421, 431.) The DEIR states that other projects, included on the Cumulative Project List, would comply with relevant regulations, and thus, the City concludes that the Project would not have cumulative impacts to fire or police services. (DEIR, pp. 5.12-23 – 5.12-24.) The DEIR, however, includes no discussion of the actual projects, nor does it discuss whether these other projects will cumulatively lead to the expansion of existing facilities or construction of new ones. (See Cal. Code Regs., tit. 14, Appx. G § XIII.) At a minimum, the DEIR must discuss the specific impacts posed and population increase associated with projects that would cumulatively impact police, fire, and other services.

IX. The DEIR's Alternatives Analysis Is Incomplete.

The CEQA alternatives analysis has been described by the California Supreme Court as the "core of an EIR." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553,

564.) CEQA provides a “*substantive mandate* that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures” that can lessen the environmental impact of proposed projects. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134, citing Cal. Pub. Resources Code, § 21081 [emphasis added].) It “compels government... to mitigate... adverse effects through... the selection of feasible alternatives.” (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233; see also Cal. Pub. Resources Code, § 21002.) A lead agency’s ability to comply with this mandate is predicated on a clear analysis of correct findings of a project’s impacts. “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process.” (*Laurel Heights, supra*, 47 Cal.3d at 404; *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1350.)

An EIR’s review of Project alternatives must analyze alternatives “which are capable of avoiding or substantially lessening any significant effects of the project.” (Cal. Code Regs., tit. 14, § 15126.6(b).) An EIR’s very purpose is to identify ways to reduce or avoid significant environmental impacts. (*Laurel Heights, supra*, 47 Cal.3d at 403.) In order to achieve this purpose, the EIR must correctly identify project impacts. Yet, the Project alternatives analysis, as drafted, does not adequately assess whether alternatives would avoid or substantially lessen significant Project effects, because the DEIR either does not provide a sufficient analysis or incorrectly finds impacts to be less than significant, including in the areas of land use, traffic, air quality, greenhouse gases, and public services. The DEIR’s alternatives analysis, therefore, does not identify feasible alternatives that lessen adverse impacts, nor does it sufficiently examine whether the alternatives listed would mitigate or avoid Project impacts. (See DEIR, § 7.) This is improper.

Please revise the DEIR as requested throughout this correspondence. Should a reexamination of the DEIR result in altered findings or information, please concurrently update the alternatives analysis to include options that would lessen or avoid all significant and inadequately mitigated impacts.

X. Conclusion

Southwest Carpenters thanks the City for providing an opportunity to comment on the DEIR. Please update the DEIR to adequately address the issues raised in these comments, then recirculate a revised DEIR for further review and comment.

Pursuant to Section 21092.2 of the Public Resources Code and Section 65092 of the Government Code, please notify Southwest Carpenters of all CEQA actions and notices of any public hearings concerning this Project, including any action taken pursuant to California

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Planning and Zoning Laws. In addition, pursuant to Public Resources Code section 21167(f), please provide a copy of each Notice of Determination issued by the City or any other public entity in connection with this Project and add Southwest Carpenters to the list of interested parties in connection with this Project. All notices should be directed to my attention. Please send all notices by email, or if email is unavailable, by U.S. Mail to:

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