



September 27, 2021

Robert Flores, Principal Planner
Riverside County Planning Department
4080 Lemon Street
Riverside, CA 92501

Submitted Via Email

RE: Riverside County's Revised Draft 2021-2029 Housing Element

Dear Mr. Flores,

We are writing to provide the County with comments on its Adoption Draft 2021-2029 Housing Element dated September 2021 ("Revised Draft Housing Element" or "Revised Draft"). Where applicable, these comments reiterate comments we have previously submitted to the County dated August 12, 2021 ("August 12th Letter") and August 16, 2021 ("August 16th Letter") regarding its Public Review Draft 2021-2029 Housing Element dated July 2021 ("Draft Element" or "Draft") and also point out aspects of the Department of Housing and Community Development's ("HCD's") letter to the County containing its findings on the Draft's compliance with state Housing Element Law and which were dated September 1, 2021 ("Findings").

Leadership Counsel had a limited time frame in which to review the Revised Draft as a result of the County's failure to provide our staff, as commenters on the Draft, with notice of its availability. Our comments below reflect our findings and input relating to the Revised Draft to date. We reserve the right to supplement our comments to the County based on further review and/or input from residents with whom we work alongside. Because of the time limitations on review and for efficiency-sake, we provide our comments to the County in bullet point format.

As discussed below, the Revised Draft fails to respond to and incorporate comments which we and other stakeholders submitted on the Draft Element and at other points during the 6th Cycle Housing Element Update. The Revised Draft fails to include analysis, sites, and programs as required by state Housing Element Law or to comply with its duties under civil rights and fair housing laws, including its duties to affirmatively further fair housing. e.g., Gov. Code Sec. 65580, et seq.; 11135; 65008; 12900, et seq.; 8899.50. This letter, the attached letter submitted by Leadership Counsel on behalf of numerous community-based organizations and residents of unincorporated East Coachella Valley, and resident and stakeholder comments to the County throughout the 6th Cycle Housing Element Update illustrate broad and deep concerns related to housing inadequacies in the region. The County must not ignore these concerns and must meaningfully respond to all public input received, especially input provided by protected class and lower-income households and civil rights and community-based organizations which work alongside protected classes and lower-income households.

As a result, we ask that the County: (1) rescind its submission of its Revised Draft to HCD for review, (2) prepare further revisions to its Revised Draft which meaningfully and comprehensively incorporate public comments provided to the County during the housing

Robert Flores, Principal Planner

September 27, 2021

Page 2 of 18

element update process, (3) release the new revised draft for public review and input at least 30 days in advance of submitting the new revised draft to HCD, and (4) conduct public outreach and engagement, including in particular to protected classes and lower-income households, to provide information on the new revised draft and accept and incorporate input, before submitting the element to HCD for review and the Planning Commission and Board of Supervisors for public hearing.

I. Government Code Section 65356 Requires That the County Provide a Revised Draft to the Planning Commission Before the Supervisors Vote on it

Government Code section 65356(a) provides that:

“The legislative body shall adopt or amend a general plan by resolution, which resolution shall be adopted by the affirmative vote of not less than a majority of the total membership of the legislative body. The legislative body may approve, modify, or disapprove the recommendation of the planning commission, if any. However, any substantial modification proposed by the legislative body not previously considered by the commission during its hearings, shall first be referred to the planning commission for its recommendation.” (underline added)

The Revised Draft contains substantial modifications to the Draft Element considered by the Planning Commission on September 1, 2021. Accordingly, pursuant to section 65356(a) the Board of Supervisors are prohibited from voting on the Revised Draft before consideration of the Revised Draft by the Planning Commission under section 65356(a). Given the substantial deficiencies of the Revised Draft, discussed in this letter below and the attached letter from Leadership Counsel and other organizations and residents, we recommend that the County prepare further revisions to the Revised Draft and provide a new revised draft for public comment and undertake a public process to solicit and incorporate input on a new revised draft before bringing a final draft to the Planning Commission and Board of Supervisors for consideration.

II. The County Has Repeated its Failings to Diligently Engage the Public In its Preparation of the Revised Draft

- A. Our August 12th Letter described significant inadequacies in Riverside County’s efforts to engage the public in the development of the County’s 6th Cycle Housing Element. These inadequacies included a failure to take effective steps to ensure participation by protected classes and lower-income households; a failure to incorporate input received; the County’s submission of its Draft Element to HCD before allowing the public to provide input on the draft; failure to align the County’s outreach for the development of related general plan elements, including the environmental justice element and the safety element, in accordance with SB 379. August 12th Letter, pp. 1-5. Rather than respond proactively to address its public process deficiencies, the County has replicated several of these deficiencies in its development of the Revised Draft, including but not limited to the following:

1. The County failed to provide notice of the availability of the Revised Draft to interested stakeholders, including by failing to notify stakeholders who previously submitted comments or otherwise engaged in the housing element update of the revised draft. Specifically, Leadership Counsel staff never received an email or other notification of the availability of the Revised Draft after the County submitted it to HCD and posted it to its website on September 14, 2021. As a result, Leadership Counsel learned of the Revised Draft's availability with limited time before the Board of Supervisors hearing on the housing element which the County has scheduled for September 28, 2021 and has had not had an adequate opportunity to ensure that residents of Mecca, Thermal, Oasis, North Shore and other lower-income, Latinx communities have access to information regarding the Revised Draft;
2. As discussed throughout this letter, the Revised Draft's revisions, including revisions to the Assessment of Fair Housing, Programs, and Sites Inventory, do not respond, or respond only minimally and insubstantially, to public input provided in our August 12th and 16th Letters and other public comments described in Appendix P-1. The overwhelming majority of the revisions in the Revised Draft appear to respond directly to HCD's Findings. Yet HCD's Findings advised the County that, "[t]he County's consideration of public comments must not be limited by HCD's findings in this review letter." HCD's Findings, p. 10.
3. HCD's Findings explained to the County that the County's failure to make the Draft Element available to the public for review prior to submitting the Draft to HCD results in a failure of the County to satisfy its duty to make a diligent effort to engage the public. Findings, P. 9. HCD's Findings stated that:

“[t]he 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 County 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.”

Despite these clear comments by HCD regarding the appropriate process for provision of draft elements to the public and HCD, according to the County's website, the County submitted the Revised Draft to HCD on the same day it posted the Revised Draft to its website -- September 14, 2021.

III. Evaluation of Previous Housing Element

- A. The Revised Draft Continues to Fail to Evaluate the 5th Cycle Housing Element As Required by Law.** Our August 12th Letter discusses in detail the Draft Element's failures to comply with Housing Element statute and HCD

guidance requiring housing elements to review the effectiveness of the jurisdiction's previous housing element and the jurisdiction's implementation of the previous element in addressing community and state housing goals. We also informed the County of the significant role that public input provided during the housing element update should play in informing the evaluation of the previous housing element pursuant to HCD's AFFH Guidance and the Draft Element's failure to consider public input in this section. Despite our extensive input on these matters, the Adoption Draft does not include any substantive revisions to address them. *See* P-5-P-42.

IV. Assessment of Fair Housing

A. Overarching Comments

1. The Revised Draft continues to fail to incorporate public input. Leadership Counsel's August 12th Letter provided the County with extensive input regarding deficiencies in the Draft's AFH and to assist the County in developing a robust AFH that accurately reflects the fair housing issues that impact Riverside County residents. The County has also received input on these matters from Leadership Counsel, other community-based and civil rights organizations, and residents in other letters and public comments provided during workshops and hearings on the element, including input described in Appendix P-1 Public Participation. This conflicts with the County's duty to make a diligent effort to solicit public input by all economic segment of the community and to incorporate public input and knowledge. § 65583(c)(9); AFFH Guidance, p. 39, 62.

2. The AFH inappropriately mischaracterizes public comments received. In its discussion of Enforcement and Outreach Capacity, the AFH mentions that the County receives comments raising fair housing concerns by several organizations, including Leadership Counsel, and characterizes the comments as emphasizing the need for further investigation into fair housing issues "to understand the full extent of the issues." In response to this characterization of the comments it received, the AFH states that it will conduct a survey of farmworker conditions, work with local transit agencies to promote mobility and services for low-resource areas, and work with the Continuum of Care programs which were included in the Draft Element. PP. 95-96. Unfortunately, the Revised Draft mischaracterizes the nature of public comments submitted to the County on its Draft, which provided the County with specific details about existing fair housing disparities, requested that the County conduct further analysis where appropriate, and identified specific actions that commenters requested the County consider in response to the fair housing disparities identified. The County must include and analyze information available to it in the housing element relating to the topics set forth under the Housing Element Statute and may not ignore information or fail to analyze fair housing issues because the County received the information from the public. *See* HCD's AFFH Guidance (stating that the County must diligent outreach efforts for the entire housing element and identifying the AFH as a key component of the housing element requiring public input, p. 22) The housing

element's programs and meaningful actions must also reflect and respond to public comment received. *See* AFFH Guidance (stating that "actions must be formulated in a manner to address the full scope of outreach," p. 54). The three actions which the County states that it will take in its response to its characterization of public comments do not do so.

3. The AFH's Actions Fail to Address Housings Disparities Reflected in the AFH's Analysis and to Reflect Public Input.

- i. **AFH's Actions Fail to Reflect Public Input.** Our August 12th Letter and other written and verbal public comments provided to the County during the housing element update provided input to the County on fair housing issues and actions and programs needed to address those issues. The Revised Draft Element fails to contain revisions to reflect that input. In fact, the AFH includes no material changes to the actions identified in the Draft and continues to fail to consider specific actions and programs recommended in our previous comments.
- ii. **Lack of Actions Directed Towards R/ECAP of Mecca, Thermal, Oasis and North Shore.** The AFH identifies Mecca, Thermal, Oasis, North Shore and other areas around the Salton Sea as an R/ECAP and as highly impacted by environmental health disparities and overcrowded housing. Revised Draft, PP-81, 90. The Revised Draft also describes rural areas of Eastern Riverside County, where these communities are located, as impacted by stark disparities identified through the AFH. P. 81. The Revised Draft contains no programs specifically targeting resources towards addressing the housing needs impacting the disadvantaged unincorporated communities surrounding the Salton Sea. The County should consider revising the Revised Draft to do so.
- iii. **Goals, Metrics, and Milestones.** HCD's findings on the Draft Element state that "[T]he element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond the analysis...*and must be significant and meaningful enough to overcome* identified patterns and trends. Actions must have metrics and milestones as appropriate..." p. 2. The Revised Draft contains no revisions to the actions identified in response to the AFH and fails to respond to this finding. PP. 99-100.

B. Segregation and Integration Analysis

1. While the Revised Draft includes some additional analysis, the Revised Draft still falls far short of an adequate analysis.
2. **Lack of assessment of needs of Black, API, and Native American households.** The draft incorporates some information about segregation trends for Latinos, based on disability, single-parent household status. But the draft still fails to include any analysis of patterns of racial segregation and integration for black, Asian-Pacific Islander, and indigenous American residents. To comply with the Housing Element statute's requirement that the AFH include the needs of "protected classes," AFFH

Guidance provides that the AFH's segregation and integration analysis must discuss levels "levels of integration and segregation for race and ethnicity", among other factors. AFFH Guidance, p. 31.

3. **The AFH fails to discuss characteristics of each R/ECAP.** HCD's findings on the Draft Element state that the element should evaluate the characteristics of the RECAPs it identifies, changes over time, comparisons to other neighborhoods in terms of equitable quality of life and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends." p. 1. HCD's AFFH Guidance affirms this requirement, stating that local jurisdictions should use the information about RECAPs "as a starting point." AFFH Guidance, p. 34. "A complete analysis will then address the trends, patterns, policies, practices, and conditions in combination with other relevant factors to summarize issues and better inform goals and actions." AFFH Guidance, p. 34. The AFH includes some information about trends in poverty, income, and housing composition in these areas and postulates that "the dominance of agriculture and limited transit opportunities" for each of the communities it identifies as a basis for its status as an R/ECAP. The analysis entirely fails to discuss any other factors relating to quality of life in these communities, public participation, policies, practices, and investments. Revised Draft, P-81, 82. The analysis of R/ECAPs remains incomplete.
4. **The AFH Fails to Evaluate Racial Segregation Using Indexes Recommended by HCD or Other Available Data Sources and Information.** HCD's AFFH Guidance provides two quantitative metrics that can be used to analyze the extent of racial and ethnic segregation: the dissimilarity index and the isolation index. pp. 31-32. The Revised Draft does not evaluate segregation and integration using either of these indexes and instead, only refers to a "Diversity Index," without providing a description of how the Revised Draft calculates the Diversity Index scores. The Revised Draft must be revised to evaluate racial and ethnic segregation using the dissimilarity and/or isolation indexes. To the extent it continues to rely on the Diversity Index, the housing element should describe how that index is calculated and how it compares to or differs from the dissimilarity and isolation indexes. In addition, the housing element should provide additional detail about its findings. The Revised Draft states that the County generally has high diversity scores and that areas with lower diversity indexes "are typically undevelopable mountainous areas". P-81. The revised draft element should clarify whether all areas with low diversity indexes are undevelopable or whether portions of the land are suitable for housing development.
5. **The Evaluation of Racially Concentrated Areas of Affluence Fails to Use Data Recommended by HCD or Consider Other Relevant Information**
 - i. The County's analysis of Racially Concentrated Areas of Affluence finds no census tracts or block groups within the County that qualify as such but fails to acknowledge or discuss the existence of wealthy enclaves which are segregated from majority Latino communities in the County. While the Revised Draft inclusion of any information on this topic is an improvement from the Draft Element, the analysis should include other information necessary to accurately evaluate this topic.

- ii. For instance, HCD’s AFFH Data Viewer map of Riverside County for “Predominant Population – White Majority Census Tracts” shows significant swaths of Riverside County with the white population as the predominant group as well as portions of the county where there is a “sizeable gap” between the white and non-white population share. (Attachment 1 hereto). The County should consider this data and provide a more detailed analysis of areas of integration and segregation within the County.
- iii. In addition, Riverside County is home to various high-end residential developments, including developments approved pursuant to specific plans, which are accessible to only the highest income earners and wealthy households. The Thermal Club, for example, consists of 268 residential lots set next to a motorsport track. Thermal Club members pay \$1,200 a month to use the motorsport track and buy vacant land around the track for \$700,000 to \$900,000 a lot upon which they build vacation homes.¹ The Thermal Club is located behind an 18-foot high wall, making it completely inaccessible to Thermal residents, which the Revised Draft indicates is an R/ECAP.
- iv. In recent years, the County has continued to permit such development. For example, in 2020, the County approved Thermal Beach Club, which will include 326 luxury residences set around a man-made lagoon and wave pool with a spa and fitness center, sport courts, retail, pool, dining facilities and more.² The Thermal Beach Club website indicates two membership levels, Residence Club emphasizes the “private” and “exclusive”.³ The project developer committed to paying \$749,800 into a community benefits fund. Any affordable housing built as a result of the project is not required to be built within Thermal Beach Club community itself.⁴
- v. The County must revise the Revised Draft to acknowledge and identify the presence of luxury and vacation developments in the County which serve very high income and wealthy households, analyze their implications with

¹ Amy DiPierro, Desert Sun, Behind the 18-foot wall of Thermal Club, an oasis for car lovers in a desert farming town, March 20, 2018, available at <https://www.desertsun.com/story/money/real-estate/2018/03/19/behind-18-foot-wall-thermal-club-oasis-car-lovers-desert-farming-town/432851002/>

² See CISION, Ocean Style Living in Coachella Valley Becomes a Reality as 20-Acre Surf Lagoon and Private Residential Community Gets Green Light,” Nov. 13, 2020, available at https://www.prweb.com/releases/ocean_style_living_in_coachella_valley_becomes_a_reality_as_20_ace_surf_lago_on_and_private_residential_community_gets_green_light/prweb17544136.htm

³ In describing the Thermal Beach Club and its amenities, the website uses the terms “exquisite private development,” and “private surf lagoon,” among others; calls it a “personal desert retreat; states that founder memberships are “for a select group of qualified individuals”; and describes how members can travel directly from the local airport to the Club for day trips, thus necessitating no interaction with surrounding communities.

⁴See Riverside County Supervisor V. Manuel Perez’s webpage, Fourth District News, “Riverside County Supervisors Unanimously Approve Thermal Beach Club with Unprecedented Community Benefits,” Oct. 27, 2020, available at <https://rivco4.org/News/riverside-county-supervisors-unanimously-approve-thermal-beach-club-with-unprecedented-community-benefits-1>

respect to segregation and integration patterns and trends in the County, and include appropriate policies and actions to address their impacts, including those identified during the public process already.

C. Inadequate Displacement Analysis

1. **Failure to Evaluate Race and Other Protected Characteristics.** The Displacement analysis only discuss displacement risk based on income and geographic area of the County (western and eastern Riverside County). The displacement analysis fails to evaluate displacement based on race or ethnicity and in fact, does not even mention race or ethnicity or other protected class status. Revised Draft, PP.92, 93. The Revised Draft must be revised to include this evaluation. Gov. Code § 65583(c)(10); HCD AFFH Guidance, pp. 39 (“The housing element must include an assessment of disproportionate housing needs, including displacement risk, on people with protected characteristics and households with low incomes) (underline added).
2. **Failure to Evaluate Potential Displacement in Meadowbrook.** The AFH states that the rate of poverty in Meadowbrook decreased from 2014 to 2019 from 42.5% to 18.9%, but provides no explanation for this decrease. The Revised Draft indicates that wages have remained relatively stagnant in RC in recent years, so the poverty reduction is not likely attributable to increased wages. Revised Draft, P-92. The HE should examine whether displacement is occurring Meadowbrook, whether similar trends are occurring elsewhere in the County, and actions to prevent displacement.
3. **Failure to Consider Displacement-Risks Raised in our August 12th Letter, Including Disaster, Climate, and Disinvestment-Driven Displacement and Inadequate Tenant Protections.**
 - i. Our August 12th Letter provided the County with information about displacement-risks associated with several factors not addressed by the Draft Element. August 12th Letter, pp. 14-15. The Revised Draft’s Displacement analysis fails to consider any of these displacement risks other than housing price increases. HCD’s AFFH Guidance identifies public-sector and private-sector neighborhood disinvestment in infrastructure, amenities, and services, including financial services, and disaster-driven displacement as forms of displacement as displacement risks which must be considered. AFFH Guidance, pp. 41-42.
 - ii. Recent weather events in Riverside County highlight the importance and urgency of the inclusion of a sound analysis of disaster-driven displacement risks. For several days in August this year, hundreds of North Shore families lost power and went without electricity, internet, and air conditioning following severe storms that toppled Imperial Irrigation District power poles.⁵ During this event, extremely-low and very-low income households’ groceries spoiled and vulnerable residents endured

⁵ See Kamari Esquerra, North Shore Power Outage Declared a Local Emergency, Sept. 15, 2021, available at <https://nbcpalmsprings.com/2021/09/15/north-shore-power-outage-declared-a-local-emergency/>

extreme heat in their homes, which some residents described as “unbearable”. Additionally, the storm caused severe damage to several homes.

- iii. As mentioned in our August 12th Letter, inadequate and absent water and wastewater infrastructure and services are a displacement risk to lower-income communities of color in the Eastern Coachella Valley, particularly Mecca, Thermal, Oasis, and North Shore. The draft should analyze how Severe and Extreme Drought conditions in Riverside County might impact displacement risks in these and other communities.⁶
- iv. Figures P-15 and 16, Neighborhood Overview (East) and Neighborhood Overview (West) indicate that large portions of Riverside County are located within Very High, High, and Moderate Fire Hazard Severity Zones. The draft element does not discuss the risk of displacement to protected classes and low-income households as a result of fires or consider how fire-related displacement result in indirect displacement as a result of decreased housing supply and increasing housing costs.

4. Continued Lack of Analysis of Displacement Risks Impacting Tenants Despite Information and Data Showing Significant Displacement Threats.

- i. As discussed in our August 12 Letter, tenants face particular displacement threats as a result of formal and informal evictions; landlord harassment and retaliation, including based on a tenant’s protected-class status; limited local tenant protections, including a lack of local rent control policies, and a lack of affordable legal counsel. The Revised Draft’s displacement risk analysis fails to consider any of these displacement risks impacting tenants and includes no actual data specific to tenants.
- ii. The displacement analysis does recognize that increasing rental prices and low vacancy rates constitute displacement risks for renters. See PP. 92-93. But the Revised Draft fails to provide data showing the scale of risk. In June 2021, U.S. Today found that the /San Bernardino/Ontario metro area ranked first in the nation for largest rent year-on-year rent increases with a 19.2% increase in median monthly rent between 2020 and 2021.⁷ Apartment List data indicates that between January and October 2020, rents for vacant units jumped 6.9%.⁸ This data indicates a significant and urgent threat of displacement to Riverside County renters. The County must revise its draft element to include and evaluate this and other data relating to displacement risks to tenants, and protected classes and low-income households in particular, and identify actions the County will take to respond to severity and urgency of the risks.

⁶ See National Drought Mitigation Center at University of Nebraska-Lincoln, the USDA, and the NOAAH, U.S. Drought Monitor, West, available at <https://droughtmonitor.unl.edu/CurrentMap/StateDroughtMonitor.aspx?West>

⁷USA Today, U.S. metro areas experiencing largest rent increases, June 17, 2021, available at <https://www.usatoday.com/picture-gallery/money/2021/06/17/top-10-us-metro-areas-experiencing-rent-increases/7736186002/>

⁸Andrew Khouri, Los Angeles Times, Nov. 23, 2020, available at <https://www.latimes.com/business/story/2020-11-23/rent-falling-los-angeles-rising-suburbs-inland-empire>

5. **Lack of Meaningful Actions to Address Displacement Threats in Riverside County.**

- i. While the Revised Draft recognizes the risks of displacement to Riverside County households as a result of low-vacancy rates, rising housing prices, overcrowded living conditions, and substandard housing, the Revised Draft fails to include new programs or actions or modify program or actions contained in Draft Element to respond to those displacement risks. The Revised Draft also fails to include programs or actions that respond to displacement risks identified in public comments but not analyzed in the Revised Draft. The County must revise the Revised Draft to include actions responsive to those displacement risks.
- ii. The actions identified in the Displacement analysis do nothing to prevent short-term displacement as a result of rising rent prices, despite available indicators indicating sharp rental price increases in the area. While more affordable housing and providing assistance to lower-income households to secure affordable housing may reduce displacement risks to some degree over the long-term, those policies do nothing to prevent the short-term displacement of residents as a result of rapidly rising rents, a lack of local tenant protections, a lack of legal counsel available to lower-income renter households, and other displacement risks impacting tenants.

6. **Access to Opportunity**

- i. **Access to a Healthy Environment.** Our August 12th letter and public comments described in the Draft Element's Appendix provided significant input to Riverside County regarding disparities in access to a healthy environment that impacts residents on the basis of race, ethnicity, other protected class status, and income. August 12th Letter, pp. 15-16. The Revised Draft fails to incorporate any additional analysis as a result of these comments and HCD's findings requiring the County to supplement its analysis on this topic, except for one sentence stating that disadvantaged communities in Riverside County "are generally located in areas with heavy industrial facilities" and "have more limited access to healthy outdoor spaces such as parks and trails. Findings, p. 1; Revised Draft, P. 85. The Revised Draft completely ignores public input regarding various other topics related to serious disparities in access to environmental health in Riverside County. And while HCD's Findings indicate that the County's revisions must include analysis of "policies, practices, and investments that impact access to environmentally healthy neighborhoods," the Revised Draft does not include any information or analysis to this effect. Findings, p. 1; *See also* HCD's AFFH Guidance, p. 35. The Revised Draft's use of passive voice ("[t]hese communities are generally located in areas with heavy industrial activities") punctuates the County's refusal to assess how its own policies, practices, and investments contribute to environmental health disparities. Revised Draft, P-85. The County must revise its analysis of Environmental Health disparities to incorporate and respond to public input regarding those disparities and HCD's findings.

iii. **The Housing Element Must Include Meaningful Actions to Address Environmental Health Disparities.** The Revised Draft fails to identify any meaningful actions the County will take to address environmental health disparities impacting residents on the basis of race, ethnicity, or other protected characteristic. The Revised Draft lists several policies which it indicates are contained in Riverside County's Healthy Communities Element. Yet policies contained in another general plan element are not a substitute for concrete and meaningful actions to address environmental health disparities identified as part of the Assessment of Fair Housing pursuant to Section 65583(c)(10), including through public input provided relating to the AFH. Similarly, the County's development of an environmental justice element does not absolve the County of its responsibility in the AFH to identify and include actions which respond to the AFH's analysis and public input and which meet the Housing Element statute's specific requirements for programs and actions. *See* Gov. Code §§ 65583(c)(3)&(10).

7. **Access to Employment Opportunities**

- i. **Failure to Conduct Minimum Required Analysis of Employment Opportunities.** HCD's AFFH Guidance states that, at a minimum, an AFH's employment opportunities analysis should (1) describe any disparities in access to jobs by protected groups, (2) address where protected groups live and how that affects their ability to obtain a job; and (3) evaluate employment trends by protected groups. p. 35. The Revised Draft employment opportunities analysis does none of this, as it does not include any analysis of employment opportunities with respect to protected classes. In fact, the Revised Draft does not even mention any protected classes in its analysis.
- ii. **Lack of Analysis of Employment Opportunities in Riverside County.** The Revised Draft's analysis of employment opportunities lacks any discussion of the types of employment opportunities that exist in Riverside County, protected classes proportionate representation as employees in those sectors, the quality of employment opportunities available to protected classes, and actions to address barriers to access to employment opportunities for protected classes based on that analysis. The County must revise and recirculate the Revised Draft to include this information and analysis. According to Riverside County's 2019-2024 Analysis of Impediments to Fair Housing, major employers in Riverside County include employers in the leisure and hospitality industry and the logistics industry. Riverside County 2019-2024 AIFH, p. II-28 (identifying Pechanga Resort and Casino and Amazon as among the County's top ten employers). Both of these industries typically pay low wages and fail to pay competitive employee benefits and the logistics sector, and Amazon in particular, is notorious for poor working conditions for employee.⁹ The

⁹ See Carolyn Said, San Francisco Chronicle, Does Amazon's need for speed hurt warehouse workers? A propose California law could help, Sept. 19, 2021, available at <https://www.sfchronicle.com/bayarea/article/Does-Amazon-s->

County should include a discussion of the jobs available through the major employers and industries in Riverside County, trends with respect to employment in those sectors, and representation of protected classes in those jobs.

- iii. **Lack of meaningful actions to improve the employment opportunities for farmworkers.** The draft element identifies the predominance of the agricultural industry as a reason for poverty in Eastern Riverside County, but does not consider opportunities to address poverty or improve economic opportunity among farmworkers by improving the conditions and terms of employment in agriculture. Making efforts to connect low-income rural households to CalWorks for assistance “to meet basic needs” is not an adequate response to the Draft’s recognition of the prevalence of a job sector in the County which results in the impoverishment of entire communities. See Revised Draft, P-88, 89. The County must prepare a housing element which considers and includes meaningful actions to improvement employment opportunities in Eastern Riverside County, including employment terms and conditions for farmworkers. These actions could include providing an universal year-round guaranteed basic income for farmworkers; providing support for oversight of labor laws for farmworkers; and adopting enhanced and oversight local protections for farmworkers from exposure to pesticides, wildfire smoke, and other environmental health hazards, among others.

8. Sites Inventory AFFH Analysis

- i. **Exclusive Luxury & Above-Moderate Income Development Next to Low-Resource Communities Does Not AFFH.** The Revised Draft’s AFFH analysis of the Sites Inventory refers to the location of sites for above-moderate income housing “in low resource and high segregation areas” and “near low-income sites”, including the Kohl Ranch Specific Plan, as a strategy to combat segregation. As discussed above, exclusive wealthy enclaves situated near but separate from lower-income Latinx communities in Eastern Riverside County are not appropriate or effective strategies to affirmatively further fair housing. In fact, the development of luxury vacation resorts like the Thermal Beach Club and Thermal Club next to the farmworker community of Thermal only creates a striking and unavoidable display of segregated and inequitable living conditions in Eastern Riverside County. Dozens of Mecca, Thermal, Oasis, North Shore and other residents from the Salton Sea area have opposed the development of projects like Thermal Beach Club at public hearings and workshops on this basis. While the County states that Travertine Pointe Specific Plan includes a requirement that 10% of its units be affordable to low and moderate income households, our August 12th letter explains how the provisions of the Specific Plan do not actually require the development

of any units affordable to lower-income households and provide broad discretion to the developer to determine if and when market conditions warrant the development of units affordable to moderate income households. Notably, the Revised Draft's AFFH analysis of the Sites Inventory does not describe that any other higher-income residential developments proposed to be located in lower-income areas of the County include a set percentage of affordable units.

- ii. To the extent that the County wishes to rely on sites near lower-income areas to meet its above-moderate income RHNA, the County must include significant requirements for the inclusion of lower-income units to ensure that residents of nearby communities, especially those like Mecca, Thermal, Oasis, and North Shore which are impacted by high rates of overcrowding and rent burden, have the opportunity to access housing and amenities within these developments. The County should include a program in the Housing Element to develop and adopt an inclusionary zoning ordinance with community input by a certain date, no later than two years from adoption of the 6th Cycle Housing Element to ensure a beneficial impact from the creation of new affordable and inclusive housing units during the planning period.
- iii. **The Revised Draft Fails to Respond to Input Relating to Access to Opportunity, Including a Healthy Environment, at Lower-Income Sites.** Our August 12th Letter asked the County to revise its Draft Element to provide additional detail about access to opportunity near lower-income sites in or near census tracts designated as high resource areas in order to provide a realistic portrayal of the opportunities that would be available to lower-income households of housing developed on those sites. August 12th Letter, pp. 16-17. In addition, we identified a number of concerns relating to the location of lower-income sites in proximity to environmental health risks, including their location in disadvantaged communities pursuant to CalEnviroScreen; their proximity to highways; and their locations in fire risk zones and flood zones. Unfortunately, the Revised Draft fails to respond to or address any of our comments on these topics.

V. Household Characteristics

- A. **Atypically High Vacancy Rates in Eastern Riverside County.** The Revised Draft states that 36.9% of housing units in Eastern Riverside County are estimated to be used for recreational or seasonal use. This statement replaces a statement included in the Draft Element identifying a vacancy rate of 42% in unincorporated Eastern Riverside County. P-58. The County should clarify whether the 36.9% figure included in the Revised Draft also reflects vacancy rates or, as the draft states, only a percentage share of units. HCD's Findings state that a "vacancy rate of 42 percent is atypical even in areas with significant seasonal influences. The element should include analysis of this vacancy rate and add or modify policies and programs as appropriate." Findings, p. 3. The Revised Draft lacks the analysis requested by

HCD's Findings and does not modify or add policies and programs to address the County's atypical vacancy rates in Eastern Riverside County, such as the inclusionary zoning policy proposed in our August 12th Letter. p. 21. Significant concern by residents of lower-income Latinx communities in Eastern Riverside County has been raised over the prevalence of high-end vacation home development in the region, such as the Thermal Club and Thermal Beach Club at Kohl Ranch. Given the significant community concern relating to the impact of recreational and vacation dwellings on the perpetuation of patterns of segregation and on disparities in access to public and private infrastructure, services, and amenities in Riverside County, the County must revise the Revised Draft to analyze the basis for the high vacancy rates among "recreational or seasonal use" in the Eastern County and consider including appropriate policies and programs.

VI. Sites Inventory

- A. The Revised Draft Fails to Justify Its Reliance on the Travertine Point Specific Plan for 916 lower and very-low income units.** Leadership Counsel's August 12th comments included detail information from the Travertine Point Specific Plan demonstrating that the plan does not include a requirement for the development of lower-income units; that the area encompassed by the plan lacks basic infrastructure and services needed for development in the plan area to occur; that portions of the plan area are located within tribal land or in the Inland Empire outside of Riverside County control; that no development has been initiated within the plan area and no timeline has been provided for its initiation, among other factors. In response to our August 12th Letter and/or HCD's findings, the Revised Draft revises the number of lower-income units which it claims credit for as a result of the plan from 1,609 to 916 units. Yet, the Revised Draft fails to address the points raised in our August 12th Letter which indicate that the County cannot claim credit for any lower-income units based on the Travertine Point Specific Plan. With respect to the timing of development in the plan area, the Revised Draft states that "It is estimated that it would take approximately 15 months for this project to break ground once the plot plan is initiated." But the Revised Draft provides no information about when a plot plan may be initiated, if at all. The County must revise its analysis of the realistic residential development potential of lower-income units in the Travertine Point Specific Plan area during the 6th Cycle planning period to respond to the issues raised in our August 12th comments and must revise its reliance on these units accordingly.
- B. Reliance on Sites Included in 5th Cycle Sites Inventory Without a Rezoning Program Required By Section 65583.2(c).** The Revised Draft, like the Draft Element, relies on nonvacant sites to accommodate approximately 171 units of the County's lower-income RHNA which were also included in its 5th Cycle Housing Element. The draft must eliminate the sites from the inventory or include a program in the housing element that requires rezoning the sites for by right residential use where at least 20% of the units are affordable to lower-income households pursuant to Section. 65583.2(c). p. 11. The Revised Draft also continues to lack any information on the extent to which its relies on sites, vacant

or nonvacant, which were included in both the 5th and 4th Cycle Housing Element sites inventories. The County must correct this omission.

- C. Reliance on Tribal Land located in the Torres Martinez Desert Cahuilla Indian Reservation and Cabazon Town Center.** The Revised Draft appears not to respond to or address our August 12th comments relating the County's reliance on tribal land outside of its jurisdictional control to meet its lower-income RHNA.
- D. Environmental Constraints.** Our August 12th Letter describes several significant deficiencies in the Draft Element's discussion of environmental constraints on sites included in the inventory to meet the County's RHNA. The Revised Draft includes no revisions to respond to or address our comments relating to environmental constraints.
- E. Infrastructure Deficiencies.** As noted in this and previous correspondence, several sites identified for housing, and in particular housing to meet the need for lower income households, lack adequate infrastructure, including but not limited to water and wastewater infrastructure to support such housing. The Revised Draft fails to address this deficiency.

VII. The Revised Draft's Programs Fail to Respond to Deficiencies Identified and Recommendations Provided by the Public and HCD

- A. The Revised Element fails to respond to extensive input provided in our August 12th and August 16th Letters relating to deficiencies in the Draft Element's programs and recommendations relating to programs needed to address the housing needs of Riverside County residents. *See* August 12th Letter, pp. 18-22; August 16th Letter, pp. 2-6. The Draft Element's programs continue to contain vague language without identifying concrete actions the County will take with "timelines, discrete steps, and measurable outcomes to have a 'beneficial impact' during the planning period." *See* AFFH Guidance, p. 51. For example, Program H-2, Infrastructure Availability and Coordination, continues to state that the County will "coordinate" with service providers to "assess the need for infrastructure and services" and "discuss plans for expansion." The program does not reflect a complete analysis performed by Riverside County relating to infrastructure and service deficiencies, as recommended in HCD's Findings, and fails to incorporate requests and suggestions contained in our August 12th Letter and in HCD's Findings that the County modify the program to include specific actions, like committing to "developing a comprehensive analysis" of infrastructure and service needs and "prioritized schedule" to address those needs and to serve as the lead agency and take other specified actions to address those needs. Revised Draft, H-7; HCD's Findings, p. 7; August 12th Letter, p. 18. *See also, e.g., Action H-7 (Land Use (Zoning) Ordinance Amendments)* (continuing to fail to commit to amendments to ensure compliance with Health and Safety Code § 17021.6 to allow employee housing for up to 12 households or 36 beds where agriculture is allowed); **Action H-10 (Innovative Housing Options)** (no revisions made despite our comments describing vague language and lack of assurance of a beneficial outcome in the planning period) **Action H-12 (Inclusionary Housing Requirements)** (no revisions made despite our comments about the inadequacy of language committing the County to "promote" the inclusion of low-income units and

- the need for the program based on community input relating to patterns of segregation in the County); **Action H-17 (Mobile Homes)** (only revising the Action to add “and assist with funding applications,” without addressing vague terms used throughout the action or including specific steps needed to address the housing conditions of mobile homes as described in our August 12th Letter); **Action H-18 (Polanco Parks Program)** (no revisions despite discussion in our August 12th Letter of statutorily inadequate language and specific recommendations contained in our February 2021 and August 16th Letters relating to Polanco Parks); **Action H-22 (Housing Choice Voucher Program)** (no revisions despite our August 12th Letter’s identification of a lack of concrete steps and proposed actions to further the use of HCVs in high opportunity areas).
- B. **Action H-3 (Large Lots).** HCD’s Findings state that a program in the 5th Cycle Housing Element did not appear to be well-utilized to facilitate developments at appropriate sizes for housing for lower-income households, and that the Program should be adjusted to address the lack of effectiveness. Findings, pp. 7-8. As an example, the findings state that the program could be modified to provide that the County will “reach out to developers of affordable housing and incorporate necessary strategies such as ministerial lot splits or other incentives.” Findings, p. 8. The County appears to have adopted the modifications provided by way of example in HCD’s findings essentially verbatim, without demonstrating that the modification would actually address the program ineffectiveness in the 5th Cycle Housing Element. The 5th Cycle Element included a similar provision which stated that the County would provide an “expedited review process” for the subdivision of larger lots. Riverside County Housing Element, 2017-2021, p. H-151, Program 1.2e. The County should discuss how the commitment included in Revised Draft Program H-3 differs the commitments contained in the 5th Cycle Element, why it may expected to effectively facilitate the development of large lots contained in the sites inventory, or whether additional incentives are needed in order to justify housing element’s retention of the large sites included in the sites inventory.
- C. **Action H-9 (ADU).** HCD’s Findings state that the housing element “should go beyond ‘exploring’ options for establishing an ADU loan program and commit to its implementation. p. 9. In response, the Revised Draft replaces the words “explore options” with “[a]ssess the feasibility of” establishing an ADU loan program. Revised Draft, H-11. This revision fails to respond to the direction in HCD’s Findings that the program should include language committing to its implementation. Action H-9 also lacks steps to implement the results of ongoing, periodic monitoring of the program’s effectiveness, despite HCD’s Findings direction that the program “back up” monitoring with “actions within a specified time.” Findings, p. 9.
- D. **Action H-13 (Code Enforcement).** The Revised Draft’s additions to Action H-13 require further revision to ensure the effectiveness of this action. The Revised Draft’s timeframe for Action H-13 reads, “Develop a proactive code enforcement by 2024” and “annually apply for funding as NOFAs are released.” Action H-13 should be revised to state that the County will “Develop, *adopt, and begin to implement* a proactive code enforcement *program* by 2024.” Without these additional terms, Action H-13 only commits County staff to draft a hypothetical program on paper without formal adoption or implementation by the County. We recommend that

County further revise Action H-13 to state that the program will be developed and implemented with public input; provide that the County will prioritize the resolution of code violations without displacement of tenants where possible; and that the County will use local sources of funding for program implementation, rather than relying solely on grants, like many other housing element actions. These sources of funding could include a fee imposed on all rental units, fines charged to rental properties in violation of habitability standards, and general fund dollars.

E. **Action H-18 (Farmworker Housing)**. The revisions to Program H-18 included in the Revised Draft do not adequately respond to HCD's findings or our previous comments. HCD Finding's call for the modification of the program based on a complete AFH and based on lessons learned from past actions and "should include steps to address needs upon completion of the survey." Findings, p. 8. As mentioned above, the AFH remains incomplete and the Revised Draft, like the Draft Element, does not evaluate the effectiveness of programs contained in the 5th Cycle Element, but rather lists a set of accomplishments contained in its Housing Element Annual Progress Reports without comparison to the needs, goals, policies, measurable objective set forth in the element. Program 18 also does not appear to contain revisions to respond to these aspects of HCD Findings. Program 18 also does not identify any steps the County will take "to address needs upon completion of the survey," pursuant to HCD's Findings.

1. The Revised Draft adds a commitment to Program H-18 that the County will "[C]omplete an update farmworker survey before the end of the planning period." Completion of a survey "before the end of the planning period", which could be any day up until the last day of the planning period, will not result in any beneficial impact on actual farmworker housing needs and leaves no time for the County to take any steps to address the needs identified through the survey.
9. **Action H-20 (Persons with Disabilities)**. HCD's Findings and our August 12th comments noted a lack of concrete timelines and clear language ensuring that Action H-20 will result in a beneficial impact in the planning period. The Revised Draft fails to address these deficiencies. The additional commitment to "Reach out to non-profit agencies and coordinate with the Inland Regional Center at least twice during the planning period" provides no additional specificity regarding the specific outcomes that this Action will achieve *within* the planning period. H-16. In addition, the Revised Draft's AFH identifies that a disproportionate share of unincorporated county residents with disabilities live in Eastern Riverside County and surmises that the higher rates of disability in eastern RC is associated with residents' employment in higher-risk industries, like agriculture. P-84. The Revised Draft should include actions targeted to reduce the risk of disability to farmworkers and other residents in high-risk occupations and to ensure services are targeted effectively to disabled residents in Eastern Riverside County. H-16.
10. **Action H-27 (Improve Low Resource Areas Access to Opportunities)**. Our August 12th Letter describes vague and unenforceable language used throughout Action H-27. However, Revised Draft Action H-27 includes just one change, an addition, which states that the County will "[meet] with developers to identify suitable sites for affordable housing in eastern unincorporated areas and provide

Robert Flores, Principal Planner

September 27, 2021

Page 18 of 18

technical assistance to prepare projects for funding applications.” The Revised Draft states that the goal of this revision is to “[a]lleviate overpayment by increasing the supply of housing.” Revised Draft, H-19. Revised Draft Action H-27 both fails to address vague language contained in the Draft Element Action H-18 and includes new language that is similarly unlikely to achieve its goal, because the Revised Draft lacks any timelines or measurable objectives associated with the new action to “meet with developers”. Further, as discussed above, overpayment and rising housing costs in Riverside County is a significant displacement threat to lower-income residents which requires immediate actions, such as the adoption of local rent control policies and the expansion of access to affordable legal counsel for all lower-income residents. While actions to expand the supply of affordable housing are necessary, they alone will not prevent short or long-term displacement.

* * * * *

Please let us know if you have any questions or if you would like to find a time to discuss the contents of this letter.

Sincerely,



Ashley Werner
Directing Attorney
Leadership Counsel for Justice and Accountability

cc: Jamillah Williams, HCD
Paul McDougall, HCD