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VIA U.S. MAIL & E-MAIL

February 4, 2021

Alhambra City Council
111 S. First Street
Alhambra, CA 91801

Paul Lam, Principal Planner
Alhambra Community Development Department
111 S. First Street
Alhambra, CA 91801

Em: plam@cityofalhambra.org

RE: Comments on VESTING TENTATIVE TRACT MAP TT 74194, RESIDENTIAL PLANNED DEVELOPMENT PERMIT RP-17-7, CONDITIONAL USE PERMIT CU-17-9, AND DEVELOPMENT AGREEMENT OF THE VILLAGES AT THE ALHAMBRA PROJECT

Dear Mayor Perez, Honorable Council Members, and Mr. Lam,

On behalf of **Southwest Regional Council of Carpenters** (“**Commenter**” or “**Southwest Carpenters**”), my Office is submitting these comments on the City of Alhambra’s (“**City**” or “**Lead Agency**”) Final Environmental Impact Report (“**FEIR**”) (SCH No. 2017101025) for the Villages at the Alhambra Project (“**Project**”).

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Commenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this

Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenters incorporates by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal. App. 4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

The City should seriously consider proposing that the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

Community benefits such as local hire and skilled and trained workforce requirements can be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of

vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Since the Applicant for the Project is applying for a development agreement to protect its entitlements, the City Council has ample discretion to negotiate for additional community benefits, including local hire and use of a skilled and trained workforce. Granting the Project land use entitlements before negotiating the development agreement would significantly harm the City’s ability to negotiate community benefits and should be considered alongside not subsequent to the Project’s entitlements.

In addition, the City should require the Project to be built to standards exceeding the applicable California Green Building Code at the time of building permit application to mitigate the Project’s environmental impacts and to advance progress towards the State of California’s environmental goals. 24 Cal. Code of Regulations § 101.9 (“standards approved by the California Building Standards Commission that are effective at the time an application for a building permit is submitted shall apply”)

Finally, the City Council is considering an extremely modified version of this Project of which the Applicant has only conceptual drawings of and which was never disclosed as part of the Project’s environmental impact report. Approval of the Project as currently presented is premature. Southwest Carpenters urge the uphold the City Planning Commission’s recommendation to deny the Project.

I. EXPERTS

This comment letter includes comments from air quality and greenhouse gas experts Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, Ph.D. concerning the EIR. Their

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

comments, attachments, and Curriculum Vitae (“CV”) are attached hereto and are incorporated herein by reference.

Matt Hagemann, P.G., C.Hg. (“Mr. Hagemann”) has over 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA’s Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Mr. Hagemann also served as Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closer. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring.

For the past 15 years, Mr. Hagemann has worked as a founding partner with SWAPE (Soil/Water/Air Protection Enterprise). At SWAPE, Mr. Hagemann has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality, and greenhouse gas emissions.

Mr. Hagemann has a Bachelor of Arts degree in geology from Humboldt State University in California and a Masters in Science degree from California State University Los Angeles in California.

Paul Rosenfeld, Ph.D. (“Dr. Rosenfeld”) is a principal environmental chemist at SWAPE. Dr. Rosenfeld has over 25 years’ experience conducting environmental investigations and risk assessments for evaluating impacts on human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risks, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particular matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants, Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

Dr. Rosenfeld has a Ph.D. in soil chemistry from the University of Washington, M.S. in environmental science from U.C. Berkeley, and B.A. in environmental studies from U.C. Santa Barbara.

II. **THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“**CCR**” or “**CEQA Guidelines**”) § 15002(a)(1).² “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.

² The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 150000 et seq, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the

project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 ... but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes “changes in the project or environmental setting as well as additional data or other information” that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when “the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” *Id.*

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new information was brought to the attention of an agency prior to certification, an agency

is required to revise and recirculate that information as part of the environmental impact report.

First, the Draft EIR has been significantly amended in response to public comments indicating that the document was fundamentally inadequate, and that significant new information has been raised since its initial circulation. The FEIR includes substantial changes to the Project's air quality analysis and mitigation measures which requires recirculation of the DEIR. (*See, e.g.*, FEIR, p. II-50.) The DEIR was also substantially changed with respect to its hazards and hazardous material analysis, adding multiple pages of additional details and analysis. (FEIR, pp. II-74~77.) The FEIR's amendments, at a minimum, indicate that the Project's hazards analysis was fundamentally inadequate for CEQA informational purposes and should now be recirculated with the proposed changes.

Second, the City Planning Commission's November 2, 2020 Staff Report³ indicates that the Applicant has agreed to a substantially different project than the one contemplated in the FEIR. (Staff Report, 3-4.) The Project in the FEIR was essentially unchanged in its basic parameters from the DEIR—now the Project will include substantial changes to density, affordability, and community benefits/open space. It appears that either Alternatives 2 or 3 are being considered, together with the other proposed changes that were not discussed in the EIR, for adoption in lieu of the proposed Project—reducing the number of units by at least 222, along with at least a 10% affordability component, and a redesigned open space area with a new community park that was not previously included in the Project.

Commenters and other third-party comments have also raised significant new information requiring recirculation relating to transportation, air quality, and greenhouse gas emissions impacts which would independently require revision and recirculation of the DEIR for additional public comment.⁴

By any interpretation of CEQA's recirculation requirements—the EIR needs to be amended to analyze the impacts of the new Project proposal and recirculated for additional public comments before City approval.

³ Staff Report available at <https://www.cityofalhambra.org/city-meetings>.

⁴ *See* SWAPE October 31, 2019 Comments on the Villages at the Alhambra Project (previously submitted as Exhibit C to Commenters' November 1, 2019 Supplemental Comment Letter) (attached as Exhibit C); SWAPE July 17, 2020 Comments on the Villages at the Alhambra Project (attached as Exhibit D).

C. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.⁵

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon SWRCC's experience with safe construction site work practices, SWRCC recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.

⁵ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, *available at* <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.

- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.⁶

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

D. The City Council Should Follow the Recommendation of the City Planning Commission to Deny Approvals for the Project

On November 16, 2020, the City Planning Commission adopted a resolution recommending that the City Council deny Vesting Tentative Tract Map TT 74194, Residential Planned Development Permit RP-17-7, Conditional Use Permit CU-17-9,

⁶ See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, *available at* https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, *available at* https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

and Development Agreement for the Project.⁷ The Planning Commission's denial resolution found:

- The Project site is not physically suitable for an 839-unit development due to an inability to include the number of parking spaces required by Zoning Ordinance;
- The Project's transportation impacts have not been adequately mitigated, and can only be mitigated by a Project with further reduction in density and additional mitigation measures that were not considered in the EIR;
- The contamination of soils beneath the Project site still contains a significant and unmitigated health risk to future residents and an additional vapor barrier is required to reduce hazards impacts to acceptable levels;
- The Project does not comply with the purpose and intent of the Zoning Ordinance and the City's General Plan because it fails to include sufficient off-street parking per AMC Section 23.52.040;
- The Project will not be compatible with existing and future land uses within the zone and general area because traffic impacts to at least five intersections remain significant and unavoidable despite a reduction in the number of proposed residential units, and the Project does not include adequate parking, both impacts which can only be adequately addressed by a further reduction in density;
- The Project's proposed use would not be consistent with the objectives, policies, general land uses and programs of the Alhambra General Plan because the density of the Project is too great and will lead to significant impacts and unavoidable impacts to traffic, open space/parks, public schools, public utilities, and services; and
- The Project's proposed use would be detrimental to the public interest, health, safety, convenience or welfare because the site's soil contamination will not be adequately remediated without an additional vapor barrier.

Commenters agree with the Planning Commission's findings and resolution for the same and similar reasons outlined below. The City should consider other Project alternatives and additional mitigation measures to reduce significant environmental impacts which the EIR fails to consider.

⁷ Staff Report available at <https://www.cityofalhambra.org/city-meetings>.

E. The FEIR Fails to Adequately Respond to Comments on its Deficient Project Description

It is well-established that “[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193. “A curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” *Id.* at p. 198.

1. *The DEIR Failed to Adequately Provide a Stable and Finite Project Description Regarding the Project’s Construction Buildout.*

Two different buildout scenarios are evaluated in the Draft EIR: under Buildout Scenario 1, the Project would be developed as a single entity with completion projected for 2028. DEIR, p. I-10. Under Buildout Scenario 2, the Project would be phased with partial buildout of 516 condominium and townhouse units in the North Plan Area completed in 2024 and the remaining 545 apartment units in the South and Corner Plan Areas completed by 2028. *Id.*

As disclosed in the DEIR, Buildout Scenario 2 would result in significant, unavoidable air quality impacts while Buildout Scenario 1 would not. By leaving it open for the Project Applicant to choose from two scenarios of construction phasing, the DEIR fails to provide a stable and finite project description regarding Project construction. Moreover, as discussed below, allowing the Project Applicant to choose a more environmentally damaging Building Scenario 2, the DEIR fails to mitigate the Project’s air quality impacts to the extent feasible.

i. *FEIR’s Response*

The FEIR does not amend the described deficiencies nor does it adequately respond to Commenters’ concerns. In the City’s response to comments, it merely proclaims that the impacts for either buildout scenario are “nearly the same” and goes on to briefly summarize the differences between the two buildout scenarios. This does not address the concern that the description, as a result of leaving multiple options on the table, fails to include a stable and finite project description as required under CEQA.

2. *The DEIR Failed to Provide a Stable and Finite Description Regarding the Project’s Plans to Alter or Relocate Historical Building A0.*

The DEIR concludes that existing Building A0 on the Project Site is a historical resource which is eligible for listing under both the National Register and the

California Register. DEIR, Figure IV, D-4. However, the DEIR fails to provide a stable and finite description regarding the Project’s plans to either alter or relocate Building A0.

The DEIR curiously admits that it’s “unknown” whether relocation of Building A0 is possible or even “necessary.” DEIR, p. IV.D-45. As a result, and as discussed in full below, the DEIR defers the determination of necessity and/or feasibility of how to mitigate the Project’s impacts to a historical resource, Building A0, which also results in an unstable project description.

The DEIR failed as an informational document as it failed to adequately inform the public with a stable and finite description of what the Project will entail. See *Sierra Club v. Fresno* (2018) 6 Cal.5th 502, 509.

i. FEIR’s Response

The FEIR still does not adequately describe the Project’s plans to alter or relocate historical building A0 and makes no effort to correct this deficiency, instead it merely states that “CEQA does not require this information to be disclosed...” and if necessary the impact will be mitigated. (FEIR, p. II-69.) Thus, there is still inadequate disclosure of what will happen to Historical Building A0, along with any subsequent required analysis or mitigation measures.

F. The EIR Fails to Provide a Stable and Finite Description Regarding Changes Not Contemplated as Project Alternatives

The Project was first heard before the City Planning Commission on July 20, 2020 and has been substantially changed since that time. The Commissioners voiced their comments and opinions on the Project on October 19, 2020, and the Applicant subsequently agreed to modify the Project as discussed in the November 2, 2020 Staff Report. (Staff Report, p. 3-4.) The new Project not only includes a reduced density proposed in Alternative 2 in the DEIR, but also includes an affordability component to attempt to comply with the City’s new IHO requirements, modified Community Benefits/Open Space which redesigns the North Plan Area to create a community park, inclusion of a vapor barrier to address hazards issues, and additional traffic and transportation mitigation measures to further reduce or address traffic impacts. (Staff Report, p. 4-5.)

Aside from the reduced density component, none of these significant changes were discussed in the EIR leaving the Project Description fundamentally inadequate.

CEQA requires that an EIR maintain a stable and consistent project description and that the project that is ultimately approved is adequately described in the underlying environmental documents. *Wasioe Meadows Community v. Department of Parks and Recreation* (017) 17 Cal. App. 5th 277, 287. An EIR that includes a project description that fails to identify a specific proposed project, fails to discuss possible variations, or disclose and/or evaluate modifications is not accurate and does not include the requisite detail required under CEQA. *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 199; *South of Market Community Action Network v. City & County of San Francisco* (2019) 33 Cal. App. 5th 321, 332.

Even the City’s own staff report notes that the new alternative now being proposed to the City Council (and which was never reviewed in the Draft or even Final EIR) is so recent that “the Applicant has not had adequate [sic] time to finalize the site plan nor develop **any details**” Jan 27, 2021 Staff Report, p. 7. Surely, the public and the City Council should have an opportunity to review and comment upon the newly revised project that is now before the Council.

Moreover, City Staff is now asking the City to give guidance for negotiations for a development agreement “which would allow for the phased development of the Project over 20 years.” However, the Project’s EIR never analyzed a phased 20 year development plan, only focusing on two potential buildout scenarios that assumed completion by 2028.

G. The FEIR Fails to Adequately Analyze, Disclose and Mitigate the Project’s Air Quality Impacts and Adequately Respond to Commenters’ Concerns

1. *The DEIR Failed to Adequately Analyze and Mitigate the Project’s Air Quality Impacts During Construction.*

The DEIR provided different air quality analysis under Buildout Scenarios 1 and 2 and concluded that under Buildout Scenario 2, as a result of the construction and operation overlap, there would be significant ROG and NOx emissions impacts. DEIR, Table IV.C-12. The DEIR then proposed AQ-MM-1 to mitigate the Project’s air quality impacts if the Project Applicant chooses to proceed with Buildout Scenario 2.

If Buildout Scenario 2 is chosen, AQ-MM-1 requires the use of off-road equipment meeting the EPA’s Tier 3 construction equipment emissions standards and the use of

only haul trucks with a model year of 2007 or newer for the on-road transport of materials to and from the Project Site. DEIR, IV.C-39. The DEIR then concluded that “[n]onetheless, the Project’s contribution to cumulative regional construction air quality impacts during the overlapping Project construction and operation period under Buildout Scenario 2 would be significant and unavoidable.” DEIR, p. IV.C-46.

The first problem with AQ-MM-1 is that it fails to mitigate the Project’s air quality impacts to the extent feasible. For example, it merely requires the use of haul trucks with a model year of 2007 or newer when much newer trucks of model year 2010 (or even later) and newer could be required to mitigate the Project’s air quality impacts further.

Next, as discussed above, the DEIR’s failure to provide a stable and finite description regarding the Project’s construction phasing (Buildout Scenario 1 or 2) results in the Project’s failure to mitigate its air quality impacts to the extent feasible. By allowing the Project Applicant to choose and proceed with the more environmental damaging Buildout Scenario 2, with significant air quality impacts as a result of the overlapping of both construction and operational emissions, the DEIR fails to mitigate the Project’s air quality impacts to the extent feasible.

Finally, the emissions for ROG and NO_x are close to the applicable thresholds under Buildout Scenario 1 and to ensure that the Project’s air quality impacts would not be significant, the DEIR should have imposed AQ-MM-1 under *either* Buildout Scenario 1 or 2. DEIR, Table IV.C-8.

i. FEIR’s Response

The FEIR responds to Commenters’ concerns about air quality impacts by first noting that it has amended Mitigation Measure AQ-MM-1 to require USEPA Tier 4 Final or Interim construction equipment, however it only does so on a conditional basis if the trucks are available within a 50 mile radius, otherwise the FEIR defers back to lower standards. (FEIR, p. II-70.) The FEIR fails to explain how such a standard mitigation measure in the construction industry would be unachievable or what efforts would be undertaken to secure their use for the Project. The FEIR also fails to explain why an arbitrary radius of 50 miles is set to locate the equipment.

Second, the FEIR does not adequately respond to Commenters’ concerns about multiple buildout scenarios and their impacts because the FEIR still does not address the heavier environmental impacts from Buildout Scenario 2 by including any

additional mitigation measures for those impacts or correcting the deficient project description. The FEIR merely responds that CEQA permits project phasing with differing scenarios depending on project needs—this is not an adequate response because it does not specifically address Buildout Scenario 2. (FEIR, p. II-71.)

Lastly, the City should still seriously consider implementing and imposing AQ-MM-1 regardless of the chosen Buildout Scenario to ensure adequate mitigation of any potentially significant air quality impacts given that the ROG NO_x emissions are so close to the thresholds under Scenario 1.

2. *The FEIR Does Not Adequately Address Expert Comments on Air Quality.*

SWAPE reviewed the FEIR's responses to its October 31, 2019 comments and finds that the responses do not adequately address their concerns.⁸

First, the EIR still does not implement all feasible mitigation to reduce construction emissions and operational emissions of VOC and NO_x.⁹ While MM-AQ-1 has been updated to require Tier 4 Final or Interim construction equipment, as well as the use of haul trucks meeting model year 2010 engine emission standards, the EIR still fails to consider or implement *all feasible* mitigation.¹⁰

Second, SWAPE identified several issues with the DEIR's air modeling in its October 31 letter that artificially reduced the Project's construction and operational emissions, yet the EIR's modeling is still flawed and does not address their concerns. The EIR still utilizes incorrect daily trip rates, incorrectly applies construction mitigation measures, and incorrectly applies operational mitigation measures.¹¹

Third, the EIR still fails to adequately address health risks from diesel particulate matter emissions:

- The EIR still utilizes the LST method to determine risk which is only applicable to NO_x, CO, PM₁₀, and PM_{2.5} emissions—it cannot be used to determine whether emissions from toxic air contaminants (“TACs”), specifically diesel particulate matter (“DPM”), a known human carcinogen, will result in a significant health risk impact to nearby sensitive receptors;¹²

⁸ See Exhibit B, p. 1.

⁹ *Id.* at 1-2.

¹⁰ *See id.* at 32-43.

¹¹ *Id.* at 2-8.

¹² *Id.* at 9.

- The revised AQ-MM-1 mitigation measure has not been adequately determined to reduce DPM emissions to less than significant levels;¹³ and
- The EIR still fails to include or prepare operational health risk assessment (“HRA”).¹⁴

SWAPE prepared a screening-level assessment and updated its analysis which still demonstrates unmitigated air quality impacts that are not addressed in the EIR.¹⁵

H. The FEIR Fails to Adequately Analyze, Disclose and Mitigate the Project’s Greenhouse Gas Impacts and Adequately Respond to Commenters’ Concerns

The DEIR concluded that the proposed Project would result in a less than significant greenhouse gas (“GHG”) impact as a result of consistency with Executive Order S-3-05 and B-30-15, Climate Change Scoping Plan, SB 375, and SCAG’s 2016 RTP/SCS (p. IV.G-37). The DEIR also quantified the proposed Project’s emissions but failed to compare them to the relevant thresholds.

Experts found that the DEIR’s analysis was incorrect and unsubstantiated, and their review of the FEIR’s responses demonstrates that the EIR still does not adequately address their comments because:

- Executive Order S-3-05 and B-30-15, as well as SB 375 cannot be relied upon to determine Project significance;
- Notwithstanding the flawed air model discussed above, the Project’s estimated GHG emissions exceed applicable bright-line and efficiency thresholds, resulting in a significant impact not previously identified or addressed by the DEIR or RTC. Also, the DEIR’s failure to apply the SCAQMD’s bright-line and efficiency thresholds to Project emissions is inconsistent with evolving scientific knowledge and regulatory schemes;
- Incorrect reliance on SCAG’s 2016-2040 RTP/SCS;
- Incorrect reliance on CARB’s Scoping Plan;

¹³ *Id.* at 10.

¹⁴ *Id.*

¹⁵ *Id.* at 11-20.

- Failure to demonstrate consistency with CARB’s Climate Change Scoping Plan or SCAG’s 2016-2040 RTP/SCS; and
- Updated analysis indicates a potentially significant impact that was not previously identified or addressed by the DEIR and RTC.¹⁶

Experts review of the FEIR’s responses also reveals that the Project’s air quality and GHG impacts may still result in potentially significant impacts and have not been mitigated using all feasible measures found in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*, NEDC’s *Diesel Emission Controls in Construction Projects*, SMAQMD’s *Basic Construction Emission Control Practices*, and SMAQMD’s *Enhanced Exhaust Control Practices*.¹⁷ The EIR needs to be amended to include all feasible mitigation measures to reduce air quality and greenhouse gas emissions for the Project.

I. The FEIR Fails to Adequately Disclose and Mitigate the Project’s Significant Impacts to Historical Resources and Adequately Respond to Commenters’ Concerns

The DEIR acknowledged that the Project Site encompasses the CF Braun & Company Historic District (the Historic District), identified in a 1999 Historic Property Survey Report (HPSR) prepared in accordance with the requirements of Section 106 of the National Historic Preservation Act of 1966 for the Fremont Avenue Widening Project. The evaluation resulted in a formal determination of eligibility for listing in the National Register under Criterion C, “as a distinctive example of design within an industrial context and as a unique example of the work of the prominent Pasadena architectural firm of Marston and Maybury.” The period of significance identified for the Historic District was 1921 to 1949. The California Historical Resources Inventory (HRI) lists the Status Code for the address 1000 S. Fremont Avenue as 2S2 (individual property determined eligible for the National Register by a consensus through Section 106 process and listed in the California Register). DEIR, pg. IV.D-18.

The DEIR reanalyzed the CF Braun & Company Historic District’s eligibility for listing under the National Register and concluded that it is eligible for the National Register under Criteria A, B, and C. DEIR, p. IV.D-30. Moreover, the DEIR concluded that because the California Register criteria mirror those of the National

¹⁶ *Id.* at 20-43.

¹⁷ *Id.* at 32-43.

Register, the Historic District is additionally eligible for listing in the California Register under Criterion 1 and Criterion 2. *Id.*

The DEIR's revised boundaries of the Historic District include the following "contributing" buildings: Buildings A0 through A8, B1, B6 and A10S. DEIR, Figure IV, D-4.

The DEIR focused on the Project's impacts to Building A0, which could either be altered or relocated. However, the DEIR admits that it's "unknown" whether relocation of Building A0 is possible or even "necessary." DEIR, p. IV.D-45. By leaving open the possibility of altering or relocating Building A0, DEIR fails to adequately determine the necessity and/or feasibility of how to mitigate the Project's impacts to a historical resource, Building A0, *prior* to Project approval.

Without the critical information of whether Building A0 could or should be relocated or altered, the DEIR failed to adequately analyze and mitigate the Project's impacts to historical/cultural resources. Moreover, the DEIR failed as an informational document and left the public with a question mark regarding the true extent of the Project's impacts to historical resources.

i. FEIR's Response

The FEIR, again, simply states that not all details of a project need to be settled prior to publication or certification of the EIR, and that if need be, the EIR can account for any changes in the project later. This is not an adequate response. The FEIR simply does not address any of Commenters' above concerns regarding Building A0 other than merely to state the Project may change based on new information. However, any mitigation and subsequent analysis needs to be disclosed prior to Project approval. Indeed, the FEIR's response here only bolsters Commenters' previous arguments on the resulting deficient project description as well.

J. The FEIR Fails to Adequately Analyze and Mitigate the Project's Hazardous Impacts from Building the Project on a Superfund Site

The DEIR admitted that the Project Site sits on a Superfund Site called the South Gabriel Valley Superfund Site – Area 3 Operable Unit ("San Gabriel Valley Area 3 Superfund Site" or "Area 3"). DEIR, p. IV.H-11. The U.S. EPA designated Area 3 as a National Priorities List (NPL) site in 1984 upon the discovery of contamination in water purveyor production wells. *Id.* Area 3 groundwater is contaminated with VOCs (most commonly tetrachloroethene [PCE] and trichloroethene [TCE]), perchlorate,

and nitrate at concentrations exceeding state and federal water quality standards. *Id.* Multiple addresses at the Project Site, based on historic operations, have been identified as possible sources contributing to the Area 3 groundwater contamination. *Id.*

Area 3 has been divided into Site A and B. DEIR, p. IV.H-12. Site A covers where the apartments and condominiums themselves would be built. Site B is located near the southeast corner of the property adjacent to the north of the 2215 West Mission property and is where a parking structure will be built. According to the Phase I ESA, a Soil Closure Risk Evaluation was performed in 2016 where soil vapors were sampled. *Id.* at H-17. The Evaluation found that a status of “No Further Action” could be granted to Site A while potential risks associated with soil vapors were present in Site B. Site B was then closed with restricted future land use. DEIR, p. IV.H-12. Restrictions include the type of land use that can be built on the site, such as no residential uses. *Id.* Specifically, as a result of the soil and soil vapor constituents existing on the site, Site B is restricted to use as commercial or industrial uses only. *Id.*, p. IV.H-18.

However, the DEIR and the proposed Project completely ignored the Project Site’s status as a Superfund Site and the existence of institutional restrictions on the Site B portion of the Project Site. The DEIR states that the portion of Site B proposed for redevelopment under the Project would be developed with a parking structure. DEIR, p. IV.H-18. However, the Project is a residential development and the parking structure is part of the residential development, designed to serve the residents of the Project. Moreover, the parking structure in the East Plan would be a 5 story structure with 490 parking spaces which would require extensive excavation. *Id.*, Figure II-4. In addition, adults and children would regularly spend their time in the parking structure whereas they would not in a commercial or industrial facility that the Site B is restricted for. As such, the DEIR improperly and erroneously concludes that the Project could be built on Site B when only commercial or industrial uses could be developed on that portion of the Project Site. As a result of the institutional controls, Site B of the Project Site cannot be developed as part of the Project.

Moreover, the DEIR erroneously concludes that the Project’s hazards impacts would be less than significant and does not propose any mitigation measures. DEIR, p. IV.H-22.

Finally, the DEIR did not adequately disclose the specific institutional controls present on the Project Site. Such information is critical for public input and must be disclosed and recirculated with a revised DEIR.

i. FEIR's Response

The FEIR has not adequately responded to Commenters' concerns on these issues. First, the FEIR responds that Site B is slated for parking and is therefore non-residential. Based upon what definition and standard? As Commenters previously stated, the parking structure is an integral part of the residential development—and is therefore residential. Second, the FEIR fails to state with any degree of specificity the vapor mitigation system that will be used on the remaining portions of the site to protect future residents, how soils or groundwater will be characterized under the relevant guidelines, and, generally, fails to offer sufficient detail on the safe excavation (or removal or remediation) of contaminated materials from the site such that it is performed in accordance with relevant standards or guidance. Lastly, the FEIR does not adequately explore the possibility that contamination from known areas on the Project site has migrated to unrestricted areas identified in the closure letters. This is because the FEIR fails to mitigate potentially significant impacts by fully characterizing the Project site for known or potential contaminants.

The EIR needs to be amended to include a much more comprehensive plan, and mitigation measures, to address hazards and hazardous materials on the Project site that will pose a serious health risk to future residents—including the elimination of the parking structure from Site B.

K. The FEIR Improperly Defers the Formulation of Mitigation Measures and Fails to Adequately Respond to Commenters' Concerns

1. The DEIR's Noise Mitigation Measures are Vague and Fail to Provide Specific Performance Standards.

Section 15126.4(a)(1)(B) of the CEQA Guidelines states “[f]ormulation of mitigation measures shall not be deferred until some future time.” While specific details of mitigation measure may be deferred, an agency is required to (1) commit itself to mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the

mitigation measure. See *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671.

The DEIR’s noise mitigation measures are vague and fail to adopt specific performance standards. NOI-MM-1 provides “[n]oise and groundborne vibration-generating construction activities whose specific location on the Project Site may be flexible shall be conducted *as far as possible* from the nearest off-site land uses.” DEIR, pg. IV.K-25. The phrase “as far as possible” is vague and ambiguous and fail to provide a specific performance standard. NOI-MM-2 provides a similarly vague standard by using the words “several” and “as feasible.” *Id.* (“Construction and demolition activities shall be scheduled so as to avoid operating *several pieces of equipment* simultaneously, *as feasible.*”)

Similarly, NOI-MM-4 uses a vague and ambiguous phrase of “appropriate manufacturer-recommended” in describing muffling and shielding devices without providing the which manufacturers’ recommendations would prevail over others. DEIR, pg. IV.K-25 (“The Project contractor shall use power construction equipment with the *appropriate manufacturer-recommended* shielding and muffling devices.”) Finally, NOI-MM-8 and NOI-MM-9 both use vague and ambiguous phrases such as “as far as possible” and “line of sight to” in describing how the mitigation measure would be carried out. *Id.* (NOI-MM-8 – “Construction staging areas for each phase shall be located *as far from sensitive receptors as possible*; NOI-MM-9 – “Generators, compressors, and other noisy equipment shall be placed within acoustic enclosures or behind baffles or screens, especially when such equipment has *line of sight to nearby noise-sensitive receptors.*”)

i. FEIR’s Response

The FEIR does not adequately respond to Commenters’ concerns and does not even attempt to refute Commenters’ findings. (FEIR, pp. II-79~80.) Rather, the FEIR merely states that it includes mitigation measures in good-faith to moderate noise impacts. The DEIR failed to indicate with substantial evidence that noise mitigation measures are not required, and thus the EIR needs to be amended to include noise mitigation that does not suffer from vagueness and ambiguity, or defers formulation of a plan to some future time.

The FEIR also notes that the “dynamic” nature of the Project may preclude more specific measures and defers to industry best-practices, but again, fails to define what

those practices would be with the required specificity, or why the Project conditions are expected to change so drastically over the course of construction activities that the Applicant will be unable to devise a concrete noise management plan.

2. *The DEIR Improperly Deferred the Formulation of Mitigation Measures for the Project's Cultural/ Historical Impacts.*

The DEIR deferred the mitigation of the Project's impacts to cultural and historical resources, mainly Building A0. The DEIR's CUL-MM-1 is unenforceable and improperly defers the determination of the feasibility and necessity of the relocation of Building A0 and the preparation of a "relocation plan" for Building A0. DEIR, pg. IV.D-48. Since the EIR makes it clear that the Project may or may not relocate the Building A0, even though CUL-MM-1 requires the Project to relocate Building A0, CUL-MM-1 is unenforceable. CEQA mitigation measures must be enforceable through conditions of approval, contracts or other means. Cal. Public Resource Code 21081.6(b); CEQA Guidelines § 15126.4(a)(2). Once a mitigation measure has been adopted for a project, it cannot be canceled or otherwise ignored without a reasoned and public determination. *Katzeff v. Department of Forestry & Fire Protection* (2010) 181 Cal. App. 4th 601, 614. Moreover, mitigation measures must also be effective in reducing the identified impact. *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1115.

Here, since CUL-MM-1 leaves it open as to whether the A0 will actually be relocated, the mitigation measure is neither enforceable nor effective in mitigating the identified impact. Moreover, the DEIR improper defers the development of mitigation measures to the Project's cultural since the DEIR fails to provide specific performance standards Finally, the aforementioned errors renders the DEIR's conclusion that the Project's impacts to cultural / historical resources as less than significant unsupported by substantial evidence.

i. *FEIR's Response*

The FEIR responds to Commenters' concerns by noting that CEQA does not require all details of a Project to be evaluated in the EIR, and that here, the relocation of Building A0 would depend on as yet unknown Project conditions. (FEIR, p. II-81.) However, whether or not Building A0 can be relocated is a crucial detail that cannot be overlooked or omitted from analysis. If relocation is required to mitigate impacts

to this cultural/historic resource, the feasibility of relocation needs to be adequately evaluated and not deferred to some future time

L. The EIR Omits Information Concerning the Project’s Impact on Historical Resources

CEQA requires that an environmental document identify and discuss the significant effects of a Project, alternatives and how those significant effects can be mitigated or avoided. (CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a).) A Court “[w]hen reviewing whether a discussion is sufficient to satisfy CEQA, . . . the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted], and (2) makes a reasonable effort to substantively connect a project's air quality impacts to likely health consequences.” (*Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 510 [citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405.]; see also PRC §§ 21002.1(e), 21003(b).) The Court may determine whether a CEQA environmental document sufficiently discloses information required by CEQA *de novo* as “noncompliance with the information disclosure provisions” of CEQA is a failure to proceed in a manner required by law. (PRC § 21005(a); see also *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 515.)

The EIR improperly omits information concerning whether relocation Building A0 “would have a less-than-significant impact on the Historic District in of itself.” DEIR at IV.D.-45.) However, CEQA clearly requires analysis concerning whether the City believes that the demolition or relocation of Building A0 would have a significant impact on the existing historical district.

i. FEIR’s Response

Here, the FEIR utterly fails to respond to Commenters’ concerns and punts the issue to the City Planning Commission. (FEIR, p. II-83.) The City merely states that this is not an impact that need be analyzed and information was included in the DEIR as relevant background. However, the City has an obligation under state housing law to meet its RHNA allocation and provide periodic progress reports to inform the state, relevant agencies, and the public, on the City’s progress toward those obligations, namely, to provide adequate stock of housing for all income groups. The City needs

to amend its analysis and the EIR to explain how its affordable housing allocations for this Project meets its RHNA obligations.

III. THIRD-PARTY COMMENTS IDENTIFY A NUMBER OF ADDITIONAL DEFICIENCIES IN THE PROJECT'S DRAFT EIR WHICH THE FEIR FAILS TO ADEQUATELY ADDRESS

First, Pasadena Heritage raises a number of concerns relating to the Draft EIR'S transportation analysis which should be addressed in an amended and recirculated DEIR, including:

- Mitigation measures for traffic which induce more traffic; and
- Failure to include all feasible transportation mitigation measures for traffic including, reduction in the number of parking spots, car sharing, car service dedicated loading, and bolstering public transportation.

(FEIR, pp. II-17~19.)

Second, the Grassroots Community Group of Alhambra correctly points out that CEQA now requires the use of a VMT traffic analysis for transportation impacts—not LOS. (FEIR, p. II-26.) This requirement went into effect on July 1, 2020 and the DEIR should be amended and recirculated with a VMT analysis. If a LOS analysis is used, the Grassroots comment letter also points out that the DEIR only proposed three mitigation measures to address traffic impacts—yet the Project's own traffic expert points out much more could be done than is proposed in TR-MM-1~3. (FEIR, p. II-54.) The FEIR does not adequately explain why additional measures are not feasible.

Lastly, the City of South Pasadena points out that the City's traffic analysis is fatally flawed because it failed to include all relevant projects in the cumulative traffic impacts analysis. (FEIR, p. II-61.) As their comment letter pointed out, the DEIR failed to consider a significant number of regional transportation projects that will be built in the next few years resulting from State Route 710 Mobility Improvement projects. The DEIR should be revised and recirculated with an updated cumulative impacts analysis.

IV. THE PROJECT IS INCONSISTENT WITH REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) ALLOCATION REQUIREMENTS

The DEIR provided that one of the Project Objectives is to contribute housing stock toward the City’s Regional Housing Needs Assessment (RHNA) allocation. DEIR, pg. II-56.

The City’s 2013 Housing Element Update states that the City is allocated a RHNA of 1,492 units to the following income levels:

- Extremely Low Income (up to 30 percent of AMI): 190 units² (13 percent)
- Very Low Income (31 to 50 percent of AMI): 190 units (13 percent)
- Low Income (51 to 80 percent of AMI): 224 units (15 percent)
- Moderate Income (81 to 120 percent of AMI): 246 units (16 percent)
- Above Moderate Income (more than 120 percent of AMI): 642 units (43 percent)

(Housing Element, p. 64.)

The DEIR also acknowledged that the Project represents roughly 71 percent of the City’s total allocated units from the 2013 Housing Element update. DEIR, p. IV.L-13. While overproducing housing stock for the above moderate income population, the Project fails to provide any units to help meet the City’s RHNA allocation for extremely low income to low income population. Housing Element, p. 64.

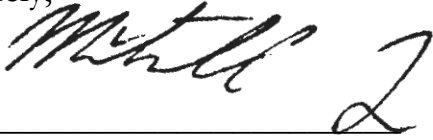
The DEIR’s consistency analysis with the RHNA is predicated on the fact that the Project would not be built out until 2024-2028 and the current RHNA period is 2013-2021. DEIR, p. IV.L-12. However, a delayed construction schedule does not justify the City’s evasion of its duties to carry out the RHNA.

Finally, while the Applicant has modified the Project to include 10% affordable housing across all rental units—it still fails to include any affordability component to address RHNA allocations for extremely low income to low income households. The City has an obligation under state housing law to meet its RHNA allocation and provide periodic progress reports to inform the state, relevant agencies, and the public, on the City’s progress toward those obligations, namely, to provide adequate stock of housing *for all income groups*. The City needs to amend its analysis and the EIR to explain how its affordable housing allocations for this Project meets its RHNA obligations.

V. CONCLUSION

Commenter request that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional
Council of Carpenters

Attached:

Air Quality and GHG Expert, Matt Hagemann, P.G., C.Hg. – C.V. (**Exhibit A**);

Air Quality and GHG Expert, Paul Rosenfeld, Ph.D. – C.V. (**Exhibit B**);

Letter from Hagemann and Rosenfeld to Cathy Lee and Mitchel M. Tsai re Comments on the Draft Environmental Impact Report for the Villages at the Alhambra Project with Exhibits (November 1, 2019) (**Exhibit C**);

October 17, 2019 Comments to the Villages at the Alhambra Draft Environmental Impact Report (**Exhibit D**);

November 1, 2019 Supplemental Comments to the Villages at the Alhambra Draft Environmental Impact Report (**Exhibit E**); and

July 20, 2020 Comments on Agenda Item No.1, the Villages at the Alhambra Final Environmental Impact Report (**Exhibit F**).