

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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December 17, 2021

Debbie Kurita, Director
Community Development
City of Westminster
8200 Westminster Blvd.
Westminster, CA 92683

Dear Debbie Kurita:

RE: City of Westminster's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Westminster (City) draft housing element received for review on October 20, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 14, 2021 with you, Steve Ratkay, Planning Manager, Sandie Kim, Associate Planner, Michael Son, Housing Specialist and Amanda Tropiano, the City's consultant. In addition, HCD considered comments from People for Housing and The Kennedy Commission pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

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Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

HCD appreciates the City's team during the course of our review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall

Senior Program Manager

Enclosure

APPENDIX CITY OF WESTMINSTER

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

Special Needs Populations: As part of the review of programs in the past cycle, the element must provide an evaluation of the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

Fair Housing Enforcement and Outreach: While the element includes the City participated in the Orange County's Analysis of Impediments to Fair Housing Choice (p.128), the element must address findings, lawsuits, enforcement actions, settlements, or judgements related to fair housing or civil rights. The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity.

Integration and Segregation: The element provided some data on integration and segregation across racial groups. The element must discuss and analyze this data for

trends over time and include local data and knowledge to in this analysis. Additionally, it must evaluate patterns at a regional basis, comparing the City to the region.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): The element includes some data on R/ECAP but no regional data or analysis concentrated areas of affluence. The element should also be revised to include local and regional data on areas of affluence and analyze this data for trends and patterns.

Access to Opportunity: While the element includes a general analysis of access to opportunity (p. 161), a complete analysis should include the locally and regional disparities of the educational, environmental, transportation, and economic scores through local, federal, and/or state data. Please refer to page 35 of the affirmatively furthering fair housing (AFFH) guidebook <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance> for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Westminster.

Disproportionate Housing Needs Including Displacement: The element includes some local data and analysis on displacement (p. 163) but should also include analysis at a local and regional level for cost-burdened, overcrowded households, substandard housing, homelessness, and displacement. In addition, the analysis must address patterns and trends, and other local knowledge.

Local Data and Knowledge, and Other Relevant Factors: The element does not address this requirement. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Contributing Factors to Fair Housing Issues: The element identifies contributing factors to fair housing issues (pp. 170-171) but should prioritize factors and identify contributing factors from the analysis also. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Site Inventory: The current analysis states site identification improves conditions (pp. 125, 152, 161, 164, 165, 166, and 170), but does not provide support for these assertions. Given that sites seem to be concentrated in lower income areas, the element must describe how the sites improve conditions including a description of any supporting programs. If sites

exacerbate conditions, the element should identify further program actions that will be taken to mitigate (e.g., anti-displacement strategies).

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Housing Characteristics: While the element identifies the total number of overpaying households (p. 38), it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner). The element should also quantify vacancy by tenure (i.e., renter and owner).

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing need allocation (RHNA) of 9,759 housing units, of which 3,354 are for lower-income households. To address this need, the element relies on nonvacant sites, including sites in Specific Plan Areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Sites Inventory: The element indicates that the sites inventory may include some sites that were identified in previous planning periods (p. 91). The inventory must identify which nonvacant sites were identified in a prior adopted housing element or which vacant sites identified in two or more consecutive planning periods. In addition, the site inventory identifies no units on the Westminster Mall Specific Plan; however, the analysis is assuming to accommodate 2,250 new housing units (Appendix A). If the City is relying on anticipated capacity on the mall site, the parcel-by-parcel inventory must be updated to include the expected number of units that will be accommodated by income.

Westminster Mall: Sites larger than 10 acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of

equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) The housing element relies upon Westminster Mall Specific Plan areas to accommodate the City regional housing need lower income (p. 112). The housing element needs to indicate the Specific Plan residential capacity and estimates the number of units by income group and provide any analysis demonstrating their suitability for development in the planning period or potential affordability. The site analysis should also include any information related to anticipated timeframe for buildout, development standards, and processing procedures and must include a program to complete the necessary zoning for the specific plan.

Suitability of Nonvacant Sites: While the element includes some analysis for nonvacant sites (pp. 115-118), it must also describe the methodology used to determine the additional development potential within the planning period. To address this requirement, the element describes in general the existing use of each nonvacant site for example “commercial”. This alone is not adequate to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. This analysis must be included for both the sites with existing zoning and candidate sites for rezoning. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, specific analysis and actions are necessary because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households and any candidate sites for rezone. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Accessory Dwelling Units (ADU): The element assumes an ADU buildout of 66 ADUs per year for a potential buildout of 528 units within the planning period. Given that the City has permitted 23 ADUs in 2018, 25 in 2019, 57 in 2020 (for an average of 35 units per year), it is not clear if a production level of 66 ADUs per year will be achievable over the planning period. As a result, the element should be updated to include supporting analysis for

potential ADU production. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Availability of Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).) For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Zoning for a Variety of Housing Types:

- *Transitional Housing & Supportive Housing:* Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency with Section 65583(a)(5) or add or revise programs which comply with the statutory requirements.
 - *Accessory Dwelling Units (ADUs):* After a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. For example, ADUs are not permitted in all zones allowing residential uses (e.g., commercial zones). HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall*

be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing). The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing. Specifically, the element must include the development standards for mixed-use zones, overlays, and commercial zones that allow residential development, and describe densities allowed in these areas. The element should also analyze constraints to multifamily residential development such as two-story height limits and enclosed parking requirements. The analysis should also describe past or current efforts to remove identified governmental constraints and the element should include programs to address or remove the identified constraints.

Fees and Exaction: While the element includes development fees (p. 95), it needs to analyze them also. The element must describe all required fees for single family and multifamily housing development, including impact fees and cost of construction and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

Local Processing and Permit Procedures: While the element generally describes development review process for residential housing (p.86), it must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, it must describe and analyze the City's discretionary planning approval process for multifamily development. The element also states Community Development Director has the discretion on a case-by-case basis to determine that an application is subject to Development Review and require noticing and/or defer the action to the Planning Commission. The element must describe typical decision-making criteria and analyze for potential constraints on the development of housing as it relates to certainty and transparency in the development process.

Design Review: The element must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

Housing for Persons with Disabilities: The element states that group homes for seven or more persons are subject to the use to a conditional use permit, unlike other similar uses.

The element should analyze the conditional use permit (CUP) for group home facilities serving seven or more for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

5. *Analyze existing assisted housing developments that are eligible to change to nonlow-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element identifies two affordable housing projects at risk of converting to market-rate units in the planning period (p. 65). If multifamily units are identified as at-risk within a ten-year period (2021–2031), the analysis of “at-risk” units must include the following (Gov. Code, § 65583, subd. (a)(9).):

- Estimated total cost for producing, replacing, and preserving the units at-risk.
- Identification of public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units.
- Identification and consideration of use of federal, state and local financing and subsidy programs.

For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. Programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., “Evaluate”; “Consider”;

“Encourage”; “as needed” etc.) should be amended to include specific and measurable actions. For example:

- *Program 7 (HOME Funds and Housing Successor Funds to Fund Land Acquisition and Improvement):* The element must include specific timing for when the City will contact service providers and identify quantified objectives the acquisition of units.
 - *Program 9 (Development of Affordable and Special Needs Housing Opportunities):* The element should add specific timing and actions for objectives. The City should also explore additional ways to facilitate development such as expediting processes, flexible development standards, and utilizing state funding (SB 2 Planning Grants and Permanent Local Housing Allocation). The program can also include how the City is encouraging projects to maximize energy savings.
 - *Program 27 (Persons with Developmental Disabilities):* City must provide discrete timing for design of program and dissemination of information to assist families.
2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.*
(Gov. Code, § 65583, subd. (c)(1).)

As noted in the Finding B3, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete sites inventory and analysis, programs may need to be added, or revised, to address a shortfall of sites and zoning for a variety of housing types.

Adequate Sites: If the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).). Program 3 Mixed-Use Development must be revised to commit to all program requirements:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and

- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.

Program 4 (Accessory Dwelling Units): The element must include specific commitments and actions to incentivize the production of ADU and include specific dates and actions for monitoring the development of ADU per the ADU projection assumptions including affordability in the sites inventory.

Program 8 (Lot Consolidation): Program 8 should provide specific commitments to facilitate lot consolidation and development of housing sites identified in the inventory. For example, the program could commit to (1) granting density bonuses above state density bonus law. (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; (5) modifying development standards, or (6) requests for proposals or assistance in parcel assemblage on city-owned sites. In addition, the program must identify specific timeframes for the City to implement each action outlined in the program.

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards.

Lower Income Sites Included in Previous Elements: Page 91 of the element states that Program 12 includes commitments to comply with the by right provisions of Government Code section 65583.2 and provide for ministerial approval of housing projects with a minimum of 20 percent of units affordable to lower income households. However, Program 12 does not contain these commitments. The element must be updated to reconcile the commitment outlined on page 91.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding(s) B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

Program to Mitigate NonGovernmental Constraints: The element must be revised to include a program that mitigates nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category. (Gov. Code, § 65583.2, subd. (c)(3).)

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs. In addition, Program 30 Affirmatively Furthering Fair Housing Outreach should include specific commitments to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH pursuant to Government Code section 8899.50.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the element includes a general summary of the public participation process (pp. 125-127), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element, specifically lower-income households. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document

where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

E. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, the City should review the general plan to ensure internal consistency is maintained. In addition, The City should consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.