

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

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January 21, 2022

Mike Hearn, Deputy Director
Community Development
City of Hesperia
9700 Seventh Avenue
Hesperia, California 92345

Dear Mike Hearn:

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

Thank you for submitting the City of Hesperia's (City) draft housing element received for review on November 22, 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 January 19, 2022 with you, Ryan Leonard, Senior Planner, Edgar Gonzales, Associate Planner and Emily Elliot and Christie David, City's consultants. In addition, HCD considered comments from Victor Valley Family Resource Center 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).

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.

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.

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.

HCD appreciates the hard work the City's team provided during the course of our review. We are committed to assisting 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,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF HESPERIA

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 has its own fair housing service provider, Hesperia Housing Authority (p. E-2), the element must address findings, lawsuits, enforcement actions, settlements, or judgements related to fair housing or civil rights. For example, the element says there was 3 complaints filed in the City in 2017, therefore the analysis should expand on what those complaints were and relate to contributing factors. 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 includes limited local and regional data on segregation and integration, and no regional analysis and data on disability and familial status. The element needs to include complete local and regional data on integration and segregation for the City and analyze it for both local and regional trends and patterns.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): The element includes some data on R/ECAP (pp. E-23, E-26) but no regional data or analysis on areas of affluence. The element needs to be revised to include local and regional data on areas of affluence and analyze this data for trends and patterns.

Access to Opportunity: The element includes limited local and regional data on access to opportunity but needs additional local data on economic and environmental factors. The element should include complete data on disparities in access to opportunity and evaluate patterns at a local and evaluate both local and regional patterns and trends, including impacts on access to opportunity for protected characteristics.

Disproportionate Housing Needs: The element includes some data on cost-burdened households, overcrowding, and substandard housing at a City level (pp. E38, E39, E41) but should also include analysis at a regional level for cost-burdened, overcrowded households, and substandard housing. In addition, the analysis must address local patterns and trends for homelessness.

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. E47-E48)) but should prioritize factors and identify contributing factors from the analysis as well. 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 element must identify and analyze sites throughout the community to foster inclusive communities and affirmatively further fair housing (AFFH). A full analysis should address the income categories of identified sites with respect to

location, the number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization 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. *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 8,155 housing units, of which 3,143 are for lower-income households. To address this need, the element relies on vacant sites, including sites in C2 and RC zones and within Specific Plan Areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory (p. 60), it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

Specific Plans: The housing element appears to rely upon development in specific plan areas to accommodate the City regional housing need (pp. 30-32). However, the

element is unclear which sites are located within these specific plans. To utilize residential capacity in specific plans, the element must:

- Identify which sites are located in specific plan areas.
- Identify any approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
- Describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

Large Sites: While the site inventory includes large sites for lower income, it must also include supporting analysis (p. D-5). 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).) For example, a site with a proposed and approved housing development that contains units affordable to lower income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).)

3. *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).*

Land-Use Controls: The element must identify and analyze all relevant land-use controls impacts as potential constraints on a variety of housing types. The element relies on sites within the C2 and RC zones but does not describe and analyze the current development standards that allow residential development within these zones for potential constraints on the development of housing. This will assist the City in determining the development standards that will be appropriate for facilitating multifamily development in these zones. The analysis should also analyze land-use controls independently and cumulatively with other land-use controls. The analysis

should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints. For example, the element includes minimum lot sizes and height limits for multifamily developments on R3 zone. 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 a summary of the fees (p. 40), it must describe all required fees for single family and multifamily housing development, including impact fees, 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

Local Processing and Permit Procedures: The element includes Table 30 which describe provisions for a variety of housing types. However, as stated above, the element is relying on potential residential development in the C2 and RC zones but does not state how multifamily is permitted in these zones. The element must describe and analyze the permit processing procedures impacts as potential constraints on housing supply and affordability, particularly for residential development affordable to lower-income households. The analysis must describe approval procedures and decision-making criteria, and whether they are discretionary approvals.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction's website.

Measure N: Measure N imposes a number of conditions that constrain the development of housing within the City. Among them reducing maximum densities for single family from 8 to 3 and multifamily from 24 to 8, imposes high floor area requirements for multifamily units and limits the time for tentative tract and parcel map approvals. While the element recognizes that pieces of Measure N conflict with the Housing Crisis Act (Gov. Code § 66300), it is unclear from the analysis if all or only a portion of Measure N have been suspended. In addition, the element recognizes that provisions of Measure N pose a constraint to development but does not indicate how these constraints will be removed or mitigated. In addition,

Please be aware, pursuant to the Housing Crisis Act, the City cannot change the density of property to a less intensive use or reduce the intensity of the land use below what was allowed under the land use designation or zoning ordinance as of what was in place January 1, 2018. Reducing the intensity of land use includes, but is not limited

to, reductions to height, density, or floor area ratios, among other standards. If particular portions of Measure N are being implemented, the element must demonstrate consistency of those provisions with the Housing Crisis Act. In addition, the City should consider the impact of reductions in multifamily density on housing for future housing element cycles. Capping multifamily development at 8 units per acre will significantly impede the City's ability to demonstrate that zoning is appropriate to accommodate the housing need for lower-income pursuant to Government Code section 65583.2, subdivision (c)(3).

Constraints on Housing for Persons with Disabilities: The element currently details that residential care facilities serving six or fewer persons are permitted in all zones. However, residential care facilities serving seven or more persons are conditionally permitted. The element should analyze the process as a potential constraint on housing for persons with disabilities and modify Program 20 as appropriate to ensure zoning permits group homes objectively with approval certainty.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

The element must be revised to include the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. The element must include a program that mitigates nongovernmental constraints that create a gap in the jurisdiction's ability to meet RHNA by income category.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-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 Three Palms Apartments at-risk of converting to market-rate units in 2030 (pp. 24-25) but does not include an analysis of the risk of conversion. 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. All 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.

In addition, the element must provide discrete timing for all programs (e.g., month and year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period and quantify objectives where feasible.

Examples of programs that require discrete timing include, but are not limited to, the following:

- Program 1 First-Time Homebuyer Downpayment Assistance Program
- Program 2 Section 8 Rental Assistance Program
- Program 3 Affordable Housing Development
- Program 6 Green Building Program
- Program 7 Assistance for the Homeless
- Program 8 City of Hesperia Township Program
- Program 10 Owner-Occupied Housing Rehabilitation Loan Program (HRLP) and Sewer Connection Program (SCP)
- Program 11 Community Development Block Grant Housing Rehabilitation Loan
- Program 12 Lead-Based Paint Education and Outreach Efforts
- Program 15 Density Bonus Program
- Program 17: No-Net Loss Reporting

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 Finding B2, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Adequate Sites: Page 60 states that the element will include a program that will upzone the RC zone from 25 units per acre, allow 30 units per acre in the C2 zone, and upzone R-3 from 15 du per acre to 30; however no such program was included in the element. In addition, the element should describe any impact Measure N has on the City's ability to upzone these parcels to the identified densities. As the element does not identify adequate sites to accommodate the regional housing need for lower-income households without these proposed upzones, 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).)

The program must commit to:

- 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.

Sites Identified in the Previous Planning Period: HCD understands that some parcels in the sites inventory were utilized in the prior planning periods. If the City utilizes vacant sites identified in two or more consecutive housing element planning periods or nonvacant sites identified in a prior housing element to accommodate the lower-income RHNA, the element must include a program to commit to zone for the following:

- sites must meet the density requirements for housing for lower-income households, and
- allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households (Gov. Code, § 65583.2, subd. (c).).

3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate-income households; assisting, supporting or pursuing funding applications; and working with housing developers coordinate and implement a strategy for developing housing affordable to lower and moderate-income households.

4. *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) B3 and 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. In addition:

Program 9 Code Enforcement: Provide specific timing on provision of online resources.

Program 14 RC and C2 Zones: Provide specific timing for each action.

Program 18 Housing for the Homeless/Extremely Low-Income Households: Provide when the City will amend the development code to address AB 139, AB 101, and AB 2162.

Program 21 Permit Streamlining: Provide specific timing on each action.

Program 22 Removal of Constraints to Multi-Family Housing in Areas of Opportunity: Provide specific timing on each action.

Program 23 Diversity of Land Use Designation and Building Type: Provide specific timing for amendments to zoning code.

5. *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 24 Affirmatively Furthering Fair Housing Outreach should include specific commitments to administer its programs (for each action) 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)(9).)

While the element includes a general summary of the public participation process (pp. 3-4), 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 advertise and engage lower-income households in workshops and additional methods, circulate the housing element to 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 after submitting for HCD's review. 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 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 revising 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.