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August 27, 2025

## **VIA ELECTRONIC MAIL**

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**Re: Draft EIR Comments (SCH # 2024100396);  
Riverside Alive Project (PR-2024-001675)**

Dear Ms. Montojo:

This firm represents UNITE HERE! Local 11 (“Local 11”). Local 11 respectfully provides the following comments<sup>1</sup> to the City of Riverside (“City”) regarding the Draft Environmental Impact Report (“EIR”)<sup>2</sup> involving the proposed new mixed-use development (i.e., residential, office, retail, hotel uses) in conjunction with the Riverside Convention Center expansion (“Project”) at the approximately 10-acre Raincross Square site (“Site”).

We thank the City for the opportunity to provide these belated comments on the EIR. Local 11 has a significant interest in the Project, given the union represents more than 32,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona—including over 150 who live and/or work in the City.

In short, the Project is a once-in-a-generation opportunity for the City. Unfortunately, there is no specific proposal currently before the elected decisionmakers, as this concept remains abstract at this time. Nor does the Draft EIR adequately consider design features and mitigation

<sup>1</sup> Herein, page citations are either the stated pagination (i.e., “p. #”) or PDF-page location (i.e., “PDF p. #”)

<sup>2</sup> <https://riversideca.gov/cedd/planning/development-projects-and-ceqa-documents>.

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measures that could significantly minimize the Project’s impacts, including those to air quality, greenhouse gas (“GHG”) emissions, and vehicle miles traveled (“VMT”) that are expected to be generated by the Project, even after the current proposed mitigations are in place. Furthermore, there does not appear to be any affordable housing being proposed at this time. Collectively, this seems to be a missed opportunity for the City to capitalize on this unique opportunity. While a future project may be subject to site plan review or a conditional use permit (“CUP”) process, that does not provide the City the same level of discretion to fully consider all the benefits and costs of a future development proposal.

For the reasons discussed herein, Local 11 respectfully urges the City to consider establishing a Development Agreement requirement for any future hotel proposal within the site. So too, the City should consider making a portion of the housing component affordable and/or workforce housing. Lastly, we request that the City consider meaningful mitigation measures to reduce the Project’s GHG, energy, and VMT impacts. All of these measures would address various issues with the Draft EIR, which, respectfully, lacked an adequate consideration of mitigation measures or a range of alternatives and, thus, warrants recirculation under the California Environmental Quality Act (“CEQA”).<sup>3</sup>

## **I. LOCAL 11’S STANDING & INTEREST**

Local 11 represents more than 32,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including approximately 150 members who live and/or work in the City. The union has a First Amendment right to lobby public officials in connection with matters of public concern, like compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Here, its members also serve the community near the Project Site and, thus, have an interest in advocating for the Project to mitigate its VMT/traffic impacts, which in turn reduces the Project’s mobile emissions affecting air quality and GHGs.

Protecting its members’ interest in the environment and zoning laws concerning public welfare is part of Local 11’s core function. Recognizing unions’ interest in these issues, California courts have consistently upheld unions’ standing to litigate land use and environmental claims.<sup>4</sup> Furthermore, Local 11 has public interest standing given that the proposed action relates to the City’s public duty to comply with applicable zoning and CEQA laws, and Local 11 seeks to enforce that duty.<sup>5</sup>

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<sup>3</sup> Including “CEQA Guidelines” codified at 14 Cal. Code. Regs. § 15000 et seq.

<sup>4</sup> See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.

<sup>5</sup> See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166.)

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## **II. BACKGROUND ON CEQA ENVIRONMENTAL IMPACT REPORTS**

CEQA requires lead agencies to analyze the potential environmental impacts of its actions in an environmental impact report. (See Pub. Res. Code § 21100.<sup>6</sup>) The EIR is the very heart of CEQA.<sup>7</sup> The *foremost principle* in interpreting CEQA is that the Legislature intended the act to be read so as to afford the *fullest possible protection* to the environment within the reasonable scope of the statutory language.<sup>8</sup>

### **A. CEQA's Purpose**

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (See CEQA Guidelines § 15002(a)(1).) To this end, public agencies must ensure that their analysis *stay in step with evolving scientific knowledge* and state regulatory schemes.<sup>9</sup> Hence, an analysis which *understates the severity* of a project's impacts impedes meaningful public discussion and *skews the decisionmaker's perspective concerning* the environmental consequences of the Project, the necessity for mitigation measures, and the appropriateness of project approval.<sup>10</sup>

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Second, CEQA requires public agencies to avoid or reduce environmental damage by requiring the implementation of “environmentally superior” alternatives and all feasible mitigation measures.<sup>11</sup> (CEQA Guidelines § 15002(a)(2) & (3).) Suppose a project has a significant effect on the environment. In that case, the agency may approve the Project only if it finds that it has eliminated or substantially lessened all significant effects on the environment where feasible and that any significant unavoidable effects on the environment are acceptable due to overriding concerns. (Pub. Res. Code § 21081; see also CEQA Guidelines § 15092(b)(2)(A) & (B).)

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<sup>6</sup> See, e.g., *Cmtys. for a Better Env't v. S. Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310.

<sup>7</sup> See *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.

<sup>8</sup> See *Cmtys. for a Better Env't v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109.

<sup>9</sup> See *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (“*Cleveland II*”) (2017) 3 Cal.5th 497, 504; *Id.*, on remand (“*Cleveland III*”) (2017) 17 Cal.App.5th 413, 444

<sup>10</sup> See *Cleveland III* (2017) 17 Cal.App.5th 413, 444; see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392).

<sup>11</sup> See also *Citizens of Goleta Valley* (1990) 52 Cal.3d 553, 564.

## B. Standard of Review for EIRs

Although courts review an EIR using an ‘abuse of discretion’ standard, that standard does not permit a court to uncritically rely on every study or analysis presented by a project proponent in support of its position; a clearly inadequate or unsupported study is entitled to no judicial deference.<sup>12</sup> A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.<sup>13</sup>

## C. Substantial Evidence

Under CEQA, substantial evidence includes facts, a reasonable assumption predicated upon fact, or expert opinion supported by fact; not argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous evidence, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c), and CEQA Guidelines §§ 15064(f)(5) & 15384.) As such, courts will not blindly trust bare conclusions, bald assertions, and conclusory comments without the disclosure of the analytic route the agency traveled from evidence to action.<sup>14</sup>

## III. PROJECT BACKGROUND

Below is a brief description of the Project. As discussed, the Project is conceptual in nature and located in the heart of the culturally rich downtown Riverside, without a specific development being presented by a project applicant. This presents a unique challenge for the City, which is expected to certify an EIR without being able to adequately assess the benefits of a proposed project. This is compounded by the City being expected to certify an EIR, with admittedly significant unavoidable impacts (e.g., Air Quality, GHGs) (DEIR, PDF pp. 48-70), as well as other impacts that may not have been adequately analyzed in the Draft EIR (e.g., energy, VMT) (discussed further below infra sections IV.C). Furthermore, the Planning Commission will be expected to adopt a statement of overriding consideration for these impacts, without a fully fleshed out project before it.

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<sup>12</sup> See *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1355 (quoting *Laurel Heights*, 47 Cal.3d at 409 n. 12).

<sup>13</sup> See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722; see also *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946.

<sup>14</sup> See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404 405 (quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515); see also *Citizens of Goleta Valley* (1990) 52 Cal.3d at 568-569.

Without a fully-baked development before it, the Planning Commission's decision-making process may be skewed by not being able to fully weigh a more-specific project proposal—including the benefits, impacts, and calibrated project design features.

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#### D. Project

The proposed Project would include the demolition of the existing surface parking lot (Lot 33) and the existing Outdoor Plaza area at the existing Riverside Convention Center (“RCC”). (DEIR, PDF p. 22.) While no specific development application is currently under consideration, the Draft EIR considers a proposed building envelope with a combination of residential, office, retail, and hotel uses, as well as the 189 thousand square feet (“KSF”) expansion of the RCC, with new parking facilities (see the table below). Additionally, the Project contemplates a new Outdoor Plaza with flexible outdoor gathering Space. It may include an amphitheater intended for fully programmable outdoor events on an intermittent basis. (Id., at PDF p. 24.)

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Land Use Type		Maximum Dwelling Units/Rooms	Maximum Square Footage
Residential Units (168 total)	Condominiums	55	
	Multi-Family Residential	113	
Non-Residential	Hotel	376	
	Office		220,000
	Commercial Retail Uses		
	Restaurant-Focused Retail		12,875
	Grocery Store		20,690
	Fitness Center		28,416
	Parking Facilities	Up to 5 levels	
	Convention Center Expansion		189,000

As relevant here, while the amphitheater is described as being *expected* for low-intensity community events (PDF p. 285), the structures appear to be 25 feet tall with larger outdoor gathering spaces capable of hosting significant events. (PDF pp. 100, 103, 152.) Absent enforceable conditions limiting these types of uses, the Draft EIR should analyze these potential large events. Failure to do so may constitute a CEQA-deficient project description that has skewed the environmental analysis and decisionmaking process.<sup>15</sup>

<sup>15</sup> A project's CEQA review must assess “the whole of an action” to ensure that all of the project's environmental impacts are considered. (CEQA Guidelines § 15378; see also *Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454; *San Joaquin Raptor/Wildlife Rescue Center v. Cnty. of Stanislaus* (1994) 27 Cal.App.4th 713, 730 [held use of “truncated project concept” violated CEQA where EIR was otherwise].)



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## E. Project Site

The approximately 10-acre Project site is located on a city block bounded by Market Street, Orange Street, 3rd Street, and Fifth Street, known as Raincross Square, which contains the existing RCC, an outdoor space, the Marriott Hotel, and surface parking (see figures below). (DEIR, PDF p. 21.) Raincross Square lies within the Raincross District of the Downtown Specific Plan (“DSP”). It bookends the north end of the pedestrian mall along sections of former Main Street, which is bookended to the south by City Hall. (DSP, PDF pp. 17, 282.) This is a culturally rich section of the City with numerous historic and cultural points of interest, and is immediately adjacent to several landmark districts (i.e., Mission Inn Historic District, Seventh Street Historic District, Heritage Square Historic District). (PDF pp. 21, 49.)

Current Site Conditions (DEIR, Fig. 1.0-3)	Proposed Project Concept (DEIR, Fig. 1.0-7)
	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>Approximate Location of Underground Parking Structure</li> <li>Project Boundary</li> <li><b>A</b> New Multi-Family Residential</li> <li><b>B</b> New Hotel with Fitness Center</li> <li><b>C</b> New Hotel and Condominium</li> <li><b>D</b> New Office Building</li> <li><b>E</b> New Convention Center</li> <li><b>F</b> Existing Convention Center (to remain)</li> <li><b>G</b> Potential Amphitheater</li> </ul> <p>©2023-2024 DEIR Project Raincross Square Revitalization 10 Oct 2024</p>

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## F. Project Sponsor & Approvals

The Project is conceptual in nature, lacking many project-specific details. (DEIR, PDF pp. 22-24, 82-84, 142, 319, 363.) Many specifics about the development are unknown at this time. (DEIR, PDF pp. 26, 117 [stormwater facilities], 120 [park fees], 142 [building heights], 181 [export soils], 285 [mechanical systems], 318 [frontage design], 369 [public services], 373 [increase in population].) The Draft EIR references a “Project Sponsor” to refer to a future party proposing development within the Project site via either an entitlement/development application or the City for City-initiated projects. (DEIR, PDF p. 20.) Currently, the discretionary approvals anticipated are quasi-judicial (e.g., CUP, Site Plan Review, etc.). (Id., at PDF p. 28.) However, no legislative approvals are anticipated at this time, which may limit the City’s discretion for any future project proposal.

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## IV. SUBSTANTIVE ISSUES

### A. The EIR Does Not Adequately Define the Actual Project That Will Ultimately Be Constructed, Precluding Public Participation and Meaningful Analysis

As discussed above, the Project is conceptual and lacks sufficient information for the City to adequately assess the Project’s true environmental impacts. The City is reviewing a hypothetical project in the abstract. In fact, the City doesn’t even know which discretionary permits are going to be required for this phantom Project. This may interfere with public participation, which is a basic tenet of the CEQA process. As the Court explained in *Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 443-444, “The fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability.” (Citations omitted.) Other courts have confirmed that environmental review derives its vitality from public participation. (See, *Ocean View Estates Homeowners Ass’n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 400.) The City’s failure to evaluate a Project with a sufficient description “precludes ‘informed decision-making and informed public participation’” because the public cannot provide meaningful comment when the project has not been identified. (*Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277, 290 [citations omitted]; *stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17-19.)

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The Project description is also unstable. As discussed above, the DEIR attempts to review a project that does not yet really exist. Adequate CEQA review requires a complete and accurate project description. It has long been established that “[a]n accurate, stable and finite project description is the Sine qua non of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192–193.) To the contrary, a “curtailed or distorted project description may stultify the objectives of the reporting process” and does not allow “outsiders and public decision-makers [to] balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the ‘no project’ alternative) and weigh other alternatives in the balance.” (Ibid.)

Since the Project is not yet fully formed and only exists in a conceptual form, the City cannot ensure that the DEIR's project description matches the Project, or that the EIR analyzes all aspects of that Project. The EIR's "bona fide subject" must be "[t]he defined project and not some different project." (*Concerned Citizens of Costa Mesa v. 32nd Dist. Agric. Assn.* (1986) 42 Cal.3d 929, 938.) CEQA also prohibits a project description that fails to describe key elements of a Project. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730-35.) Providing fundamental project details at a later time is insufficient, as, "CEQA's informational purpose 'is not satisfied by simply stating information will be provided in the future.'" (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th at 440-41.)

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## **B. The City Should Consider A Development Agreement Requirement**

Again, much of the Project is unknown because it is conceptual and lacks many of the project specifics the City may expect at some future date. This might present a challenge for the City because it is considering the approval of an EIR that is intended to mitigate the impacts of the Project to the extent feasible, as well as adopting a statement of overriding considerations for significant and avoidable impacts (discussed further below).

As discussed in the section below, potential development at the site includes hotels and other regional serving uses—such as the proposed 376 hotel rooms, 189-KSF RCC expansion, and TBD-patron amphitheater components. If a development agreement is required, impacts to traffic, sustainability, and housing (to name a few) can be adequately addressed with project design features and mitigation measures that are calibrated to a specific development proposal. So too, the City would have the opportunity to fully consider the benefits of any such project, including what public benefits and amenities the development offers. However, the current conditional use permit ("CUP") process does not appear to provide the City with as much discretion to consider these issues as a Development Agreement requirement. *To address this, the City may want to consider a development agreement ("DA") requirement for any future hotel and/or entertainment use.* A development agreement has been used by other cities (e.g., Glendale, Santa Monica, etc.).

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A DA requirement can help hold hotel developers to a higher standard, by ensuring that their proposed hotel development is only permitted after the City has adequately studied the Project and determined that it will not negatively impact the community, the environment, or the opportunity to develop housing. In appropriate circumstances, development agreements can be an excellent tool with several advantages for both the City and developers. They allow the City increased discretion to ensure that development achieves the most significant possible level of community benefits through an enforceable agreement and that the negative impacts of hotels are mitigated. They also provide a level of certainty for applicants as they generally lock in applicable land use and zoning requirements at the time of approval.

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1. Hotels Present Unique Challenges

(a) Hotels & Event Centers Tend To Be Regional VMT Generators

Hotels tend to be regionally serving and, therefore, will likely increase VMTs as compared to the existing site conditions. This is also true for entertainment/event venues (such as the amphitheater and RCC expansion components of the Project). These types of uses have a unique traffic/VMT generation profile. Unlike an office or residential development, where the majority of trips and VMTs are generated by workers and residents, the vast majority of trips in these settings come from hotel/event patrons, which is also a significant source of associated mobile emissions (e.g., criteria pollutants, GHGs). Additionally, workers of this type often work unique hours (e.g., third/swing shift, 24-hour operations, late and night when transit is less available, etc.). For these reasons, mitigation measures and traffic demand management (“TDM”) measures require more careful calibration.

(b) Greater Sustainability Is Required

Hotel operations can also have a unique impact, as reflected in the most recent Handbook for Analyzing GHG Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (“Handbook”) prepared by the California Air Pollution Control Officers Association (“CAPCOA”).<sup>16</sup> For example, compared to the 49 other types of building types within the Eastern Electricity Demand Forecast Zones (i.e., EDFZ 11 Zone), hotels/motel buildings are among the highest commercial energy users of natural gas and electricity, particularly when it comes to water heating, primary heating, and cooking.<sup>17</sup> Additionally, hotels have a disproportionate amount of their water use demand from indoor restroom fixtures.<sup>18</sup>

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<sup>16</sup> CAPCOA is a non-profit association of the Air Pollution Control Officers from all 35 local air quality agencies throughout California. CAPCOA was formed over 50 years ago in 1975 to promote and advocate for clean air and to provide a forum for sharing of knowledge, experience, and information among the air quality regulatory agencies across the State and the Nation. In addition to preparing the Handbook (Aug. 2021), an update from its seminal 2010 Quantifying GHG Mitigation Measures (Aug. 2010), it also developed the California Emissions Estimator Model® (“CalEEMod”), a statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and GHG emissions. (See generally, <https://capcoa.org/>.)

<sup>17</sup> Handbook, PDF pp. 767-769, (Table E-15.2. Commercial Energy Consumption by End Use, Electricity Demand Forecast Zone, and Building Type), [https://www.caleemod.com/documents/handbook/full\\_handbook.pdf](https://www.caleemod.com/documents/handbook/full_handbook.pdf).

<sup>18</sup> Handbook, PDF p. 783 (Table W-4.2. Non-Residential Water Consumption Percentages by End Use), [https://www.caleemod.com/documents/handbook/full\\_handbook.pdf](https://www.caleemod.com/documents/handbook/full_handbook.pdf).

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(c) Hotels Place Further Demand On Affordable Housing Demand

Many service workers, including housekeepers, cooks, and front desk staff, as well as other hotel and event center workers, often earn modest wages, making it difficult to afford housing near their jobs, especially in areas with high tourism or limited housing options. This leads to either disproportionate housing costs, overcrowding, or longer commutes. Often, hotels generate one employee for every two rooms, or 188 employees for the proposed 376 hotel rooms. That's 188 workers and families that may be impacted when there is a lack of sufficient access to nearby affordable housing.

(d) Impacts Can Be Addressed With Tailored Mitigation

The abovementioned issues are unique to hotels and other regional-serving uses, such as the Project with its proposed 376 hotel rooms, 189 KSF RCC expansion, and the yet-to-be-determined patrons of the amphitheater. As discussed further in the sections below, the Project is anticipated to have a significant impact on air quality and GHGs, as well as other effects that the Draft EIR may have underestimated (e.g., energy, VMTs) (discussed further below). These potential impacts can be meaningfully reduced through various feasible project design features and mitigation measures, such as strategies and measures recommended by multiple public agencies, including but not limited to: the CAPCOA, the Southern California Association of Governments (“SCAG”), and the California Air Resources Board (“CARB”), and the Governor’s Office of Land Use and Climate Innovation (“LCI”) (formerly known as the Office of Planning and Research (“OPR”)). While these measures are discussed further below, it is worth noting that they are likely more effective when considered and calibrated to a specific development proposal, rather than conceptual developments (such as the Project here). A DA requirement would keep the City’s legislative discretion to consider a specific hotel development with specific project design features and mitigation measures that minimize impacts to the maximum extent feasible.

2. Other Cities Have Adopted DAs

Other cities have adopted development agreement requirements for hotel projects. For example, in Buena Park’s Beach Boulevard Entertainment Corridor Specific Plan, hotel and entertainment projects are (in some areas) “eligible for consideration by entering into a Development Agreement pursuant to Government Code Section 65865 et. seq.”<sup>19</sup> This ensures the City can decide whether or not a hotel use is best for the site. Santa Monica’s Downtown Community Plan also requires development agreements to provide community facilities intended

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<sup>19</sup> See Buena Park Beach Boulevard Entertainment Corridor Specific Plan (2019), PDF pp. 27, 30 (Exhibit A Permitted Land Use Table), [https://cms7files1.revize.com/buenaparkca/Document\\_center/City%20Departments/Community%20development/Planning%20Division/Codes,%20Ordinances,%20and%20Guidelines/ECSPupdated2019.pdf](https://cms7files1.revize.com/buenaparkca/Document_center/City%20Departments/Community%20development/Planning%20Division/Codes,%20Ordinances,%20and%20Guidelines/ECSPupdated2019.pdf).

to benefit residents.<sup>20</sup>

Another example is *Glendale's Downtown Specific Plan*, which was recently updated to require a development agreement for all new hotels to permit the use, require minimum standards, and memorialize additional amenities and other mitigation or community benefits in exchange for development incentives (e.g., increase height, floor-area-ratio ["FAR"]).<sup>21</sup> There, the *City Council opted against by-right hotels and went with the DA requirement to ensure it can have amenity-rich hotels in its downtown, which the CUP process does not provide adequate discretion.*<sup>22</sup>

A Development Agreement requirement can make conditions on hotel development more precise and contractually enforceable, which the City should consider for its unique, culturally rich part of the City's Downtown (i.e., DSP area).

3. Potential Solution Could Be A Minor DSP Amendment Or EIR Mitigation Measure

Just like other cities have done (discussed above), the Riverside City Council should retain maximum flexibility and oversight of future hotel development. This should be retained not just at Raincross Square (i.e., the Project Site), but also the rest of Riverside's unique, culturally rich downtown area. The Downtown Specific Plan ("DSP") area is broken up into nine districts. (DSP, pp. 5-3, Figs. 5A, 5B.) Hotels appear to be conditionally permitted in only in the three of the districts (i.e., Raincross, Prospect Place Office, Market Street Gateway). (DSP, pp. 6-7, 9-5, 12-6.) As noted by Glendale, the CUP process may not provide adequate discretion to ensure amenity-rich hotels in its downtown (see above section). A hotel-specific development agreement ("DA") requirement, with heightened findings, would be a reasonable solution. Such a hotel-specific DA requirement could be included in the City's DSP, through a narrow amendment to add the following section:

<sup>20</sup> See Santa Monica Downtown Community Plan (amend. May 2023) pp. 26-30, [https://www.santamonica.gov/media/Document%20Library/Topic%20Explainers/Planning%20Resources/FINAL%20DCP\\_2023%20\(6th%20Cycle%20HE\).pdf](https://www.santamonica.gov/media/Document%20Library/Topic%20Explainers/Planning%20Resources/FINAL%20DCP_2023%20(6th%20Cycle%20HE).pdf).

<sup>21</sup> See City Council Agenda (7/11/23), Item 9b, <https://glendaleca.primegov.com/Public/CompiledDocument?meetingTemplateId=35121&compileOutputType=1>; see also City Council Meeting (7/11/2023) Item 9b (City Council approved hotel amendments), [https://glendaleca.primegov.com/meeting/attachment/8873.pdf?name=CC\\_07112023\\_Ordinance\\_9b1](https://glendaleca.primegov.com/meeting/attachment/8873.pdf?name=CC_07112023_Ordinance_9b1); Glendale Downtown Specific Plan (2019), PDF pp. 145, <https://www.glendaleca.gov/home/showpublisheddocument/50230/636904148989570000>.

<sup>22</sup> Item 9b Staff Report, pp. 3-4 (discussing development agreement requirement), [https://glendaleca.primegov.com/meeting/document/4313.pdf?name=CC\\_07112023\\_Report\\_9b](https://glendaleca.primegov.com/meeting/document/4313.pdf?name=CC_07112023_Report_9b).

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### 5.3.7 *Development Agreement*

*A hotel or similar use may only be permitted pursuant to the City Council's approval of a statutory Development Agreement, as authorized by California Government Code Section 65864 et seq. A hotel-specific development agreement shall be considered a discretionary, legislative action of the City Council and shall be subject to subsection D of section 19.640.040 of the Zoning Code. All aspects of the proposed hotel development are subject to the hotel-specific Development Agreement, including but not limited to the location, permitted uses, building height limits, square footage, FAR, number of rooms, open space requirements, parking requirements, setbacks, public amenities, and design. In addition to any other findings otherwise required to be made, the following findings shall be required for granting a hotel-specific Development Agreement:*

- *That there is sufficient market demand for the proposed hotel project;*
- *That the hotel will not unduly and negatively impact demand in the City for child-care and other social services, taking into consideration the impact of the part-time or seasonal nature of work at the hotel project and of the hotel employees' expected compensation;*
- *That the applicant will take measures to employ residents of neighborhoods adjoining the hotel project to minimize increased demand for regional transportation and to reduce demand for vehicle trips and vehicle miles traveled;*
- *That the applicant will take measures to encourage hotel workers and guests to use public transportation, cycling, and other non-automotive means of transportation; and*
- *That the hotel project will not negatively affect the availability of affordable and rent-stabilized housing within the Specific Plan area.*

*Uses subject to this Development Agreement requirement are denoted herein by an asterisk [\*] [Refer to Section 5.3.7]*

The above DSP amendment could be considered along with the City's consideration to certify the EIR. Alternatively, the City could consider adopting CEQA mitigation as part of its certification of the EIR. As discussed further below, the Draft EIR unfortunately lacks adequate mitigation measures that would significantly mitigate GHG emissions (as well as significantly reduce the Project's anticipated 5+ million VMTs generated per year). This can be best achieved by tailoring mitigation measures once a specific hotel project is proposed and presented, which is currently unknown at this time. A DA requirement for any project proposal that includes a hotel within the Project Site could help mitigate this unknown.

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Cont.

### C. The City May Want To Consider An Affordable Housing Component

A major public benefit often featured in development agreements is the creation of affordable and/or workforce housing. Here, one of the objectives of the Project is to “[p]rovide quality, multi-family housing in the Downtown core, to help the City meet the State’s allocated 2021-2029 Regional Housing Needs Assessment (RHNA) housing unit numbers.” (DEIR, PDF p. 27.) While the Project proposes 55 condos and 113 apartments (168 total), not a single unit is planned to be affordable. (Id., at PDF p. 328 [“residential uses that are not affordable housing”], DEIR, ATT-E [Traffic Study], PDF p. 10 [“residential uses that are not affordable housing”].)

This seems like a significant lost opportunity. As discussed below, the Project might generate over 1,530 additional workers (not including the added employees related to the amphitheater and RCC expansion), which will place further demand on the City’s housing resources. The City is halfway through its housing cycle, and while it is well on its way to meeting its moderate-income housing goals, it is behind on its affordable housing markets (i.e., moderate-income and below)—through 2024, reaching only 258 of its 11,064 affordable unit RHNA obligation.

#### 1. Housing Impacts Caused By 1,530+ New Employees

The Draft EIR determined that population growth as a result of this project would not be significant. (DEIR, PDF p. 120.) It briefly describes how the Project’s 168 residential units would generate a maximum of approximately 576 residents. (Id.) However, there is no discussion regarding the induced housing demand by the nonresidential components of the Project (e.g., hotel rooms, offices, restaurants, convention centers, etc.). (DEIR, APP-E, p. 5.) Based on the Project’s proposed commercial uses and relevant employment generation rates,<sup>23</sup> the Project could generate over 1200 new jobs (including 188 hotel workers) (see table below). While jobs are great, they can also place demand on housing—particularly affordable housing for service workers (e.g., such as the estimated 188 hotel workers that will service the future hotel). Notably, this does not include the estimated employees generated by the amphitheater and massive RCC expansion.

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<sup>23</sup> See City of Los Angeles VMT Calculator Documentation, PDF pp. 15-16 (Tbl. 1: table showing employment factors, including note [b] referencing section 3.4), PDF pp. 20 (section 3.4 discussing employment factors based on various sources, LAUSD, SANDAG, ITE, US Dept. of Energy, and others),

[https://ladot.lacity.gov/sites/default/files/documents/vmt\\_calculator\\_documentation-2020.05.18.pdf](https://ladot.lacity.gov/sites/default/files/documents/vmt_calculator_documentation-2020.05.18.pdf).

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ESTIMATED JOB GENERATION				
USE[a]	DENSITY[a]	UNIT[a]	RATE[b]	Estimated Jobs
Hotel	376	rooms	0.5 / room	188
Office	220	KSF	4.0 / KSF	880
(General Office)				
Restaurant	12.875	KSF	4.0 / KSF	51.5
(Quality/High-Turnover Sit Down)				
Grocery Store (Supermarket)	20.69	KSF	4.0 / KSF	82.76
Fitness Center (Health Club)	28.416	KSF	1.0 / KSF	28.416
RCC Expansion[c]	189	KSF	1.6 / KSF	302.4
Total				1533

NOTES:

- [a] DEIR, PDF p. 22 (Tbl. 1.0-B-Proposed Project Uses)
- [b] LA VMT Calculator, PDF p. 15 (Tbl. 1 Population/Jobs per Unit)
- [c] Public data suggest the RCC is currently employing approximately 34-88 employees (i.e., average 61),<sup>24</sup> with an existing meeting space of approximately 90-108 KSF of space (i.e., appx. 100 KSF). (DEIR, PDF p. 21, 24.) This equates to roughly 1.6 employees per KSF.

## 2. HCD Data Shows Compelling Need For Affordable Units

The California Department of Housing and Community Development (“HCD”) oversees local municipalities’ compliance with various state housing laws, including those relevant to Housing Element updates to accommodate local RHNA numbers.<sup>25</sup> Cities and counties provide self-reported Annual Progress Reports (“APR(s)”) to HCD regarding their progress on these efforts, and HCD provides summaries of these “self-reported” APRs on its Housing Element & APR Data Dashboard (“Dashboard”).<sup>26</sup> The Dashboard displays various data across 18 sheets, allowing the user to focus on multiple jurisdictions, years, housing cycles, and other filters. Based on the APR Dashboard for the City of Riverside, one can make the following observations, which references the figures below:

<sup>24</sup> Zoom Info, <https://www.zoominfo.com/c/the-riverside-convention--visitors-bureau/32964933> (88 employees); [https://rocketreach.co/riverside-convention-center-management\\_b585c879f983c5ca](https://rocketreach.co/riverside-convention-center-management_b585c879f983c5ca) (34 employees).

<sup>25</sup> See e.g., HCD Housing Element, <https://www.hcd.ca.gov/planning-and-community-development/housing-elements>; HCD RHNA, <https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation>; HCD Annual Progress Reports, <https://www.hcd.ca.gov/planning-and-community-development/annual-progress-reports>.

<sup>26</sup> HCD, Housing Element & APR Dashboard, <https://www.hcd.ca.gov/planning-and-community-development/housing-element-implementation-and-apr-dashboard>.

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- Riverside is in its 6<sup>th</sup> Housing Element Cycle (2021 – 2029), has a total RHNAs obligation of 18,458 units, of which roughly 60% are to be affordable at moderate levels or lower. (See Fig. 1 below.)
- Through 2024, the City was 37.5% through the cycle but has attained only 14% of its RHNAs obligation. (See figure 2 below.)
- The vast majority of the units attained were not affordable (i.e., above moderate income), with very few affordable units achieved (i.e., 258 low-income). (See figure 3 below.)

**Figure 1**

**Regional Housing Needs Allocation (RHNAs): Overview**

COG/Region	6th Cycle Planning Period	Very Low	Very Low %	Low	Low %	Moderate	Moderate %	Above Moderate	Above Moderate %	Total
SCAG Total	10/15/2021 - 10/15/2029	4,861	26.3%	3,064	16.6%	3,139	17.0%	7,394	40.1%	18,458
	10/15/2021 - 10/15/2029	4,861	26.3%	3,064	16.6%	3,139	17.0%	7,394	40.1%	18,458

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 Cont.

**Figure 2**

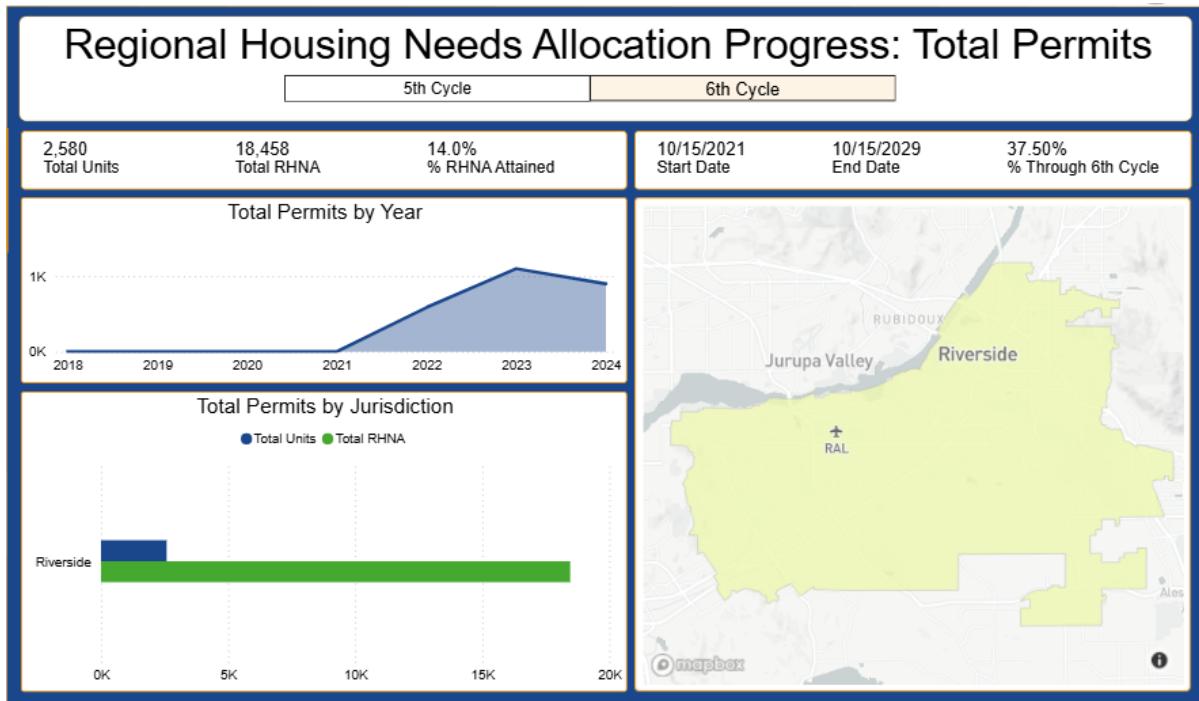
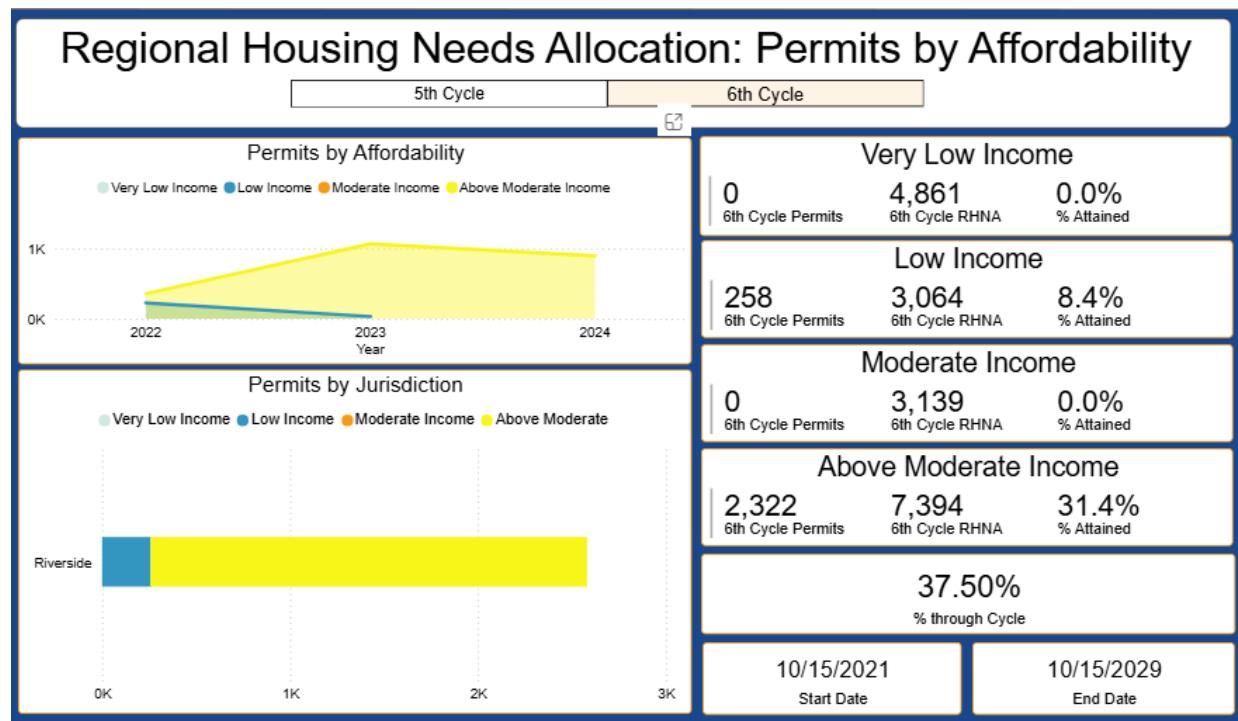


Figure 3



E-20  
 Cont.

As shown above, while the City is well on its way to achieving its non-affordable RHNA goals (i.e., above moderate-income), the City is significantly underperforming on its affordable RHNA goals (i.e., moderate-income and lower). Through 2024, the City has attained 258 of its 11,064 affordable units RHNA obligation—2.3%. While the City does anticipate accessory dwelling units (“ADU(s)”) to meet some of this demand (i.e., 890 ADUs for moderate-income and lower),<sup>27</sup> this would still place the City at roughly 10% of its affordable housing goals (assuming all 890 ADUs have been built and not already accounted for in the 258 units reported on HCD Dashboard). In light of being halfway through the current 6<sup>th</sup> cycle (i.e., ending October 2029), the City is arguably missing an opportunity to encourage affordable housing units at the Project Site (relevant to housing element policies discussed below).

### 3. Local Factors That Acutely Impact Riverside’s Need For More Affordable Housing

As noted above, the City seems to be underperforming on its affordable housing RHNA obligations. The lack of affordable housing is acutely felt in communities that already suffer from a lack of available housing. Here, the City appears to have a vacancy rate below the healthy

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<sup>27</sup> City Housing Element Technical Background Report, p. 102 [tbl. HIR-2 RHNA Credits and Remaining Need.)

threshold, with housing prices exceeding the “affordable” range. (Housing Plan,<sup>28</sup> p. 12; see also Technical Background Report, pp. 33-34.)

Additionally, in terms of a jobs-to-housing balance, adding more jobs in a jobs-rich area (i.e., housing-poor area) can adversely affect a community’s housing stock. Here, as compared to the often-cited benchmark of 1:1 *jobs-to-housing ratio*,<sup>29</sup> the Draft EIR states Riverside is considered *jobs-rich* with a jobs-to-housing ratio of approximately 1.68:1 (2019) and anticipated to be 1.51:1 (2035). (DEIR, PDF pp. 356-357.) Hence, the Project would add a significant number of jobs (i.e., more housing demand) with relatively few dwelling units, which would seem to exacerbate the City’s jobs/housing imbalance (i.e., moving in the wrong direction).

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Cont.

So too, the Housing Element notes that Riverside wage-earners are relatively “modest” as compared to the rest of the state.<sup>30</sup> So too, it shows a disproportionate population in this part of Riverside overpaying rent, overcrowding, and vulnerable to displacement.<sup>31</sup> This relates to *Jobs/Housing Fit* (“JHFit”), a metric that measures the imbalance between a city’s total number of low-wage workers and the quantity of homes affordable to them, which is an equality issue. When cities grow jobs without planning for homes for low-income workers, they fail to create inclusive communities and force low-income workers into the difficult choice of choosing between paying a disproportionate percentage of their income on housing (i.e., overpaying), living in substandard and/or overcrowded conditions in order to afford housing (i.e., overcrowding), or enduring long commutes (i.e., more VMTs).<sup>32</sup> Simply increasing housing

<sup>28</sup> City Housing Element Plan, <https://riversideca.legistar.com/View.ashx?M=F&ID=10435964&GUID=415158F5-E997-447A-8DC8-82285A19465E>; City Housing Element Technical Background Report, <https://riversideca.legistar.com/View.ashx?M=F&ID=10435965&GUID=42661109-B223-4BBE-89DF-874060A14236>.

<sup>29</sup> See e.g., <https://nonprophthousing.org/wp-content/uploads/JH-Fit-Fact-Sheet-FINAL-9.15.pdf>, PDF p. 1; <https://data.sustainablesm.org/stories/s/Jobs-Housing-Ratio/wnn3-sg5n/#:~:text=The%20housing%20stock%20is%20relatively,already%20adequately%20represented%20commercial%20enterprises.>; <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

<sup>30</sup> See e.g., <https://riversideca.legistar.com/View.ashx?M=F&ID=10435965&GUID=42661109-B223-4BBE-89DF-874060A14236>, PDF p. 209.

<sup>31</sup> Ibid., PDF p. 219-220, 221, 227

<sup>32</sup> See e.g., <https://nonprophthousing.org/wp-content/uploads/JH-Fit-Fact-Sheet-FINAL-9.15.pdf>; <https://escholarship.org/content/qt1g47j2vx/qt1g47j2vx.pdf?v=lg>, PDF p. 2 (“A worsening shortage of affordable housing may push households away from job-rich cities and expensive neighborhoods into outlying areas, where housing is cheaper but jobs are more distant. Median commute distances in California have in fact lengthened in recent years, growing from 12.5 miles in 2002 to 14.2 miles in 2015.”)

supply will not necessarily increase the availability of affordable housing available to low-wage workers.<sup>33</sup>

Finally, while not identified as an “opportunity site” under the City’s Housing Element, the Project Site (i.e., Raincross Square) is near several opportunity sites identified for potential use as affordable housing (i.e., sites 180, 183, 184, 185, 186, 189). (Housing Element, Appendix A,<sup>34</sup> PDF pp. 19, 46-55.) This suggests that affordable housing is compatible with the needs of the community.

#### 4. Local Land Use Policies Relevant To Affordable Housing

The City has an opportunity to encourage desperately needed affordable/workforce housing at the Project Site. This would be consistent with the following goals and policies under the City’s General Plan intended to encourage affordable housing, which is an environmental justice issue (e.g., equitable access to housing):

- **POLICY HE-1 -AFFORDABLE HOUSING:** Preserve and increase affordable housing options, including subsidized and non-subsidized affordable units for lower-income and environmental justice communities, special needs, and underserved populations, with a particular emphasis on building community wealth. (Housing Element, pp. 16-18; Housing Action Plan, pp. 4-6 [programs HE-1.1, HE-1.6, HE-1.13].)
- **POLICY HE-3 – FAIR HOUSING:** Promote safe, healthy, and attainable housing opportunities for all people regardless of their special characteristics as protected under State and Federal fair housing laws. (Housing Element, pp. 19-20; Housing Action Plan, pp. 7-8 [programs HE-3.2])
- **POLICY HE-4 – THRIVING NEIGHBORHOODS:** Facilitate and encourage a variety of new housing types, including both single- and multi-family and missing middle housing, and the necessary public amenities to support a sense of community that results in equitable and sustainable neighborhoods. (Housing Element, pp. 20-21; Housing Action Plan, pp. 9 [programs HE-4.2])
- **POLICY HE-5 – REGULATIONS:** Reduce and remove government barriers, where feasible and legally permissible, to reduce costs of housing production and facilitate both ownership and rental opportunities for all residents. (Housing Element, pp. 22-24; Housing Action Plan, pp. 10-11 [programs HE-5.2])
- **POLICY LU-EJ-1.0 HOUSING LOCATION:** Ensure new housing developments adhere to local, state, and federal requirements to avoid

<sup>33</sup> <https://escholarship.org/uc/item/1g47j2vx>,  
<https://www.planning.org/blog/9220914/measuring-the-jobs-housing-balance-in-california/>

<sup>34</sup> Housing Element, Appendix A,  
[https://riversideca.gov/cedd/sites/riversideca.gov.cedd/files/pdf/planning/2021/Housing\\_Element/2021-09%20HE%20Appendix%20A%20-%20Opportunity%20Sites%20-%20City%20Council%20Draft.pdf](https://riversideca.gov/cedd/sites/riversideca.gov.cedd/files/pdf/planning/2021/Housing_Element/2021-09%20HE%20Appendix%20A%20-%20Opportunity%20Sites%20-%20City%20Council%20Draft.pdf).

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disproportionate impacts on environmental justice communities. (Environmental Justice Element,<sup>35</sup> p. 3.)

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Cont.

##### 5. Regional Land Use Policies Relevant To Affordable Housing

The Project is located within the Southern California Association of Governments (“SCAG”) region, which has prepared its most recent 2024 Regional Transportation Plan/Sustainable Community Strategy (“RTP/SCS”) (also known as “Connect SoCal”). (DEIR, PDF p. 242, 327.) The 2024 RTP/SCS<sup>36</sup> has four primary goals (i.e., mobility, communities, environment, economy) (pp. 9-12), each with respective subgoals (p. 85) and categories of policies (pp. 88-112), which totals nearly 90 regional planning policies (pp. 114-121), and other implementation strategies where local governments play a partner/supporting role (pp. 124-135). Providing affordable and sustainable housing is a major cross-cutting theme in the 2024 RTP/SCS (pp. 8, 9, 10, 27, 28, 54, 56, 66, 100, 106, 112, 117, 135, 193, 197), including but not limited to the following goals and policies (emphasis added):

**Goal: Communities: Develop, connect and sustain communities that are livable and thriving**

- Sub-goal: Create human-centered communities in urban, suburban and rural settings to increase mobility options and *reduce travel distances*
- Sub-goal: Produce and preserve diverse housing types in an effort to *improve affordability, accessibility and opportunities for all households*

**Category: Housing the Region:** Providing sufficient housing opportunities throughout the region will require a range of strategies and methods to increase both the production of and access to a *wide range of housing types*.

##### **Regional Planning Policies:**

32. Encourage housing development in areas with access to important resources and amenities (economic, educational, health, social and similar) to *further fair housing access and equity* across the region
33. Encourage housing development in *transit-supportive and walkable areas* to create more interconnected and *resilient communities*
34. Support local, regional, state and federal efforts to *produce and preserve affordable housing* while meeting additional housing needs across the region
35. Prioritize communities that are vulnerable to displacement pressures by supporting community stabilization and *increasing access to housing that meets the needs* of the region
36. Promote innovative strategies and partnerships to increase homeownership opportunities across the region with an *emphasis on communities that have been historically impacted*

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<sup>35</sup> EJ Element,

[https://riversideca.gov/cedd/sites/riversideca.gov.cedd/files/pdf/planning/2021/Housing\\_Element/2021-09%20EJ%20-%20City%20Council%20Draft.pdf](https://riversideca.gov/cedd/sites/riversideca.gov.cedd/files/pdf/planning/2021/Housing_Element/2021-09%20EJ%20-%20City%20Council%20Draft.pdf).

<sup>36</sup> 2024 RTP/SCS, <https://scag.ca.gov/sites/default/files/2024-05/23-2987-connect-socal-2024-final-complete-040424.pdf>.

by redlining and other systemic barriers to homeownership for people of color and other marginalized groups

37. Advocate for and support programs that emphasize reducing housing cost burden (for renters and homeowners), with a focus on the *communities with the greatest needs* and vulnerabilities
38. Support efforts to increase housing and services for people experiencing homelessness across the region

**Communities Implementation Strategies:**

- [a]. Support Provide technical assistance for jurisdictions to complete and implement their housing elements and support local governments and Tribal Entities to *advance housing production*
- [b]. Identify and pursue partnerships at the local, regional, state and federal levels to align utility, transit and infrastructure investments with housing development and *equitable outcomes* across the region
- [c]. Research and explore innovative homeownership models that can reduce costs and increase housing production in the region. Explore strategies to engage households of color and *communities that are underrepresented* as homeowners
- [d]. Research community stabilization (anti-displacement) resources that can be utilized to address *displacement pressures*, such as preservation and tenant protections for communities across the region and Affirmatively Further Fair Housing

The Draft EIR suggests that the general goal and subgoals listed above are met, and claims the Project is consistent because it is a mixed-use project that includes a mix of for-sale and for-rent housing. (DEIR, PDF p. 359 [Tbl. 6.0-B].) However, this analysis does not adequately consider the specific categories, policies, and strategies intended to further the 2024 RTP/SCS goal. As shown above, there is a significant emphasis on affordable housing, particularly for vulnerable communities.

**D. The Project Is Leaving Meaningful Sustainability Features Off The Table**

1. Energy Impacts Could Be Minimized By LEED Certification, Tier 1, Or Tier 2 Calgreen

The Draft EIR states there will be no significant impacts. (DEIR, PDF p. 65.) The Draft EIR relies mainly on compliance with existing Title 24 requirements and describes the Project's anticipated energy usage.<sup>37</sup> (Id., at PDF p. 226, 228, 229, 230.) This is also echoed in the GHG analysis (discussed further below). (Id., at PDF pp. 247, 255, 256, 258, 260, 262, 264-266, 267.)

<sup>37</sup> A project's compliance with building codes may not be enough where they do not address many considerations under Appendix F of the CEQA Guidelines, like "whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope." (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 211 [emphasis added].)

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E-24

Because no energy impacts were identified, the Draft EIR does not include anything more in the form of design features or mitigation measures intended to minimize traditional energy sources. (Id., at PDF p. 232.) This seems like a missed opportunity for the City to consider additional feasible measures that reduce the Project's reliance on traditional energy sources, which are not addressed by mere compliance with Title 24 and other nominal measures. For example, mitigation measures MM AQ 9 require only that the Project Sponsor "allow solar" by requiring only the wiring and building support, but stop well short of actually requiring the installation of solar. (Id., at PDF p. 51, 188.) For example, why not condition the Project to actually install solar to the maximum extent feasible and place a percentage or performance standard to guide future decision makers (e.g., percentage of building usage, a specific kW level, etc.)? So too, LEED certification and CalGreen Tier 1 and Tier 2 certification are viable options to significantly reduce a building's energy use. These options are not adequately considered in the Draft EIR.

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A project's compliance with building codes may not be enough under CEQA, which requires an EIR to analyze a project's energy consumption. (Pub. Res. Code § 21100(b)(3).) In addition to examining whether there is a "wasteful, inefficient, or unnecessary use of energy, or wasteful use of energy resources," lead agencies must investigate whether any renewable energy features could be incorporated into the Project. (CEQA Guidelines § 15126.2(b).<sup>38</sup>) Hence, the Draft EIR does not adequately consider meaningful mitigation measures (discussed further infra section IV.C.4).

## 2. GHG Impacts Can Be Mitigated Through Numerous CAPCOA Measures

### (a) Caleemod Worksheets Did Not Consider Amphitheater Uses

Here, the Project included a GHG modeling assessment under the CalEEMod. (DEIR, ATT-B, PDF p. 3.) Accordingly, the Project is proposed to generate approximately 23,455. MTCO2E/yr in GHG emissions (after mitigation), which exceed the SCAQMD threshold of 3,000 MTCO2E/yr. (Id., at PDF pp. 13, 15.) However, the CalEEMod worksheets show that the amphitheater was not included in the calculation of potential GHG-emitting uses. (Id., at PDF p. 26.) This is problematic given that the amphitheater could generate additional mobile emissions (i.e., greater impacts), which can be further mitigated. For example, the May 2020 DEIR for the Montano De El Dorado Phase I and II Master Plan includes a 100-room hotel and small amphitheater, as well as additional retail and office space, and results in significant GHG emissions.<sup>39</sup> As a result, the DEIR incorporates exhaustive GHG mitigation relating to

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<sup>38</sup> *League to Save Lake Tahoe v. County of Placer* (2022) 75 Cal.App.5th 63, 167-168 (duty to investigate renewable energy option is required as part of determining whether project impacts on energy resources are significant).

<sup>39</sup> Montano De El Dorado Phase I and II Master Plan (SCH No. 2017072027) DEIR, PDF pp. 15, 45, 54, 61-62, [https://files.ceqanet.lci.ca.gov/53755-3/attachment/nPWOVTmNmsSlzcGTPfe4J77-MEXBgr07d\\_ACfyHL8JTCsU-vF6zsRQj-R1ffonKTg1WW6tHyBk82mdZ0](https://files.ceqanet.lci.ca.gov/53755-3/attachment/nPWOVTmNmsSlzcGTPfe4J77-MEXBgr07d_ACfyHL8JTCsU-vF6zsRQj-R1ffonKTg1WW6tHyBk82mdZ0).

construction, building energy use, on-road transportation, off-road transportation, water, and carbon offsets etc.<sup>40</sup> Here, not analyzing the impacts from the amphitheater may skew the City's consideration of the Project's full GHG impacts and prevent a more thorough consideration of mitigation measures.

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Cont.

(b) Minimal Consideration Of Mitigation Measures

The Draft EIR states the Project will have significant and unavoidable impacts. (DEIR, PDF p. 65.) However, the Project does not adequately consider project design features that could reduce GHG emissions. (Id., at PDF pp. 264-265.) The Draft EIR relies on mitigation measures MM AQ 1 through AQ 9 (pp. 48-51 [AQ1 – AQ9], p. 187 [same]). Unfortunately, these measures seem to be vague and/or do not go far enough.

- **MM AQ 1: Residential Commute Trip Reduction.** This is essentially an information-sharing requirement. This is less effective than a mandatory commuter trip reduction (“CTR”) program, which is an effective strategy urged by CAPCOA.
- **MM AQ 2: Nonresidential Commute Trip Reduction.** Like above, this is essentially an information disclosure requirement, which is less effective than a mandatory CTR program.
- **MM AQ 7: Unbundle Residential Parking Costs.** Similar to MM AQ 1 & 2, this document also provides information about the benefits of unbundling parking costs. It is vaguely written and suggests this measure could be accomplished by merely giving information to a property management firm, without any requirement that units are offered to prospective tenants at an unbundled rate.
- **MM AQ 3: Carpool/Vanpool.** Here, there is no mention of how many preferential spots for carpools are to be provided, nor any discussion of other incentives to encourage carpooling/vanpooling.
- **MM AQ 4: Electric Vehicle Charging.** Here, the Project is committing to only meeting CalGreen Code standards, which is mere code compliance. Additional reductions could be made by going beyond standard CalGreen standards, such as Tier 1 or 2 CalGreen measures.
- **MM AQ 5: Nonresidential Bicycle Facilities.** This says the Project will provide bicycle facilities “in excess of existing code at the time of building permits,”— which is vague. This could arguably be accomplished by a single bike space above code requirements, which does not meaningfully exceed code compliance. Similarly, shower facilities are to be provided on plans “where feasible” with no discussion of what makes shower facilities feasible. Showers, lockers, and other end-of-trip facilities are critical to encourage non-auto travel.
- **MM AQ 6: Telecommute/ MM AQ 8: Energy Efficient Appliances.** Both of these measures require the mere installation of broadband internet and energy-

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<sup>40</sup> Ibid., PDF pp. 26-32 (pp. ES-14 – ES-21).

star-rated appliances. This is standard for all new development and not meaningful mitigation.

- **MM AQ 9: Solar Energy Systems.** As discussed above, this merely requires wiring and reinforced roofs to support future solar, without any commitment that solar be installed and/or commitment that it offsets a portion of the Project's actual usage.

(c) Cursory Review Of The City's CAP

The Draft EIR compares the Project to the City's Climate Action Plan ("CAP"), adopted January 2016. (DEIR, PDF p. 257, 265-267.) However, upon review, the City's CAP is unclear regarding whether it was subject to CEQA review, a mandatory component of any GHG reduction plan a City may wish to rely upon to demonstrate consistency. (See CEQA Guidelines 15183.5(b)(1)(F).) Additionally, it seems as if the City is embarking on a CAP update, which suggests the 2016 CAP may be outdated. Furthermore, the Draft EIR claims the Project is consistent with various measures that seem wanting (compare DEIR, PDF p. 266 with CAP, PDF pp. 128-208):<sup>41</sup>

- **Measure T-1:** This measure is related to the installation of bicycle lanes and bicycle trails, which this Project does not include. Hence, this measure is irrelevant to the Project.
- **Measure T-2:** This measure is related to bike parking, which the Draft EIR says the Project will meet or exceed CalGreen. However, there does not appear to be any requirement that the Project exceed CalGreen or go beyond mere compliance. This seems like a lost opportunity, especially where the CAP acknowledges this is a low-cost action. (CAP, PDF p. 161.)
- **Measure T-3: The Draft EIR claims the Project will provide end-of-trip facilities (e.g., showers, lockers, etc.), but,** as discussed above, this seems to be qualified as "where feasible" (i.e., maybe none). This is not enforceable and may amount to illusory mitigation.<sup>42</sup>
- **Measure T-6:** Draft EIR claims the Project would improve the jobs-housing balance and reduce VMTs because it is a mixed-use project. However, as discussed above, the housing alone is insufficient, as there is zero affordable housing provided, and no honest discussion has been given in the EIR about the jobs-housing balance or Job/Housing-Fit. Furthermore, as discussed in the

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<sup>41</sup> City CAP, <https://riversideca.gov/cedd/sites/riversideca.gov.cedd/files/pdf/planning/other-plans/2016%20Riverside%20Restorative%20Growthprint%20Economic%20Prosperity%20Action%20Plan%20and%20Climate%20Action%20Plan.pdf>.

<sup>42</sup> CEQA bars reliance on illusory, unenforceable conditions as mitigation. (See CEQA Guidelines §§ 15126.4(a)(2), 15097; see also *Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 ["Mitigating conditions are not mere expressions of hope."].)

section below, the EIR did not conduct a VMT analysis because it was screened out under an assessment. Therefore, claims of reducing VMTs are respectfully speculative. In fact, substantial evidence shows that VMTs generated by the Project may nevertheless be significant.

- **Measure T-19, W-1, SW-1, SW-2:** The Draft EIR cites code compliance with existing programs (e.g., EV charging stations, CalGreen, City/State solid waste requirements), which is respectfully a floor of what developments are already expected to do.
- **Additional Measures Not Considered:** It seems that the Draft EIR does not consider a variety of CAP Measures that would be applicable to the Project if made enforceable with specific conditions of approval and performance-based measures, such as:
  - T4 (Promotional Transportation Demand Management [“TDM”]) & T11 (Voluntary TDM) for small and large employers with robust TDM measures (i.e., such as those recommended by CAPCOA);
  - T9 (Limit Parking Requirements) with actual specific percentage below parking requirements;
  - T10 (High Frequency Transit Service) via coordination with the local transit authority to focus more trips at Raincross Square;
  - T-14 (Neighborhood Electric Vehicle (“NEV”) Programs), T-16 (Bike Share Program), and T-17 (Car Share Program), such as shared NEVs, bikes, e-scooters, and other shared transit solutions for residents and onsite employees to reduce demand on autos.
  - T-15 (Subsidized Transit) for residents and employees, which serves as an essential incentive to encourage the use of public transit.

CEQA demands a robust GHG analysis to assess a project’s impact on climate change. Here, the Draft EIR acknowledges significant impacts but does not sufficiently consider whether impacts are being mitigated to the extent feasible, consistent with existing regulatory schemes.<sup>43</sup> The City should consider the Project’s impact on emissions and the Project’s consistency with the State’s GHG reduction requirements, such as: reducing to 1990 GHG emission levels by 2020 (i.e., AB 32); 40 percent below 1990 levels by 2030 (i.e., SB 32); and 80 percent below 1990 levels by 2050 (i.e., Executive Order S-3-05). (See CEQA Guidelines § 15064.4.)

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<sup>43</sup> *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife (“Newhall Ranch”)* (2015) 62 Cal.4th 204, 227; see also *Cleveland National Forest Foundation v. San Diego Assn. of Governments (“Cleveland IP”)* (2017) 3 Cal.5th 497, 504, 519 (analysis must be “based to the extent possible on scientific and factual data ... stay[ing] in step with evolving scientific knowledge and state regulatory schemes.” (Quoting CEQA Guidelines § 15064(b)).)

3. More Than Five Million Annual VMTs Should Not Have Been Screened From A Project-Specific VMT Study

The Draft EIR recommends no mitigation because it claims there are no significant traffic impacts. (DEIR, PDF p. 69.) This determination is based on the Project being screened out from a VMT analysis utilizing five-step screening criteria (id., at PDF p. 328), which is further elaborated in the VMT screening assessment. (Draft EIR, ATT-E, PDF pp. 6-11.) However, substantial evidence demonstrates that the Project's VMTs are significant and warrant a full VMT.

As discussed below, the VMT screening presumes VMTs are less than significant only “absent substantial evidence to the contrary.” Here, there is substantial evidence—including project/location-specific information—that the Project will generate significant VMTs, with over 10,500 daily trips, with more than half of these coming from the hotel, RCC expansion, and office components of the Project. While the residential component satisfies other screening criteria, the commercial component of the Project does not and should be assessed with a complete VMT study. This is consistent with CEQA requirements (see Pub. Res. Code § 21099; CEQA Guidelines § 15064.3), which demand a VMT analysis that does not minimize and understate cumulative impacts.<sup>44</sup>

(a) Project-Specific Evidence Of Significant VMTs

As a threshold matter, the VMT screening method originates from OPR’s technical advisory. (ATT-E, PDF p. 6.<sup>45</sup>) OPR’s Technical Advisory makes clear that the presumption of less than significant effect on VMT is permissible absent substantial evidence to the contrary, such as being inconsistent with the RTP/SCS. (Technical Advisory, p. 12; see also City VMT Guidelines, PDF p. 24.) As it relates to being close to Transit Priority Areas, OPR continues to state “this presumption would not apply, however, if project-specific or location-specific information indicates that the Project will still generate significant levels of VMT. For example, the presumption might not be appropriate if it identifies four conditions (e.g., FAR, parking,

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<sup>44</sup> See e.g., *Cleveland III*, 17 Cal.App.5th at 444-445 (on remand, traffic analysis based on methodology with known data gaps that underestimated traffic impacts necessarily prejudiced informed public participation and decisionmaking); *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692, 718, 727 (rejecting determination that less than one percent of area emissions was less than significant because analysis improperly focused on the project-specific impacts and did not properly consider the collective effect of the relevant projects on air quality); *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1072 (upholding analysis under “stringent cumulative-impact threshold”); *Al Larson Boat Shop, Inc. v. Board of Harbor Comm’rs*, (1993) 18 Cal.App.4th 729, 749 (upholding analysis where cumulative impacts were not minimized or ignored].) The relevant inquiry is not only the relative amount of increased traffic that the Project will cause but whether any additional amount of Project traffic should be considered significant in light of an already serious problem. (See *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025.)

<sup>45</sup> OPR Technical Advisory, [https://lci.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://lci.ca.gov/docs/20190122-743_Technical_Advisory.pdf).

SCS, affordable units). (Technical Advisory, p. 14.) The four examples listed were not identified as being exclusive factors. They were merely examples of “project-specific or location-specific information” that indicate the Project’s VMTs may still be at significant levels. Here, there is substantial evidence that the presumption is not appropriate for the Project, including project/location specific information, that indicates the Project will generate significant levels of VMTs, such as:

- OPR notes that this screening “generally should presume that certain projects (including residential, retail, and office projects, as well as projects that are a mix of these uses) ....” that are close to a TPA have VMTs that are less than significant. (Technical Advisory, p. 13.) Here, however, the Project includes a hotel, amphitheater, and RCC expansion components that are not among these “certain projects” that can “generally” be presumed to be less than significant when close to a TPA.
- Here, Project exceeds VMT per service population and VMT per worker thresholds. (ATT-E, p. 9.) This suggests the employee component of the Project will be significant.
- Here, while 110 average daily trips can generally be presumed to have less than significant impacts (ATT-E, p. 10), the Hotel (3004 ADTs), office (2385 ADTS), and RCC expansion (1658 ADTS) all well exceed that level. (ATT-E, p. 17.) Together, these account for over 51% of the 13,788 total ADTs generated by the Project. (Id.)
- Here, the CalEEMod data indicates that approximately 53.5% of all VMTs generated (i.e., 52.5 million unmitigated VMTs per year) are from the RCC expansion, office, and hotel. (ATT-B, p. 117-118.)
- OPR also notes the difference between local and regional-serving retail. (Technical Advisory, p. 18.) Here, the hotel and RCC Expansion are analogous in that they serve patrons drawn from the region. This is also somewhat acknowledged in the Draft EIR, when the objectives state among its goals are to establish Downtown Riverside “as the region’s premier urban downtown ... attract larger conferences and group meeting business .... Facilitate larger events that bring in more patrons ....” (DEIR, PDF p. 27.) This seems to indicate a specific desire to attract regional patrons, which, unlike local-serving retail, tends to have a bigger VMT impact notwithstanding being in a TPA.

(b) Step 1: TPA Criteria

The VMT assessment screens out the Project based on the Project’s being located within a Transit Priority Area (“TPA”). (DEIR, ATT-E, PDF p. 6-7.) The TPA screening threshold explicitly states that the presumption of less than significant impact is appropriate “absent substantial evidence to the contrary.” (Id., at PDF p. 6; see also Technical Advisory, p. 12, 14; City VMT Guidelines, PDF p. 24.) For all the reasons discussed above, there is substantial evidence that the VMTs generated are significant. Additionally, there are live issues with some of the four criteria lists:

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- Parking: VMT Assessment states that the parking has not been specified, but that the City will ensure the site will not be overparked. (ATT-E, p. 8.) This appears to be a conclusory statement, without adequate analysis and performance criteria to guide future decision-making. This type of illusory mitigation is not permissible under CEQA.<sup>46</sup>
- SCS Consistency: The VMT Assessment states that the Project is consistent with SCS because the Project is consistent with the General Plan and the Downtown Specific Plan, and the SCS would be consistent with those Plans. (ATT-E, p. 8.) This reasoning is conclusory because it relies on the assumption that if the Project is consistent with the General Plan and Downtown Specific Plan, it must therefore be consistent with the SCS. This is a logical fallacy. The analysis does not address the aforementioned SCAG policies that were not discussed in the Draft EIR.

(c) Step 2: Low VMT Area Screening Criteria

The VMT Assessment indicates that VMT per resident would be below thresholds; however, the service population and VMT per worker would not. (ATT-E, p. 9.) This suggests the commercial/worker component is more impactful than the residential component.

(d) Step 3: Project Type Screening / Step 4: Mixed Use Project Criteria

The VMT Assessment suggests that the retail/commercial VMT per resident would be below thresholds (i.e., 50 KSF local serving). Still, the hotel and RCC Expansion would not. (ATT-E, PDF p. 10.) This suggests the commercial/worker component is more impactful than the residential component. The VMT Assessment relies on this analysis under Step 4 Mixed-Use Project screening.

(e) Step 5: Redevelopment Project Criteria

The VMT Assessment states that the Project meets these criteria. (APP-E, PDF p. 11.) However, the Project would not replace VMTs, causing a net overall decrease in VMTs, but instead add uses and increase overall VMTs. Under the City VMT Guidelines, this criterion is not met. (City VMT Guidelines, p. 27.)

#### 4. Additional Mitigation Is Available

As discussed above, the Project lacks sustainability features that could further minimize wasteful energy use, GHG emissions, and significant VMTs generated by the Project. There are numerous strategies recommended by CAPCOA, the SCAG, CARB, and OPR, such as those

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<sup>46</sup> CEQA bars reliance on illusory, unenforceable conditions as mitigation. (See CEQA Guidelines §§ 15126.4(a)(2), 15097; see also *Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 [“Mitigating conditions are not mere expressions of hope.”].)

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discussed below and attached hereto as **Exhibit A**. Because the Draft EIR did not adequately consider additional feasible mitigation measures (such as those listed below), the EIR should be recirculated to more thoroughly consider additional, meaningful mitigation measures such as those listed below.

(f) CAPCOA Strategies

CAPCOA offers numerous TDM and other transportation-related measures (i.e., strategies T-1 through T-54), which have the added benefit of reducing mobile emissions (e.g., criteria pollutants and GHGs). Local 11 urges the City to consider incorporating CAPCOA-suggested transportation measures into the Project (Fig. 1), including but not limited to:

- Land Use measures (e.g., T-1, T-4);
- Trip Reduction Program measures (e.g., T-5, T-6, T-7, T-8, T-9, T-10, T-11, T-12, T-13, T-38, T-39, T-42);
- Parking or Road Price Management measures (e.g., T-14, T-15, T-16, T-19-A);
- Neighborhood Design measures (e.g., T-21a, T-21b, T-22a, T-22b, T-22c, T-22d, T-34);
- Transit measures (e.g., T-26, T-27, T-29, T-44, T-46); and
- Clean Vehicles and Fuels measures (e.g., T-53).

Additional GHG reductions may be achieved by incorporating sustainability features into the Project, such as those CAPCOA-suggested non-transportation GHG reduction measures (Fig. 1), including but not limited to:

- Energy measures (e.g., E-1, E-4, E-5, E-6, E-21, E-10A, E-16, E-24, E-22);
- Water measures (e.g., W-1, W-4, W-5, W-6, W-7);
- Natural working lands measures (e.g., N-1, N-2, N-5, N-6);
- Refrigerant measures (e.g., R-2);
- Lawn and landscaping measures (e.g., LL-1, LL-3);
- Solid waste measures (e.g., S-1, S-2, S-3, S-5); and
- Construction measures (e.g., C-1A, C-2, C-3, C-4).

(g) RTP/SCS Project-Level Mitigation

As part of the development of the 2024 RTP/SCS, SCAG prepared a Program Environmental Impact Report (“PEIR”), which identifies mitigation measures that are broken up into two categories: (1) SCAG mitigation measures for program-wide measures to be implemented by SCAG; and (2) project-level mitigation measures with example measures for lead agencies to consider for Project- and site-specific environmental reviews. (2024 RTP/SCS, p. 110.) The 2024 RTP/SCS Mitigation Monitoring and Reporting Program Matrix (“MMRP”)<sup>47</sup>

<sup>47</sup> SCAG (Apr. 2024) MMRP for the 2024 RTP/SCS PEIR, pp. A-3 – A-47, [https://scag.ca.gov/sites/default/files/2024-05/exhibit\\_a\\_mmrp\\_508\\_final.pdf](https://scag.ca.gov/sites/default/files/2024-05/exhibit_a_mmrp_508_final.pdf)

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identifies numerous project-level mitigation measures (“PMM”), similar to the MMRP for the previous 2020 RTP/SCS PEIR.<sup>48</sup> Many of the PMMs are interrelated to multiple resources (e.g., air quality, GHG, traffic, utilities), which are relevant to the sustainability of the Project. Local 11 urges the City to consider incorporating SCAG-recommended project-level mitigation measures into the Project (Fig. 2), including but not limited to:

- Air quality PMM AQ-1 (e.g., construction measures (a) – (ff));
- GHG PMMs GHG-1 (e.g., measures listed under (a) - (j), (m) - (o), (q));
- Traffic PMM TRA-1 (e.g., encourage the incorporation of transit, bicycle, pedestrian, and micro-mobility facilities, and other features for active transportation);
- Traffic PMM TRA-2 (e.g., encourage TDM measures/strategies);
- Utilities PMM UTIL-2 (e.g., measures listed under (a) - (d)); and
- Utilities PMM UTIL-3 (e.g., measures listed under (a) - (c), (e), (i), (k) – (n)).

(h) CARB Scoping Plan Measures

There are numerous measures CARB urges for local action, which are included in the 2022 Scoping Plan Appendix D (Local Action),<sup>49</sup> which builds upon the prior 2017 Scoping Plan Appendix B (Local Action).<sup>50</sup> Local 11 urges the City to consider incorporating CARB-recommended measures into the Project (Fig. 3), including but not limited to:

- 2022 Scoping Plan’s Priority GHG Reduction Strategies related to:
  - Transportation Electrification (e.g., building standards that exceed state building codes, preferential parking policies);
  - VMT Reduction (e.g., bike share, car share, compact infill development, preserve natural and working lands, not convert “greenfield” land to urban uses); and
  - Building Decarbonization (e.g., exceeding Energy Code, canopies in public parking lots, battery storage).
- 2022 Scoping Plan’s Key Residential/Mixed Use Attributes related to:
  - Transportation Electrification (e.g., EV charging meeting most ambitious voluntary standards);

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<sup>48</sup> SCAG (May 2020) MMRP for the 2020 RTP/SCS PEIR, pp. 2-52 (see “project-level mitigation measures” for air quality, GHG, and transportation impacts), [https://scag.ca.gov/sites/default/files/2024-05/exhibit-a\\_connectsocal\\_peir.pdf](https://scag.ca.gov/sites/default/files/2024-05/exhibit-a_connectsocal_peir.pdf).

<sup>49</sup> CARB 2022 Scoping Plan, Appendix D (Local Action), pp. 11-12, 22-23, <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf>.

<sup>50</sup> CARB 2017 Scoping Plan, Appendix B (Local Action), pp. 1-10, [https://ww3.arb.ca.gov/cc/scopingplan/2030sp\\_appb\\_localaction\\_final.pdf](https://ww3.arb.ca.gov/cc/scopingplan/2030sp_appb_localaction_final.pdf).

- VMT Reduction (e.g., satisfies most stringent SCS criteria, reduce parking minimums, require unbundled parking costs, 20 percent of units being affordable, etc.); and
  - Building Decarbonization (e.g., all-electric appliances).
- 2017 Scoping Plan’s policies related to:
  - Energy (e.g., promote renewable energy and zero net energy);
  - Transportation and Land Use (e.g., TDM program with numeric targets, voluntary green building standards, LEED certification, TDMs encouraging carpooling and other carsharing incentives, promoting rideshare and last-mile facilities, etc.);
  - Natural and Working Lands (e.g., community gardens, land conservation, preserving trees, promoting value-added alternatives like composting, etc.);
  - Agriculture (e.g., encourage composting, reduce pesticides, promote farmer markets, etc.);
  - Water (e.g., auditing program, incentive program, etc.);
  - Waste Management & Short-Lived Climate Pollutants (e.g., minimize organics disposal, residential/commercial waste prevention and recycling programs, exceed building standards, expand anaerobic digestion capacity recycling procurement practices, pay as you throw program, implement organics waste prevention program, food recovery, etc.); and
  - Green Buildings (e.g., tier 2 CalGreen measures, onsite renewable energy and battery storage, reduce heat island effect, cool roofs and paving, etc.).
- 2017 Scoping Plan’s feasible mitigation measures related to:
  - Construction (e.g., use of renewable/electric power during construction, etc.); and
  - Operation (e.g., comply with SB 743 mitigations, fewer parking spaces, shared vehicles, bike parking, onsite renewable, cool roofs, organic collections, achieve net zero energy, encourage LEED certification, preferential parking and carpool incentives, employer-based TDM program, electric landscape equipment, energy efficient outdoor lighting, water retention on site, etc.).

#### **E. Design Review May Be Appropriate For This Once-In-A-Generation Opportunity**

The Project is a significant development adjacent to the Mission Inn Historic District, Heritage Square District, and the Mile Square Potential Historic District. So too, the Project will have considerable frontage along important arteries into the City’s downtown, which presents a unique opportunity for signage and placemaking. This presents an exceptional opportunity for the City to consider a one-time, long-lasting initiative for placemaking, signage, and pedestrian-oriented connections to the City’s Pedestrian Mall. However, it also presents a risk of

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incompatibility with adjacent historic districts. Given the gravity and scale of the ultimate Project, this may warrant additional input beyond staff-level review as well as additional input from the public. Design review, including via the City's Planning Commission and Cultural Heritage Board, could provide a valuable tool to ensure high-quality design that is both inspiring and compatible with the community.

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**F. Recirculation Is Warranted To Consider Additional Feasible Project Design Features And Mitigation Measures As An Alternative, Including Retaining Council Discretion With A DA Requirement**

Under CEQA, the discussion of mitigation and alternatives is “the core of an EIR,” requiring a lead agency to select a reasonable range of alternatives for evaluation guided by a clearly written statement of objectives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564-65; see also CEQA Guidelines § 15124(b).) As discussed below, the Draft EIR admits the Project would cause significant and unavoidable air quality and GHG impacts (discussed *supra*) but does not adequately consider feasible mitigation measures or a reasonable range of alternatives. This skews the City’s consideration of overriding benefits, which should be deferred until a specific project is before its consideration. This can be achieved via a DA requirement. These factors warrant recirculation consistent with CEQA.

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**1. The Project Requires Meaningful Mitigation. Mitigations Are Available**

Here, the Draft EIR does not adequately consider feasible mitigation measures that could meaningfully reduce the Project’s impacts on air quality and GHG emissions (admittedly significant) and those impacts on energy and VMTs (as alleged herein). The measures include the measures above recommended by CAPCOA, SCAG, and CARB (see also **Exhibit A** attached hereto). Local 11 urges that the City consider, at a minimum, whether the following measures should be incorporated into the Project:

1. Including restricted affordable housing or workforce housing units to reduce VMTs and mobile emissions,
2. maximizing onsite solar panel use,
3. achieving LEED Platinum, and/or achieving Tier 1 or Tier 2 CalGreen status, and
4. applying a hotel/entertainment-specific mandatory commuter reduction program, which could include:
  - A specific performance level to be reached (e.g., specific VMT or average daily trip reduction or both);
  - A specified participation level (e.g., 100 % employees);
  - Participation in guaranteed ride programs;
  - Incentives such as employee carpool/vanpool access to preferential parking spaces or hotel valet service, or both;
  - Subsidized transit passes for hotel workers and patrons; and

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- A dedicated shuttle service for hotel patrons to nearby destinations.<sup>51</sup>

Additionally, Local 11 urges the City to consider the site for an area-wide food recovery program, incorporate residential composting devices (commonly referred as “foodcyclers”) at each residential unit,<sup>52</sup> and implement a hotel-specific recycling programs that include measures such as:

- Promote recycled paper and other products like soap;
- Bans on disposable (i.e., designed to be used once and discarded) foodware items and accessories;
- Allowing customers to bring their own reusable items (if permissible, with accommodation for kosher or other religious standards);
- Requirements for hand soap in refillable containers;
- No promotional items made of plastic;
- No water in plastic bottles or disposable single-use cups;
- No expanded polystyrene (i.e., Styrofoam);
- Require reusable napkins and tablecloths with recyclable disposable napkins only allowed for takeout;
- Hand dryers in areas accessible to customers;
- Requirement for reusable laundry bags;
- Reusable dishware for room service;
- Eliminate coffee pods/coffee machines that require pods;
- Offer toothpaste tablets in refillable packaging such as glass bottles or jars;
- Provide bamboo toothbrushes;
- Offer toiletries on request rather than automatically;
- Key cards made out of non-plastic materials, including traditional metal keys or wood, bamboo, and paper options for chip-based cards;
- Incentives for returning keys to discourage waste;
- Non-plastic shower caps, razors, shaving cream, slippers, eye masks, ear plugs;
- Remove minifridge items that use plastic;
- Eliminate the use of garbage bags if possible, or use based on compostable material;
- Choose home compostable gloves;
- Do not use plastic wrap;

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<sup>51</sup> See e.g., Santa Monica Municipal Code § 9.5.130(B)(2)(b); <https://www.octa.net/getting-around/rideshare/oc-rideshare/employers/guaranteed-ride-home-program/>; <https://www.ci.healdsburg.ca.us/AgendaCenter/ViewFile/Item/3098?fileID=21731>.

<sup>52</sup> See e.g., <https://www.nytimes.com/wirecutter/guides/how-to-start-composting/>; [https://www.whygoodnature.com/blog/reducing-food-waste-with-the-vitamix-foodcycler#:~:text=Some%20people%20just%20keep%20their,how%20long%20compost%20bins%20take](https://www.whygoodnature.com/blog/reducing-food-waste-with-the-vitamix-foodcycler#:~:text=Some%20people%20just%20keep%20their,how%20long%20compost%20bins%20take;); <https://foodcycler.com/>.

- Serve employee meals with reusable dishware and cutlery, as well as provide reusable water bottles for all employees with accessible water bottle refill stations;
- Replace paper towels with reusable dish rags; and
- Source plastic-free sponges.<sup>53</sup>

2. Recirculation Is Warranted Because A Reasonable Range Of Alternatives Is Lacking

Under CEQA, the core of an EIR requires a lead agency to consider a reasonable range of alternatives for evaluation guided by a clearly written statement of objectives. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564-65; see also CEQA Guidelines § 15124(b).) A reasonable range of alternatives should be capable of being accomplished in a successful manner, thereby attaining most of the basic objectives of the Project and achieving the Project's underlying fundamental purpose. (Pub. Res. Code § 21061.1.<sup>54</sup>)

Here, the Project considered three alternatives, including: (1) a no project alternative; (2) a 30% reduction of intensity project alternative; and (3) a no office/retail alternative. (DEIR, PDF p. 72.) Missing from this analysis is a Project Alternative that includes meaningful mitigation measures and project design changes, such as an alternative incorporating the measures listed above. Such an alternative appears to be capable of being accomplished, to attain the basic objectives and fundamental purpose of the Project, and should be considered. Additionally, because the Draft EIR did not conduct a Project-specific VMT study, it did not consider alternatives that would meaningfully reduce impacts on VMTs. Furthermore, it is possible that Alternative 3 might exacerbate VMTs and GHG impacts. Arguably, office workers might be more likely to be able to afford the proposed market-rate condos and apartment buildings, which might minimize VMTs and their associated mobile emissions (i.e., GHGs). So too, the suggested retail and grocery market is neighborhood-serving, in an area that seems to be lacking adequate access to a walkable grocery. By removing these neighborhood-serving uses, Alternative 3 becomes less mixed-use and more auto-centric (i.e., contrary to GHG reductions). Hence, the Draft EIR does not seem to adequately consider the full scope of reasonable alternatives.

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<sup>53</sup> See e.g., <https://www.nytimes.com/2022/05/17/travel/clean-the-world-hotel-soap.html>; <https://freakonomics.com/podcast/the-economics-of-everyday-things-used-hotel-soaps/>; <https://cleantheworld.org/>; <https://bluestandard.com/guides/hotel-guide/>; [https://clkrep.lacity.org/onlinedocs/2021/21-0064\\_ord\\_187718\\_1-23-23.pdf](https://clkrep.lacity.org/onlinedocs/2021/21-0064_ord_187718_1-23-23.pdf).

<sup>54</sup> See also *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1509 (citing CEQA Guidelines § 15126.6(a) and (f)); *In re Bay-Delta* (2008) 43 Cal.4th 1143, 1164-1165 (citing CEQA Guidelines § 15124(b)).

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3. The Overriding Consideration Is Premature Without More Details, Which May Be Addressed Through A DA Requirement

Under CEQA, when approving a project that will have significant environmental impacts not fully mitigated, a lead agency must adopt a “statement of overriding considerations,” finding that the Project’s benefits outweigh its environmental harm. (Pub. Res. Code § 21081(b); see also CEQA Guidelines § 15043.) An overriding statement expresses the larger, more general reasons for approving the Project, such as the need to create new jobs, provide housing, generate taxes, and the like.<sup>55</sup> It must fully inform and disclose the specific benefits expected to outweigh environmental impacts, supported by substantial evidence. (See CEQA Guidelines §§ 15043(b) & 15093(b).<sup>56</sup>) However, an agency may adopt a statement of overriding considerations only after it has imposed all feasible mitigation measures to reduce a project’s impact to less than significant levels. (See CEQA Guidelines §§ 15091 & 15126.4.) Hence, decisionmakers may not approve a project when feasible mitigation measures can substantially lessen or avoid such impacts. (See e.g., Pub. Res. Code § 21002; CEQA Guidelines § 15092(b)(2).) So too, additional overriding considerations may be necessary to adequately override those additional impacts that the DEIR underestimates.

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Here, the Draft EIR does not seem to adequately consider all of the potential impacts of the Project. This might skew the City’s decision regarding feasible mitigation measures. A potential solution could be the DA requirement discussed above (supra section IV.A). This approach might give the City Council the opportunity to consider critical issues once project details are forthcoming.

4. Recirculation Of Draft EIR May Be Warranted To Consider Robust Mitigation And Reasonable Range Of Alternatives

CEQA requires a lead agency to recirculate an EIR when significant new information is added to the EIR following public review but before certification. (See Pub. Res. Code § 21092.1.) New information is significant if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project” including, for example, “a disclosure showing that … [a] new significant environmental impact would result from the project.” (CEQA Guidelines § 15088.5.) Here, recirculation may be required because the Draft EIR does not seem to adequately analyze the Project’s impacts on GHGs, energy, and VMTs. Nor does it seem to adequately consider feasible mitigation measures or a reasonable range of alternatives. This arguably might skew the public and decision-making process, which may be an abuse of discretion and warrant recirculation of the Draft EIR.

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<sup>55</sup> See e.g., *Concerned Citizens of S. Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847.

<sup>56</sup> See also *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222-1223.

**V. CONCLUSION**

In closing, Local 11 thanks to the City for the opportunity to provide these belated comments. Local 11 respectfully requests that the City recirculate the Draft EIR to consider additional feasible mitigation measures and project alternatives that might meaningfully reduce the Project's environmental impacts. We also urge the City to consider setting aside a portion of the housing units for affordability and to place a DA requirement for any future hotel at the site.

Local 11 reserves the right to supplement these comments at future hearings and proceedings for this Project. (See *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 [CEQA litigation not limited only to claims made during EIR comment period].) To the extent not already on the notice list, please place this office on the notification list for all notices of CEQA actions and any approvals, project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (See e.g., Pub. Res. Code §§ 21092.2, 21167(f) and Govt. Code § 65092.) Please send notice by electronic and regular mail to Jamie T. Hall, Esq.

Thank you for your consideration of this matter. I may be contacted at [jamie.hall@channellawgroup.com](mailto:jamie.hall@channellawgroup.com) if you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall

**Encls. Exhibit A**

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