

# STAFF REPORT



## COMMUNITY DEVELOPMENT

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**DATE:** September 27, 2022

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Director  
VIA: Fred Ramirez, Assistant Community Development Director - Planning  
BY: Shipra Rajesh, Senior Planner

**SUBJECT:** Adoption of a Resolution Certifying a Final Environmental Impact Report and Adoption of a Statement of Overriding Considerations and Findings of Fact and Mitigation Monitoring and Report Program and Adoption of a Resolution Adopting the 2021-2029 Housing Element, Safety Element, and Environmental Justice General Plan Updates

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### **RECOMMENDATION**

Staff recommends that the City Council take the following actions:

1. Adopt A RESOLUTION (ATTACHMENT 1) OF THE CITY COUNCIL OF THE CITY OF BURBANK CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) FOR THE 2021-2029 (6<sup>th</sup> CYCLE) HOUSING ELEMENT, SAFETY ELEMENT, AND ENVIRONMENTAL JUSTICE GENERAL PLAN UPDATES AND ADOPT THE MITIGATION MONITORING & REPORTING PROGRAM (MMRP) WITH A STATEMENT OF OVERRIDING CONSIDERATIONS AND FINDINGS OF FACT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); and
2. Adopt A RESOLUTION (ATTACHMENT 2) OF THE CITY COUNCIL OF THE CITY OF BURBANK APPROVING THE 2021-2029 (6<sup>th</sup> CYCLE) HOUSING ELEMENT, SAFETY ELEMENT, AND ENVIRONMENTAL JUSTICE GENERAL PLAN UPDATES.

### **EXECUTIVE SUMMARY**

The Housing Element of the Burbank2035 General Plan is required by the State to be updated by the City and certified by the California Department of Housing and Community Development (HCD) every 8 years, pursuant to Government Code section 65580. The City is in the process of updating the Housing Element of the Burbank2035, which will

cover the planning period of October 2021 through October 2029 - known as the 6<sup>th</sup> Cycle. The 2021-2029 Housing Element provides policies and housing programs to enable housing development to meet the City's fair share of housing, identify potential opportunity sites for accommodating future housing growth, accommodate a diversity of housing affordable to all economic segments of the community, and remove regulatory constraints in development of housing by streamlining the processing of residential building permits. Additionally, the Housing Element Update process includes concurrent State-required updates to the Safety Element to ensure safe ingress and egress for emergency services and the public from existing and proposed housing, and revisions to the General Plan to incorporate goals and policies that relate to Environmental Justice in the City.

Housing Element, Safety Element, and Environmental Justice General Plan updates (the Project) is subject to CEQA analysis under State CEQA guidelines. Pursuant to CEQA guidelines sections 15089, 15091, and 15093, the City has prepared a Final Environmental Impact Report (EIR) for the Project, including Mitigation Monitoring and Reporting Program (MMRP), and Statement of Overriding Considerations and Findings of Facts. Prior to approval of the Project, the City Council must consider and certify the FEIR, and approve of the associated MMRP, Statement of Overriding Considerations and Findings of Fact (attached to Attachment 1).

Per State law, the City's updated Housing Element was initially required to be approved by the City Council and certified by HCD within 120 days of the October 15, 2021 statutory deadline, with any required rezonings to be completed by October 15, 2022. On June 30, 2022, the State adopted Senate Bill (SB) 197, which extended the rezoning deadline to February 2025 for Southern California Association of Governments (SCAG) jurisdictions (including Burbank) that adopted a Housing Element deemed compliant by the State by October 15, 2022. Staff recommends the City Council adopt the attached Resolutions (Attachment 1 and Attachment 2) approving the Project based on all the findings, inclusive of certification of the Final EIR, adoption of the MMRP with Statement of Overriding Considerations and Findings of Fact.

## **BACKGROUND**

State housing element statutes (Government Code sections 65580-65589.8) mandate that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. Additionally, all local governments are required to adopt land use plans that remove regulatory constraints and provide opportunities for new housing development. Moreover, State law requires HCD to review local Housing Elements to determine compliance with Housing Element law.

Over the past two years, the City of Burbank team of staff and consultants have been working to update the Burbank2035 General Plan Housing Element for the 2021-2029 planning period in compliance with State statutes. The process of updating the City's Housing Element began on July 21, 2020, with a City Council study session. The City released the first draft of the 2021-2029 Housing Element for public review in April 2021, and as required under State law, submitted the Element to HCD for review. HCD provided

initial comments on the draft Housing Element on August 17, 2021. The City worked on revising the draft Housing Element to address comments from HCD and released a second draft of the Housing Element for public review and HCD submission in November 2021. The City then received comments from HCD on the second draft on February 1, 2022. The City made additional revisions to the Housing Element to address comments from HCD and released a third draft in March 2022. Following receipt of the third comment letter from the HCD on June 3, 2022, HCD offered technical assistance to staff and the consultant to incorporate additional language in the Element to address the few outstanding issues. On July 6, 2022, HCD contacted the City's consultant to confirm that the City's revised Draft Housing Element was now fully compliant with State Housing Element laws. Furthermore, on September 7, 2022, the City received a letter from HCD finding the Draft 2021-2029 Housing Element in compliance with the statutory requirements of State Housing Element Law. Attachment 9 includes the HCD compliance letter.

## **DISCUSSION**

### **Housing Element Update**

The proposed 6th Cycle Housing Element Update (Attachment 3) builds on the City's existing 2014-2021 5th Cycle Housing Element by maintaining many of the current goals, policies, and programs where appropriate, while making updates for addressing new applicable State laws and to reflect identified City Council housing goals and strategies that have been developed. The key components of the Housing Element Update include evaluation and update of previous Housing Element programs; the housing needs assessment including the City's Regional Housing Needs Assessment (RHNA) allocation; evaluation of constraints to housing; identification of opportunity sites to address the City RHNA allocation; the 2021-2029 Housing Plan; and the new Affirmatively Furthering Fair Housing (AFFH) component. The contents of the updated Housing Element are discussed in greater detail in the following sections.

### **Evaluation and update of previous Housing Element programs ("Housing Plan")**

The 2014-2021 RHNA allocation for the City was 2,684 units (Attachment 4) with varied affordability levels including very-low, low, moderate, and above moderate-income levels. Overall, the City was able to meet 40% of its previous RHNA allocation with 1,081 new units, wherein 70% of the units were market rate units. The City made limited progress in developing very-low- and moderate-income housing - with 0.4% housing in very-low-income category and 14% housing in moderate income category. Additionally, as a part of the 6th cycle Housing Element Update, the policies and housing programs listed in the 5th cycle (2014-2021) of the Housing Element were evaluated to determine the effectiveness of each program for developing a comprehensive housing program strategy for the 6th cycle Housing Element. Many existing programs that were effective in addressing housing related goals were retained and expanded (e.g., *Accessible Housing & Universal Design program*), while other programs were removed and policies within these programs were incorporated under other existing housing programs (e.g., *Condominium Conversion Program* was removed and updated under *Inclusionary Housing Program*). Appendix C of the Housing Element (Attachment 6) evaluates the

housing programs listed in the 2014-2021 Housing Element, and their continued appropriateness in the updated Element.

Housing Needs Assessment - Burbank 6<sup>th</sup> Cycle RHNA

This section of the Housing Element discusses the 2021-2029 RHNA allocation for the City and analyzes the characteristics of the City’s population and housing stock to better understand the nature and extent of unmet housing needs. The RHNA, as determined by the State of California, SCAG and the Council of Government for the Southern California region, quantifies the need for housing by affordability level in each jurisdiction during the housing element planning period based on factors such as household growth, job and transit accessibility, and presence of high-resource neighborhoods. Pursuant to California housing law, each jurisdiction in the State is assigned a RHNA allocation.

The 6<sup>th</sup> cycle RHNA allocation for the City of Burbank is 8,772 new homes throughout the planning period of October 2021 through October 2029, broken down by housing affordability levels as shown in Table 1. Furthermore, the State requires jurisdictions to also plan for a buffer in the Housing Element sites inventory to ensure availability of adequate site capacity throughout the planning period. Burbank’s draft Housing Element provides a total sites capacity of 10,011 units, a buffer of approximately 14% above the City’s RHNA (Attachment 3, Pgs. 1-43 – 1-46).

<b>Table 1: The 6<sup>th</sup> cycle RHNA allocation for the City of Burbank</b>			
<b>Income Level</b>	<b>Percent of Area Median Income</b>	<b>Total RHNA</b>	<b>Percentage of Units</b>
Very-Low Income	<50%	2,553	29.1%
Low Income	50-80%	1,418	16.2%
Moderate Income	80-120%	1,409	16.1%
Above Moderate Income	>120%	3,392	38.7%
<b>Total</b>		<b>8,772</b>	<b>100.0%</b>

Source: SCAG 6<sup>th</sup> Cycle Final RHNA

Housing Constraints

This section assesses various governmental constraints such as zoning regulations, local ordinances, and development fees; market constraints including price of land, cost of construction, and availability of financing; infrastructure and environmental factors such as flood & seismic hazards, that could possibly act as constraints to housing development and improvement in the City (Attachment 3, Pgs. 1-47 to 1-72).

Housing Site Inventory – Opportunity Sites

State housing law requires local housing elements to include an inventory of land known as the “Site Inventory” identifying sites for residential development to accommodate the projected housing growth at different affordability levels, to address the RHNA allocation. The opportunity sites must have realistic potential to be developed with new housing based on factors such as possibility of lot consolidation, underutilization of the site, economic obsolescence of the existing use, adequacy of infrastructure, and site proximity to various resources. The 6<sup>th</sup> cycle Housing Element identifies 19 opportunity sites to

accommodate the projected growth in housing needed to meet the City's RHNA allocation for the 2021-2029 planning period. Twelve of the opportunity sites are in the Downtown TOD Specific Plan area and seven opportunity sites are in the Golden State Specific Plan (GGSP) area. The opportunity sites have been identified based on the realistic conditions that supported development of housing as more likely than commercial space in the identified site based on the Downtown TOD and GGSP market studies and recent development projects. Additionally, the opportunity sites are located near the City's major employment and transit hubs. Moreover, facilitating the proposed opportunity sites would help in addressing Burbank's 3 to 1 jobs-to-housing imbalance. Appendix D of the Housing Element (Attachment 6) provides more detailed information on the 2021-2029 Housing Element opportunity sites.

#### Housing Plan for the 2021-2029 Housing Element

The final section of the 2021-2029 Housing Element includes 27 housing programs that are intended to address the City's identified housing needs, goals, and policies. Housing programs include measurable activities, actions, or ongoing efforts for implementation during the 8-year planning cycle. Some of the programs included in the 6<sup>th</sup> cycle Housing Element are carried forward from the previous cycle and will be ongoing (e.g., *Rental Assistance Vouchers*), while other programs are either new and have not been initiated yet (e.g., *Lot Consolidation Program*), or modification/expansion of existing programs (e.g., *Community Preservation Program*). The 27 programs within the proposed Housing Plan have been divided into five categories that are further explained in Attachment 5.

#### Affirmatively Furthering Fair Housing (AFFH)

As required by California Government Code section 65583, the 2021-2029 6th Cycle Housing Element Update includes an assessment of fair housing that is consistent with the analysis required by the federal Affirmatively Furthering Fair Housing (AFFH) Final Rule. The AFFH component of the Project includes the following:

- Analysis of the racial and economic patterns of segregation at the regional and local level;
- Analysis of access to economic, environmental, and educational opportunities;
- Identification of areas of high concentration of persons with disabilities and disadvantaged communities in the City;
- Identification and prioritization of fair housing issues in the City, which includes: *availability of affordable housing of various types for Burbank's residents, lack of awareness of fair housing services and fair housing rights, fair housing for the special needs population, availability of accessible housing, and neighborhood revitalization;*
- Identification of City's planned actions and programs to address fair housing issues.

In addition to the programs included within the Element's Housing Plan, the AFFH establishes quantifiable action items to address the above specified contributing factors/impediments to fair housing. Examples include — streamlined approval process for affordable housing projects, development of Accessory Dwelling Units (ADUs) prototypes plans to streamline the development review and approval process, and updates to the Inclusionary Housing Ordinance and Density Bonus Ordinance to effectively integrate affordable units in market rate projects. Table B-11 in Appendix B of

Attachment 6 provides a complete summary of the fair housing issues, contributing factors, and the City actions to address these issues.

**Concurrent General Plan Updates:**

Additional General Plan updates are triggered per State law upon revising one element of the General Plan. Because the Housing Element is being updated, these additional updates are therefore also required. These updates include revising the Safety Element and updating General Plan document to include Environmental Justice policies and goals where appropriate. Below is a discussion of the updates.

**Safety Element -**

Key areas of the Burbank2035 Safety Element to be updated include maps and data identifying flooding and fire hazards, goals and policies for emergency response and preparedness, especially as they relate to the City's projected climate change exposure, vulnerability, and environmental justice issues. Additionally, several climate change policies are proposed to be incorporated into the existing Air Quality and Climate Change Element and referenced in the Safety Element. Attachment 7 provides an overview of all the updates that have been included in the Safety Element.

**Environmental Justice -**

In addition to revising the Safety Element, the City is required to adopt an Environmental Justice Element or incorporate State-mandated environmental justice goals, policies, and objectives in other elements of the General Plan pursuant to SB 1000. Government Code section 65040.12(e), defines environmental justice as "*the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.*" Seven census tracts in central, northwest, and southeast Burbank exceed the minimum criterion for disadvantaged communities (DACs) designation as determined by the California Environmental Protection Agency (EPA) and the Environmental Policy updates will formulate strategies to reduce the vulnerability of these DACs within the City. The Environmental Justice policy updates include strategies and policy updates to create economic and fair housing opportunities; avoid discrimination for all socio-economic groups; reduce health risks to DACs, promote civic engagement; reduce pollution exposure; promote public facilities; and prioritize the needs of DACs. Attachment 7 provides an overview of the proposed Environmental Justice policy updates.

**Public Participation, Outreach, Notification and Feedback:**

One of the key components of the proposed updates to the Housing Element, Safety Element, and Environmental Justice goals and policies was public participation that included outreach and notification efforts consistent with requirements of State housing law, the Housing Element, and related General Plan update process. Specifically, the public outreach efforts included study sessions with the City Council and Planning Board, community workshops, a community survey, public notices translated into Spanish and Armenian, and the creation of a webpage with access to project related updates and resources. Attachment 8 provides more information on the City's public outreach efforts and public feedback received for the Project.

### Planning Board Recommendation

Pursuant to Burbank Charter section 215 and Government Code section 65354, the Planning Board public hearing for the Project was held on August 22, 2022. After deliberation, the Planning Board voted 3-0 adopting a Resolution (Attachment 15) recommending the City Council approve a Resolution approving the proposed General Plan updates to the Housing Element, Safety Element, and Environmental Justice updates subject to the review of a Final EIR.

However, prior to adopting the Resolution, the Planning Board expressed several significant concerns. The Planning Board commented that the impact of the Project's implementation on the City's existing infrastructure, including utilities and sewer system as well as the availability of sufficient water supplies for the projected number of residential units should be fully assessed by the City Council as part of their deliberation on the Project. Additionally, the Planning Board expressed concerns regarding the loss of local control and its effects on the preservation of the City's existing neighborhoods. The Planning Board directed staff to communicate these concerns to the City Council as it weighs State mandates for the City to facilitate new housing in compliance with its RHNA allocation and the effects of these policy decisions on the City's infrastructure and the long-term sustainability of the community. Attachment 13 provides the summary minutes of the Planning Board meeting on August 22, 2022.

### **ENVIRONMENTAL ASSESSMENT**

A Draft EIR (Attachment 10) was prepared for the Project in accordance with CEQA and State CEQA Guidelines and was released for public review on January 26, 2022. Upon receipt of the public comments, the City revised the Biological Resources section and Utilities/Service Systems section of the Draft EIR to address public comments. The revised sections of the Draft EIR were recirculated for public review on July 22, 2022 (Attachment 11). Additionally, the City has prepared the Final EIR (Attachment 12), Mitigation and Monitoring Reporting Plan (MMRP) (attached to Attachment 1), and the Statement of Overriding Considerations and Findings of Fact (attached to Attachment 1) for the Council's consideration.

The Draft EIR evaluated the environmental effects that could result from implementation of the Project. The following environmental sections were found to have no impacts, less than significant impacts, or less than significant impacts with mitigations incorporated:

*Aesthetics*  
*Agriculture Resources*  
*Air Quality*  
*Biological Resources*  
*Cultural Resources*  
*Energy*  
*Geology/Soils*  
*Greenhouse Gas Emissions*

*Hydrology and Water Quality*  
*Land Use and Planning*  
*Mineral Resources*  
*Noise*  
*Population/Housing*  
*Public Services*  
*Recreation*  
*Tribal Cultural Resources*

Additionally, the Draft EIR identified potentially significant and unavoidable impacts within the *Transportation/Traffic, and Utilities/Service Systems* environmental topic areas, even with the implementation of feasible mitigation measures.

### Transportation/Traffic

The 2021-2029 Housing Element Update will facilitate an increase in the housing supply near major transit and job centers within the City that would result in a reduction in the vehicle miles of travel (VMT) for several trip purposes. The Project would reduce VMT per capita (i.e., the amount of VMT generated relative to the City's population) by shortening the trips of future residents by allowing more people to live closer to the existing jobs and high-quality transit and facilitating access to alternate modes of transportation. In addition to VMT per capita, the Project would result in a reduction in total VMT per service population (i.e., the amount of VMT generated relative to all people in Burbank including residents, employees, students, customers, and visitors) because adding more housing does not affect these other non-resident trips and will result in minor reduction in VMT generated by these trips. Finally, the Project would result in a reduction in VMT per employee (i.e., the amount of VMT generated relative to the City's employees) because while adding housing near jobs reduces employee VMT by those who live and work in the City, this reduction is minor because a large proportion of employees do not live in the City.

Based on the analysis in the Draft EIR, adopting the Housing Element and implementing its goals and policies would reduce VMT across all three metrics –per capita, per service population, and per employee. However, because housing affects different types of VMT differently, the Draft EIR showed that the Project would reduce VMT per capita below a level of 15% as compared with the 2021 VMT baseline values for the SCAG region but would not reduce VMT per service population and VMT per employee enough to fall below this threshold. This 15% or more threshold of significance was chosen to be in line with State CEQA guidance and greenhouse gas reduction goals. Thus, the Housing Element Update would result in significant and unavoidable impacts for total VMT per service population and VMT per employee.

Mitigation measures to address the VMT impacts include measures to reduce and/or shorten vehicle trips and will be required for individual development projects. These measures include - improving transit accessibility to homes and jobs, provision of transit passes to employees, providing bicycle parking at employer and multi-family residential locations, and implementing parking cash-out programs that do not require households to pay for parking if they do not own a car. Requiring these mitigation measures at the program EIR level will warrant inclusion of subsequent implementation steps that would apply to all development projects, and therefore is not considered feasible. Thus, the Draft EIR identifies these impacts as significant and unavoidable because there is no feasible mitigation measure available at program level to reduce the VMT impacts below the required thresholds.



### Utilities/Service Systems

The Housing Element Update will have a significant and unavoidable impact on the City's wastewater conveyance system. Wastewater generated in Burbank is collected and conveyed by approximately 230 miles of underground pipelines and flows to the Burbank Water Reclamation Plant (BWRP), which has a design capacity of 12.5 million gallons per day (mgd) and currently treats 8.5 mgd. The housing development projected under the Project has the potential to increase wastewater generation beyond the existing capacity of the BWRP, causing a significant and unavoidable impact on the City's wastewater conveyance system.

A mitigation measure to reduce the significant impact on wastewater conveyance system include requiring a fee study by the Public Works Department to identify the connection fees that facilitate the recovery of the City's costs of future upgrades that are attributed to the type of development being proposed and proportional to the individual projects' impacts to the City's wastewater system. However, this measure does not address potential impacts associated with the exceedance of the available wastewater treatment capacity at BWRP associated with full buildout of the Housing Element Update, and therefore this impact remained significant and unavoidable. As noted in the recirculated DEIR and the FEIR, the City will undertake the Sewer System Master Plan (SSMP) to identify and address current and future demand including those resulting from the implementation of the Project with the SSMP providing recommendations and next steps to ensure that sewer capacity keeps pace with local demands for the safe conveyance and treatment of wastewater now and in the future.

### Public Review of Draft EIR and Recirculated Draft EIR

The DEIR was released for a 65-day public review period on January 26, 2022 to receive public comments. In addition to the 65-day review period, the public was also given an opportunity to provide comments on the DEIR during the March 14, 2022 and April 11, 2022 Planning Board hearings. The City received comments from the public on the Draft EIR, including comments on the Project's potential impact on the City's wastewater conveyance system and biological resources (Attachment 12), and revised the Draft EIR to address these comments. Per CEQA Guidelines section 15088.5, the City recirculated the revised sections of the Draft EIR for a 47-day public review period on July 22, 2022, to provide an opportunity to the public to comment on the Recirculated Draft EIR (Attachment 11). The Recirculated Draft EIR includes revisions to Biological Resources section and Utilities/Service Systems section, as discussed below.

- Revisions to Biological Resources section

Biological Resources section of the Recirculated Draft EIR was revised to address the comments provided by the California Department of Fish and Wildlife (CDFW), which indicated that development under the proposed Project may result in adverse impacts to the least Bell's vireo, bat species, and monarch butterflies through vegetation and tree removal. The City incorporated mitigation measures in the Recirculated Draft EIR in direct response to CDFW comments to reduce any potential

adverse impacts to the endangered/sensitive species as identified in California Natural Diversity Database (CNDDDB) and iNaturalist maps. These mitigation measures that were recommended by CDWF, include initial site assessment for biological resources, focused biological survey, and establishment of avoidance buffer if construction activities occur within 500 feet of identified habitat or observation and/or construction activities or other disturbances occur during nesting period (Attachment 11).

- *Revisions to Utilities/Service Systems section*

Consistent with the Draft EIR, the impacts associated with the City's wastewater conveyance system are noted as significant and unavoidable in the Recirculated Draft EIR. However, the Recirculated Draft EIR includes revised analysis that provides additional short-term and long-term mitigation measures to reduce the significant and unavoidable impacts to the City's the Utilities/Service Systems due to the projected housing growth under the Project. Short term measures include diversion of sewage to the Hyperion Sanitary Sewer System in the City of Los Angeles, to alleviate capacity concerns for certain sewage conveyance pipelines; temporarily lowering the influent flows to the BWRP; and require sewer capacity analysis for project to identify sewer infrastructure upgrades that can be implemented by developers when a nexus and rough proportionality is established between a proposed development project and impacts on City sewer infrastructure.

Long-term measures include, expansion of BWRP facilities including addition of new primary clarifiers; increasing capacity in the equalization basins, and other parts of the sewage treatment process; preparation of a new Sewer System Master Plan in Fiscal Year 2022/23 to evaluate the City's sewer conveyance and treatment system over the next 20 years; and, developing the appropriate sewer facility impact fee rate increase to ensure that developers pay their fair share of the cost to expand and upgrade the capacity of the BWRP treatment facilities (Attachment 11). As previously noted, the SSMP will include recommendations and next steps to ensure that sewer capacity keeps pace with local demands for the safe conveyance and treatment of wastewater now and in the future.

### Response to Labor Unions

As part of the public comment process on the Draft EIR, the City received comments from the Southwest Regional Council of Carpenters and Local 661 Carpenters Union, requesting family supporting wages, skilled and trained workforce standards, and job access to community members. In response to these comments, the City incorporated an action item as part of Housing Plan Programs No. 10 (Inclusionary Housing Ordinance) and 11 (Density Bonus Ordinance) that includes preparation of an economic feasibility analysis as part of the proposed update to Density Bonus and Inclusionary Housing regulations to assess the fiscal impact of including prevailing wage and skilled workforce requirements on housing projects to ensure that the City can meet its housing goals under the Housing Element while also helping promote a living wage and workforce training for construction workers. After the Palmer court ruling in 2009, the City suspended its Inclusionary Housing requirements on rental projects. Upon passage of Assembly Bill

(AB) 1505 in 2017, the City has again imposed Inclusionary Housing requirements on multi-family projects.

*Statement of Overriding Considerations and Findings of Fact*

The Project would have a significant impact on the environment for VMT per service population and VMT per employee as well as City's wastewater system despite imposition of feasible mitigation measures or alternatives for reducing the VMTs and expanding BWRP wastewater system capacity. Since the potential environmental impacts will likely not be mitigated to a point where clearly no significant impact on the environment will occur, a Statement of Facts and Overriding Considerations is required to be adopted with the Certification of the EIR prior to approval of the Project.

Pursuant to CEQA section 21081 and State CEQA Guidelines section 15091, the City Council is required to make one or more findings for each of the significant effects, accompanied by a brief explanation of the rationale of each finding prior to approval of the Project. Additionally, the City Council must adopt a Statement of Overriding Considerations in accordance with CEQA Guidelines section 15093 in support of approval of the Project. The Statement of Overriding Considerations and Findings of Fact finds in the City Council's judgement that the benefits of the Project outweigh its unavoidable significant effects is included in Attachment 1, Exhibit A. Attachment 1, Exhibit B includes the findings and mitigation measures to lessen the significant environmental impacts, and the prepared Statement of Overriding Considerations, which identifies reasons why the benefits of the Project, if approved, outweigh the identified unavoidable significant effects.

**FISCAL IMPACT**

The adoption of the Project would lead to new housing developments under the Project resulting in new property taxes, new building permit fees, and development impact fees. As part of this effort, the City will prepare a new Sewer System Master Plan to evaluate the City's sewer conveyance and treatment system over the next twenty years and develop the appropriate sewer facility impact fee to ensure that developers pay their fair share of the cost for development while also assisting the City with needed upgrades to the City's infrastructure. Moreover, Housing Plan Program No. 17 (Objective Development Standards) will establish new objective development and design standards to facilitate housing that provide for the inclusion of green building design features to promote conservation and efficient use of resources and renewable building materials, as well as identification of new infrastructure to support the housing development, which will in turn aid in identification of any needed future updates to the City's Development Impact Fee Program required to facilitate new housing consistent with the City's Housing Element and applicable State laws.

**OCTOBER 15, 2022, ADOPTION DEADLINE**

If the City fails to adopt a compliant 6<sup>th</sup> cycle Housing Element by October 15, 2022, it will be subject to a range of penalties or consequences, including potential litigation from housing rights' organizations, developers, and enforcement actions from HCD. Based on a legal challenge, the Courts will also have the authority to take away the City's permitting authority for all other building permits aside from housing related permits and can impose

finances of up to \$100,000 per month until the Housing Element is brought into compliance. Additionally, in absence of an HCD approved Housing Element, the City will be required to provide ministerial review and approval for any new housing project, which includes affordable housing on any site that is zoned (or will be zoned in future) for multi-family residential development. In addition, the City will no longer be eligible for any housing grants or other State administered grant and loan programs. State grants and loan programs that the City has participated previously include State Local Early Action Planning (LEAP) and Regional Early Action Planning (REAP) grants totaling more than \$800,000 dollars to pay for the development of the Golden State and Downtown TOD specific plans, the Media District Specific Plan, the Housing Element Update, and grant funds of over \$3M dollars including Federal HOME funds, Permanent Local Housing Allocation Fund (PLHA), federal funds for Rental Assistance Vouchers program and restricted housing funds to facilitate the Committed Assistance program.

The timely approval and adoption of the proposed 2021-2029 Housing Element, Safety Element, and Environmental Justice General Plan updates will ensure compliance with all previously noted State laws. A State compliant Housing Element will also allow the City to maintain its eligibility to obtain Federal and various State housing funds. Moreover, implementation of the policies and programs contained in the 2021-2029 Housing Element will facilitate a streamlined review of housing development, while preserving local control to the extent permitted by law while also allowing the City to address its three-to-one jobs to housing imbalance and add to the affordable and workforce housing which creates new housing opportunities for all economic segments of the community.

## **CONCLUSION**

The General Plan update process, most notably the Housing Element Update, sets the table for the City's ongoing efforts to address the community's three-to-one jobs to housing imbalance and related housing needs. The adoption of the 2021-2029 Housing Element in combination with the City's ongoing specific plan updates will create a consistent long-range planning and policy effort in the form of objective development and design standards that help to build neighborhoods while also advancing the Council's housing production goal of facilitating the building of 12,000 housing units by 2035. Further, by maintaining a compliant and State-certified Housing Element, the City will preserve local control that may be eroded by legal challenges that could provide for by-right housing development without objective development standards tailored to protecting existing neighborhood character. Moreover, a State-certified Housing element will allow the City to remain eligible and competitive for State grant funding opportunities that ultimately help the City in implementing its housing strategy. Therefore, staff recommends that the City Council adopt the attached Resolutions (Attachment 1 & 2) certifying the Final EIR subject to the MMRP, Statement of Overriding Considerations and Findings of Fact, and adoption of the Housing Element, Safety Element, and Environmental Justice policies and program updates to the General Plan.

**ATTACHMENTS**

Attachment 1	Resolution Certifying a FEIR and Approving a Mitigation Monitoring & Reporting Program (MMRP) and Statement of Facts and Overriding Considerations
Attachment 2	Resolution Approving the 2021-2029 (6 <sup>th</sup> Cycle) Housing Element, Safety Element, and Environmental Justice General Plan Updates
Attachment 3	2021-2029 (6 <sup>th</sup> Cycle) Housing Element
Attachment 4	2014-2021 (5 <sup>th</sup> Cycle) RHNA Progress for the City
Attachment 5	2021-2029 Housing Element Housing Plan
Attachment 6	Housing Element Appendices
Attachment 7	Safety Element and Environmental Justice Policies
Attachment 8	Public Participation, Outreach, Notification and Feedback
Attachment 9	HCD Compliance Letter
Attachment 10	Draft EIR
Attachment 11	Recirculated Draft EIR
Attachment 12	Final EIR (Includes Response to Comments)
Attachment 13	Planning Board Minutes
Attachment 14	Planning Board Report
Attachment 15	Planning Board Resolution
Attachment 16	Correspondences received as of September 15, 2022
	Correspondences