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**VIA ELECTRONIC & U.S. MAIL**

March 19, 2021

Zizette Mullins,  
City Clerk  
City of Burbank  
275 East Olive Avenue, P.O. Box 6459  
Burbank, CA 91510  
Em: [zmullins@burbankca.gov](mailto:zmullins@burbankca.gov)

Lisa Frank  
Senior Planner  
City of Burbank  
150 North Third Street  
Burbank, CA 91502  
Em: [lfrank@burbankca.gov](mailto:lfrank@burbankca.gov)

**RE: Public Records Act and Mailing List Request Regarding Burbank Housing Element Update and Associated General Plan Updates (SCH #: 2021020393).**

Dear Ms. Mullins and Ms. Frank,

On behalf of **Southwest Regional Council of Carpenters** (“**SWRCC**”) and its members, this Office requests that the City of Burbank (“**City**”) provide any and all information referring or related to the Burbank Housing Element Update and Associated General Plan Updates (“**Project**”) pursuant to the California Public Records Act (“**PRA**”), Cal. Government (“**Gov’t**”) Code §§ 6250–6270 from on or after <Date Range> (collectively “**PRA Request**”).

Moreover, the SWRCC requests that City 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 Southwest Regional Council of Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects, such as the Project.

### **I. PUBLIC RECORDS ACT REQUEST.**

SWRCC is requesting any and all information referring or related to the Project.

The Public Records Act defines the term “public record” broadly as “any writing containing information relating to the conduct of the public’s business . . . regardless of physical form and characteristics.” Gov’t Code § 6252(d). “Records” includes all communications relating to public business regardless of physical form or characteristics, including but not limited to any writing, picture, sound, or symbol, whether paper, magnetic, electronic, text, other media, or written verification of any oral communication. Included in this request are any references in any appointment calendars and applications, phone records, or text records. These “records” are to include, but are not limited to correspondences, e-mails, reports, letters, memorandums, and communications by any employee or elected official of City concerning the Project.

Please include in your response to this request the following examples of “records,” as well as any similar physical or electronic forms of communication: any form of writing such as correspondence, electronic mail records (“email”), legal and factual memoranda, facsimiles, photographs, maps, videotapes, film, data, reports, notes, audiotapes, or drawings. Cal. Government Code § 6252(g) (defining a writing to including “any record thereby created, regardless of the manner in which the record has been stored”). Responsive correspondence should include, inter alia, emails, text messages, or any other form of communication regardless of whether they were sent or received on public or privately-owned electronic devices “relating to the conduct of the public’s business.” Cal. Government Code § 6252(e); *Citizens for Ceres v. Super. Ct.* (“Ceres”) (2013) 217 Cal. App. 4th 889, 909; *Citizens for Open Gov’t v. City of Lodi* (“Lodi”) (2012) 205 Cal.App.4th 296, 307, 311; *City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 625 (finding that a public employee or officer’s “writings about public

business are not excluded” from the California Public Records Act “simply because they have been sent, received, or stored in a personal account.”) .

This Office requests any and all information referring or related to the Project, including but not limited to:

- (1) All Project application materials;
- (2) All staff reports and related documents prepared by the City with respect to its compliance with the substantive and procedural requirements of the California Environmental Quality Act, Public Resources Code § 21000 et seq., and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 et seq. (collectively “**CEQA**”) and with respect to the action on the Project;
- (3) All staff reports and related documents prepared by the City and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the agency pursuant to CEQA;
- (4) Any transcript or minutes of the proceedings at which the decisionmaking body of the City heard testimony on, or considered any environmental document on, the Project, and any transcript or minutes of proceedings before any advisory body to the public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the Project;
- (5) All notices issued by the City to comply with CEQA or with any other law governing the processing and approval of the Project;
- (6) All written comments received in response to, or in connection with, environmental documents prepared for the Project, including responses to the notice of preparation;
- (7) All written evidence or correspondence submitted to, or transferred from, the City with respect to compliance with CEQA or with respect to the Project;
- (8) Any proposed decisions or findings submitted to the decisionmaking

body of the City by its staff, or the Project proponent, Project opponents, or other persons;

- (9) The documentation of the final City decision and approvals, including the final environmental impact report, mitigated negative declaration, negative declaration, or notice of exemption, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;
- (10) Any other written materials relevant to the public agency's compliance with CEQA or to its decision on the merits of the Project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the Project and either made available to the public during the public review period or included in the City 's files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA; and
- (11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of any litigation.

Please respond within 10 days from the date you receive this request as to whether this request specifies identifiable records not exempt from disclosure under the PRA or otherwise privileged or confidential, and are therefore subject to disclosure. This Office understands that this time may be extended up to 14 days for unusual circumstances as provided by Cal. Government Code § 6253(c), and that we will be notified of any extension and the reasons justifying it.

We request that you provide all documents in electronic format and waive any and all fees associated with this Request. SWRCC is a community-based organization. Please notify and obtain express approval from this Office before incurring any duplication costs.

If any of the above requested documents are available online, please provide us with the URL web address at which the documents may be downloaded. If any of the

requested documents are retained by the City in electronic computer-readable format such as PDF (portable document format), please provide us with pdf copies of the documents via email, or inform us of the location at which we can copy these documents electronically.

In preparing your response, please bear in mind that you have an obligation under Government Code section 6253.1 to (1) identify all records and information responsive to our request or the purpose of our request; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

In responding to this request, please bear in mind that any exemptions from disclosure you may believe to be applicable are to be narrowly construed. *Marken v. Santa Monica-Malibu Unif. Sch. Dist.* (2012) 202 Cal. App. 4th 1250,1262; and may be further narrowed or eliminated by the adoption of Proposition 59, which amended article I, section 3(b)(2) of the California Constitution to direct that any “statute ... or other authority ... [that] limits the right of access” to “information concerning the conduct of the people’s business” must be “narrowly construed.”

As for any records that you nonetheless decline to produce on the grounds of an exemption, please bear in mind that the case law under the Public Records Act imposes a duty on you to distinguish between the exempt and the non-exempt portion of any such records, and to attempt in good faith to redact the exempt portion and to disclose the balance of such documents.

Please bear in mind further that should you choose to withhold any document from disclosure, you have a duty under Government Code section 6255, subd. (a) to “justify withholding any record by demonstrating that the record in question is exempt under express provisions” of the Public Records Act or that “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

Finally, please note that you must retain and not destroy any and all records, notwithstanding any local record retention or document destruction policies. As the Court noted in *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733 that a public agency “must retain ‘[a]ll written evidence or

correspondence submitted to, or transferred from’ . . . with respect to” CEQA compliance or “with respect to the project.”

## **II. NOTICE LIST REQUEST.**

We also ask that you put this Office on its notice list for any and all notices issued under the CEQA and the Planning and Zoning Law.

In particular, we request that City send by mail or electronic mail notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivision for the Project, or supported, in whole or in part, through permits, contracts, grants, subsidies, loans, or other forms of approvals, actions or assistance, including but not limited to the following:

- Notices of any public hearing held in connection with the Project; as well as
- Any and all notices prepared pursuant to CEQA, including but not limited to:
- Notices of determination that an Environmental Impact Report (“EIR”) or supplemental EIR is required for a project, prepared pursuant to Public Resources Code Section 21080.4;
- Notices of availability of an EIR or a negative declaration for a project prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations;
- Notices of approval or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of approval or certification of any EIR or negative declaration prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of exemption from CEQA prepared pursuant to Public Resources Code section 21152 or any other provision of law; and
- Notice of any Final EIR prepared pursuant to CEQA.


This Office is requesting notices of any approvals or public hearings under CEQA and the California Planning and Zoning Law. This request is filed pursuant to California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 requiring 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.

Please send notice by regular and electronic mail to:

Mitchell M. Tsai, Attorney At Law  
155 South El Molino Avenue  
Suite 104  
Pasadena, California 91101  
Em: [mitch@mitchtsailaw.com](mailto:mitch@mitchtsailaw.com)  
Em: [greg@mitchtsailaw.com](mailto:greg@mitchtsailaw.com)  
Em: [leon@mitchtsailaw.com](mailto:leon@mitchtsailaw.com)

We look forward to working with you. If you have any questions or concerns, please do not hesitate to contact our Office.

Sincerely,



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Mitchell M. Tsai  
Attorneys for Southwest Regional Council  
of Carpenters