

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

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December 27, 2022

Elizabeth Tyler, Director
Community Development Department
City of San Pablo
1000 Gateway Avenue,
San Pablo, CA 94806

Dear Elizabeth Tyler:

RE: City of San Pablo's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of San Pablo's (City) draft housing element received for review on October 3, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from YIMBY Law and Campaign for Fair Housing Elements, David Kellogg and YIMBY Law and Greenbelt Alliance, pursuant to Government Code section 65585, subdivision (c).

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

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c), shall be completed no later than one year from the statutory deadline. Please be aware, if the

City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites are completed.

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

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates your hard work provided in the housing element update. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at jose.jauregui@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN PABLO

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

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

A. Review and Revision

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

The element includes a general description (e.g., “ongoing,” “continue as is”) of progress in implementation of programs from the previous planning period. However, the element must describe progress in implementation (quantification where appropriate) and also evaluate the effectiveness of those efforts in meeting goals and address the appropriateness of actions moving forward in the housing element update. For example, the prior element contained Program H-3.1.6 (Facilitate Affordable Rental Opportunities). The element (p. E-3) then explains the status as “ongoing”. Instead, the element should discuss the actual results (e.g., units constructed, affordability and tenure); whether those results or efforts were effective in achieving program goals and objectives; how the program can be improved and how the new element programs will be revised.

In addition, the element must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.

B. Housing Needs, Resources, and Constraints

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

Enforcement and Outreach Capacity: The element must describe the City's compliance with state and federal fair housing laws, including findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights. Further, the element could incorporate its outreach into the assessment of fair housing to better understand pattern, trends and needs and formulate appropriate policies and programs.

Disproportionate Housing Needs, Including Displacement Risk: The element provides some general discussion on cost-burdened households and overcrowding. However, the element must evaluate trends and patterns within the City for substandard housing and persons experiencing homelessness. This analysis should utilize local data and knowledge and other relevant factors. For substandard housing, the element should discuss areas of the City where proportions of housing units needing rehabilitation may be higher than other areas and may utilize local knowledge such as qualitative information from code enforcement staff. For homelessness, the element should discuss disproportionate impacts on protected characteristics (e.g., race, disability) as well as patterns and access to opportunities such as areas within the City with higher numbers of persons experiencing homelessness and proximity to transportation and services.

Disparities in Access to Opportunity: While the element provided a general analysis of opportunity areas, and high-level conclusions about the City's disparities in access to opportunity, it must analyze trends and patterns related to access to transportation. The analysis should incorporate local data and knowledge and other relevant factors (see below).

Local Data and Knowledge: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, City staff and related local and County planning documents.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the City. For instance, the element can analyze historical land use; zoning and barriers to housing choices; investment practices; seeking investment or lack of seeking investment to promote affordability and inclusion; information about redlining/greenlining, restrictive covenants and other discriminatory practices; land use related lawsuits; local initiatives; demographic trends, or other information that complements the state and federal data.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element must include data on the location of regional housing need allocation (RHNA) sites by income group relative to all fair housing components. The analysis should address the number of units by income group and location, any isolation of the RHNA by income group, magnitude of the impact on existing concentrations of socio-economic characteristics and discuss how the sites improve fair housing conditions. The analysis should be supported by local data and knowledge and other relevant factors and programs should be added or modified as appropriate to promote inclusive and equitable communities.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess contributing factors and prioritize those factors then formulate appropriate policies and programs.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

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

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

Extremely Low-Income (ELI) Households: While the element quantifies existing and projected ELI households, it must also analyze their housing needs. The analysis of ELI housing needs could consider tenure, overpayment, overcrowding, resources and the effectiveness of strategies and the magnitude of housing need. To assist the analysis, see the enclosed data and sample analysis at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/extremely-low-income-housing-needs>.

Housing Conditions: The element provides some information on age of the housing stock. However, it must estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable organizations. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics>.

Special Housing Needs: While the element includes some quantification of special housing needs, it must still analyze those needs. The analysis should include, but is not limited to, factors such as trends, household income, tenure, housing types, zoning, available resources, effectiveness of past strategies and an evaluation of the magnitude of the need. Local officials, special needs service providers, or City social and health service providers may be able to assist with information to complete the analysis. For additional information and a sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks>.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and*

an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)

Progress toward the RHNA: While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors. Given the element has identified a potential of 395 units through pipeline projects, the element should include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals and monitoring of project progress, including rezoning or identification of additional sites, if necessary).

Parcel Inventory: While the element lists parcels by various factors such as acreage, general plan designation, zoning and realistic capacity by income group, it should also list parcels by existing use sufficiently to facilitate an analysis of potential for redevelopment. Currently, the element (Appendix A) lists existing uses generically (e.g., general commercial, religious facility, single-family residential) which is not sufficient information to facilitate an analysis of the potential for redevelopment. Instead, the element could describe the existing uses such as abandoned structure with large parking lot or could utilize factors or indicators of potential for redevelopment such as age of structure, existing versus allowable floor area and improvement to land value.

Realistic Capacity: While the element lists realistic residential capacity assumptions by specific plan land designations it must also account for the likelihood of 100 percent nonresidential development. The element lists recent trends for residential development in non-residential zones but should also consider the development activity of 100 percent nonresidential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. To address this requirement, the element briefly mentions an A/V ratio, as built FAR and year built. However, the element should also support the validity of these assumptions by discussing the utilized thresholds and experience in converting existing uses similar to the utilized thresholds. The analysis should also discuss the extent existing uses impede additional residential development such as existing leases or contracts or other relevant factors precluding additional development in the planning period.

In addition, the element identifies sites with existing residential uses. Absent a replacement housing program, these sites are not adequate sites to accommodate

lower-income households. The City must add a replacement housing program that has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

Availability of Infrastructure: The element includes some introductory statements regarding water and sewer providers but then indicates the discussion will be updated upon completion of the environmental review document. Future versions of the housing element must demonstrate existing and planned water and sewer capacity to accommodate the RHNA and include programs, if necessary.

Environmental Constraints: While the element generally describes potential environmental constraints, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period. (e.g., shape, contamination, easements, conditions, compatibility)

City-Owned Sites: The element briefly describes its strategy to use City-Owned sites to accommodate a portion of the RHNA for lower-income households (p. 3-9). However, the element should include an analysis of necessary steps, any known barriers to development in the planning period, development schedule, including anticipated completion dates and add or modify programs based on the analysis.

Accessory Dwelling Units: The element must clarify the affordability assumptions being utilized and demonstrate their validity based on actual or anticipated rents or other mechanisms ensuring affordability

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element mentions emergency shelters are allowed in the RMU (Residential Mixed-Use District) and CR (Regional Commercial), it must clarify emergency shelters are permitted without discretionary action, discuss available acreage such as the presence of reuse and redevelopment opportunities to demonstrate sufficient capacity to accommodate the need for emergency shelters. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability. Based on the outcomes of the analysis, the element should add or modify programs as appropriate.
- *By Right Permanent Supportive Housing:* By right permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address multifamily and mixed-use development parking (Two covered spaces are required for each dwelling unit in a multifamily dwelling) (Table C-12) and two family/duplexes residential uses (Two spaces per unit are required for two-family dwelling). The analysis should address any impacts on housing cost, supply (number of units), feasibility and ability to achieve maximum densities and include specific commitment to address identified constraints in program.

Fees and Exaction: The element shows the total amount of fees per unit for typical single-family and multifamily development but should also list and evaluate planning fees for (e.g., rezone, general plan amendments, variances, conditional use permit (CUP)) their impact on housing costs.

Local Processing and Permit Procedures: The element provides a general summary of site design review process for the 23rd Specific Plan and San Pablo Specific Plan criteria (p. C-40) however, it should also evaluate those criteria. The element should explain how these standards are applied and met, whether there are any impacts on cost, timing and approval certainty and add or modify programs to address any identified constraints.

In addition, the element should discuss compliance with permit streamlining act and California Environmental Quality Act streamlining and add or modify programs as appropriate.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures to implement SB 35 (Chapter 366, Statues of 2017) and add or modify programs to commit to establish a procedure if necessary.

Housing for Persons with Disabilities: The element should also describe and analyze any definition of family used in zoning and land use and add or programs if necessary.

Local Ordinances: The element must specifically analyze any locally adopted ordinances such as growth control, local initiatives, or short-term rental ordinances that directly impact the cost and supply of residential development.

Zoning and Fees Transparency: The element describes how the City's website posts information on fees, building permits, planning application and the zoning map but

should also clarify its compliance with new transparency requirements for posting zoning and development standards or add or modify programs, if necessary.

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

Requests for Lower Density and Permit Times: The element must analyze (1) requests to develop housing at densities below those identified in the inventory and (2) the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a locality's share of the regional housing need and programs should be added or modified as appropriate.

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

While the element briefly notes a project (81 units) at-risk of converting to market rate uses in the planning period, HCD records indicate at least two projects are at-risk of converting to market rate uses in the planning period (El Portal Gardens and Rumrill Gardens). The element should reconcile this difference with HCD records and, if appropriate, specifically lists these projects and provide analysis to guide policies and programs that commit to preserve these units. Specifically, the element must still:

- Evaluate the risk of conversion, including ownership type and any known conditions that may lead to potential conversion.
- Estimate and compare the total cost for producing, replacing and preserving the units at-risk.

For additional information and sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/assisted-housing-developments-risk-conversion>.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement*

the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs should have specific commitment toward housing outcomes and discrete and early timing (e.g., at least annually or by January 2025). Examples of programs that should be revised with discrete timing include:

- Program 1-G: Faith-Based Community Housing
- Program 1-K: Repeal or Revise the 23rd Street Specific Plan
- Program 2-D: Loan Assistance for Sustainable Housing
- Program 2-F: Mobile Home Parks
- Program 2-I: Incentives for Affordable and Special Needs Housing
- Program 2-J-Facilitate Affordable Rental and Cooperative Family Housing
- Program 3-H: Awareness of Fair Housing Programs
- Program 4-A: Low-Interest Loans for Housing Rehabilitation
- Program 4-B: Technical Assistance and counseling for Rehabilitation Loans
- Program 4-F: Neighborhood Stabilization
- Program 4-G: Healthy Homes Program Implementation
- Program 4-H: Home Repair

Additionally, programs must have specific commitment to clear outcomes or deliverables. Several programs include actions with no commitment to housing outcomes (e.g., “develop”, “explore”, “report”). Examples of programs that should be revised to include specific commitment include:

- Program 1-B: Rumrill Corridor
- Program 1-C: Repeal or Revise the 23rd Street Specific Plan
- Program 1-D: Revise Multifamily Minimum Parcel Size
- Program 1-E: Facilitate Lot Consolidation
- Program 1-G: Faith-Based Community Housing
- Program 1-H: Shopkeeper Housing
- Program 1-M: Encourage Innovative and ‘Non- Traditional Forms of Housing
- Program 2-F: Mobile Home Parks
- Program 3-G: Just Cause Eviction Protections

- 2. Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

- *City Owned Sites*: The element identified city-owned sites to accommodate a portion of the lower-income RHNA. The element should add or modify a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-owned sites used towards the RHNA. Actions (with discrete timing) should include outreach with developers, issuing requests for proposals, incentives, financial assistance, zoning, issuing entitlement and issuing permits.
- *Sites Identified in Prior Planning Periods*: If necessary, the element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first year or three years, whichever is appropriate, of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households (30 units per acre) and allow by-right approval (without discretionary action) for housing developments that include 20 percent or more of its units affordable to lower-income households.
- *Program 3-D (Zoning for Residential Care Facilities)*: Revise program to add specific commitment in the element to include how the City defines and permits group homes of six or fewer and seven or more persons. For your information, group homes with six or fewer should be treated no differently than other by-right single-family housing uses and must be allowed in all residential zones. Additionally, group homes of seven or more should be included in all residential zones and permitted objectively to facilitate approval certainty similar to other residential uses.
- *Program 3-E (Transitional and Supportive Housing)*: As noted on page C-34, the City must specific commitment to allow transitional and supportive housing in non-residential zones.
- *Low Barrier Navigation Centers*: As noted on page C-33, the element should include a program to amend zoning to permit low barrier navigation centers pursuant to Government Code section 65661.
- *Replacement Housing Requirements*: The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

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

The element should be revised with action to assist in the development of housing affordable to lower-income households, as follows:

- *Program 3-I (Outreach to People Living with Developmental Disabilities):* The Program should be revised to include outcome-oriented commitments such as annual outreach with developers and identification of development or housing opportunities.

Density Bonus: As noted on page C-27, the element should add or modify programs to amend the current City Density Bonus ordinance to comply with State Density Bonus Law (SDBL) pursuant to Government Code section 65915.

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

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

5. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numeric objectives and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in higher opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program 2-C (Preservation of Deed-Restricted Assisted Housing) should be revised with specific commitment to comply with noticing requirements, coordinate with qualified entities, assist with funding or support funding applicants and provide education and support to tenants.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element generally did not address this requirement. The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. The element must also include objectives for extremely low-income households.

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the element described various efforts to achieve public participation in the preparation of the housing element update, it should also describe how comments were considered and incorporated into the element.

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

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November 22, 2023

Elizabeth Tyler, Director
Community Development Department
City of San Pablo
1000 Gateway Avenue
San Pablo, CA 94806

Dear Elizabeth Tyler:

RE: City of San Pablo's 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the City of San Pablo's (City) revised draft housing element that was received for review on September 22, 2023, along with revisions received on November 16, 2023. Revisions were made available to the public for seven days. The review was facilitated by a conversation on October 31, 2023 with you, Sandra Castaneda and Andrew Hill, the City's consultant. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq) as follows:

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

Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

Disproportionate Housing Needs, including Displacement Risk: While the element now discusses patterns of housing conditions, it must still also address pattern of persons experiencing homelessness and access to services and facilities. For example, the element should discuss areas with a higher number of encampments and access to transportation and services. The element should

utilize local data and knowledge such as service providers and City officials to complete this analysis.

Local Data and Knowledge and other Relevant Factors: The element generally was not revised to address this requirement. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Please see HCD's prior review.

Contributing Factors to Fair Housing Issues: Based on the outcome of a complete analysis, the element should reassess contributing factors to fair housing issues and prioritize those factors and then formulate appropriate policies and programs.

Goals and Actions: As noted above, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. Actions must have specific commitment, milestones, geographic targeting and metrics or numeric objectives. Particularly, metrics should target beneficial impacts or outcomes for people; households, and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed). Finally, while the element was revised to include a list of fair housing issues and corresponding programs and actions to address the issues, it must include additional place-based strategies toward community revitalization and environmental justice and actions to mitigate displacement risk.

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

Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory... (Gov. Code, § 65583, subd. (c)(1).)

Realistic Capacity: HCDs prior review found the element must discuss the likelihood of 100 percent nonresidential uses in zones that allow 100 percent nonresidential. In response, the element discusses the number of 100 percent non-residential developments that were recently approved but should also discuss the total number of developments to better understand how often development does not have a residential component. Then, the element should account for the likelihood of 100 percent non-residential development in its calculation of realistic residential capacity.

Suitability of Nonvacant Sites: The element now generally concludes identified sites have similar characteristics to past redevelopment projects and have potential for redevelopment in the planning period but should still include analysis to support this conclusion, as follows:

- *Indicators of Redevelopment Potential:* The element lists sites by indicators of redevelopment potential, including A/V ratio, existing floor area (FAR) ratio and the age of existing structures. However, the element must provide an explanation of these indicators and information to support the validity of these indicators, including the threshold value. For example, the element should explain the age of structure (e.g., 50 years or older) used to demonstrate redevelopment potential. This is particularly important since some existing uses appear less than 30 years old which typically indicates a structure in good condition. Further, instead of existing FAR, the element should consider a ratio of existing versus allowable FAR.
- *Trends and Indicators of Redevelopment Potential.* The element states recent developments in the surrounding area are similar to identified sites but provides no analysis to support this conclusion. For example, Appendix G lists recent developments but does not describe the prior A/V ratio, existing floor area and age of existing structure.
- *Existing Uses that Impede Additional Development:* As noted in the prior review, the element must still evaluate the extent existing uses impede additional development. For example, to address this requirement, the element should evaluate existing leases or other conditions that perpetuate existing uses, expressed interest in redevelopment from owners or developers, existing versus allowable FAR and indicators of turnover such as properties for sale, vacant, abandoned, lacking recent investment or frequent turnover in occupancy.

Availability of Infrastructure: The element was not revised to address this finding. Please see HCD prior review.

Environmental Constraints: The element was not revised to address this finding. Please see HCD prior review.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-andcommunity-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element was not revised to address this finding. Please see HCD prior review for additional information.

Programs: As noted above, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

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

Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities...(Gov. Code, § 65583, subd. (c)(3).)

Fees and Exaction: The element was not revised to address this finding. Please see HCD prior review for additional information.

Local Processing and Permit Procedures: HCD's prior review found the element must evaluate the site design review approval findings for its impact on supply (number of units), cost, financial feasibility, timing, and approval certainty. In response, the element now includes Program 1K to develop objective design standards to mitigate the constraint. However, the element still must include an analysis, as noted above, to ensure appropriate programs. Following a complete analysis, Program 1K may need to be revised accordingly.

In addition, the element was not revised to discuss compliance with permit streamlining act and California Environmental Quality Act Streamlining. The element must describe compliance and add or modify program as appropriate. Please see HCD's prior review for additional information.

Requests for Lower Density and Permit Times: The element was not revised to address this finding. Please see HCD prior review.

Programs: As noted above, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Examples of programs that should be revised with specific commitment include but not limited to:

- *Program 1-B (Rumrill Corridor)*: The Program should be revised to identify anti-displacement measures with a specified timeline.
- *Program 1-D (Revise Multifamily Minimum Parcel Size)*: The Program was not revised to address this finding. Please see HCD prior review.
- *Program 1G (Reduced Parking Requirements)*: The Program should specifically commit to remove garage requirements and reduce parking requirements for mixed-use and two family/duplexes throughout the City.
- *Program 1-M (Innovative Forms of Housing)*: The Program was not revised to address this finding. Please see HCD prior review.
- *Program 2-F (Mobile Home Parks)*: The Program was not revised to address this finding. Please see HCD prior review.
- *Program 3-G (Just Cause Eviction Protections)*: The Program was not revised to address this finding. Please see HCD prior review.

5. *Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

The element was revised to include its outreach efforts during the housing element public review periods; however, it must also describe how public comment were incorporated into the element.

The element will meet the statutory requirement of State Housing Element Law once it has been revised and adopted to comply with the above requirements pursuant to Government Code section 65585.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), programs to rezone and make prior identified

sites available or address a shortfall of capacity to accommodate the regional housing need allocation (RHNA) (e.g., Program 1-N: By Right Zoning Text Amendment to Accommodate RHNA) must be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the commitment and cooperation of the housing element update team during the update and review. HCD is committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at jose.jauregui@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager