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August 24, 2021

President Clint Lorimore and Regional Council Members
Southern California Association of Governments
900 Wilshire Blvd., Suite 1700
Los Angeles, CA 90017

RE: Comments on the SoCal Greenprint and Request that the SCAG Regional Council Redirect the Development of Greenprint to be Consistent with Local Control and the Authorizing Language in Connect SoCal

Dear President Lorimore and Regional Council Members:

On behalf of the business, industry and community organizations subscribing to this letter, we write today as a Business Coalition to express our further concerns about SCAG staff's thus far very problematic development of the SoCal Greenprint. On April 30, 2021, a diverse coalition of business and community interests submitted a letter to then-President Rex Richardson outlining several serious concerns with the early stages of the development of the Greenprint. On June 29, 2021, a similar group of signatories wrote to ask the Regional Council to undertake a special hearing to discuss, better oversee, and steer the Greenprint effort. Soon afterward, the Regional Council voted to pause work on the Greenprint so that the Regional Council could grasp and debate the concerns about the path on which the Greenprint development was headed.

As we indicated previously, we do not oppose – and instead support – SCAG's determination to develop a Greenprint. We recognize, in light of two mitigation measures that SCAG formally adopted in connection with last year's Connect SoCal (SMM BIO-2 and SMM AG-2), that SCAG is committed to developing a Greenprint following an appropriate amount of research, investigation, and consideration. What we oppose is any hasty and poorly-managed Greenprint development process like the one that is presently underway, which seems sure to result in a problematic Greenprint. Importantly, a problematic Greenprint would undercut our collective efforts to provide sufficiently robust job, infrastructure, and housing opportunities in the years and decades ahead. The Regional Council should not stand by and permit such a result. Especially in light of our region's great need for more housing production and the present demand on our 197 local governments to accommodate over 1.3 million housing units under the Regional Housing Needs Assessment (RHNA) process. A wrongheaded approach to the Greenprint will make our local governments' challenges even more daunting, and could inadvertently hand housing opponents the ammunition to delay and prevent greatly needed housing projects.

When SCAG adopted Connect SoCal last year, it concurrently approved an addendum to the accompanying program environmental impact report (PEIR) which included the adoption of two mitigation measures specifically pertaining to the development of the Greenprint.¹ One of the two mitigation measures, denominated SMM BIO-2, reads as follows (with emphasis added below):

SCAG shall continue to develop a regional conservation strategy in coordination with local jurisdictions and other stakeholders, including the county transportation commissions. **The conservation strategy will build upon existing efforts including**

¹ When SCAG's Regional Council approved the programmatic environmental impact report (PEIR) that pertains to the later-approved Connect SoCal, it approved an accompanying addendum containing both (i) final alterations to promised Connect SoCal mitigation measures, and (ii) an appendix containing SCAG's responses to public comments. SCAG is legally bound by the contents of the former (i.e., SCAG is legally obligated to adhere to the terms of the promised mitigation measures *per se*).

those at the sub-regional and local levels to identify potential priority conservation areas. SCAG will also collaborate with stakeholders to establish a new Regional Advanced Mitigation Program (RAMP) initiative to preserve habitat. The RAMP would establish and/or supplement regional conservation and mitigation banks and/or other approaches to offset the impacts of transportation and other development projects.

To assist in defining the RAMP, SCAG shall lead a *multi-year effort to develop new regional tools*, like the Regional Data Platform and Regional Greenprint that will provide an easily accessible resource to help municipalities, conservation groups, developers and researchers prioritize land for conservation based on best available scientific data. The Regional Greenprint effort shall also produce a white paper on the RAMP initiative, which includes approaches for the RAMP in the SCAG region, needed science and analysis, models, challenges and opportunities and recommendations.

The other mitigation measure concerning the Greenprint, which is denominated SMM AG-2, reads as follows (with emphasis added below):

SCAG shall develop a Regional Greenprint, which is a strategic web-based conservation tool that provides the best available scientific data and scenario visualizations to help cities, counties and transportation agencies make better land use and transportation infrastructure decisions and conserve natural and farm lands. **SCAG shall use the Greenprint to identify priority conservation areas** and work with CTCs to develop advanced mitigation programs or include them in future transportation measures by (1) funding pilot programs that encourage advance mitigation including data and replicable processes, (2) participating in state-level efforts that would support regional advanced mitigation planning in the SCAG region, and (3) supporting the inclusion of advance mitigation programs at county level transportation measures.

We have many concerns about the missteps that SCAG's staff has already taken in deviation from the mitigation measures set forth above. Briefly, our concerns are as follows:

- Although SCAG tasked itself with undertaking a "multi-year effort" to develop a Regional Greenprint "to help prioritize land conservation based on best available scientific data[,]" SCAG's staff then delegated the developmental responsibilities to The Nature Conservancy, which is an organization whose sole mission and business model is the

management of lands placed in conservancies and trusts. Thus, they are the beneficiaries of dedicated open spaces and are naturally inclined to limit and preclude land development. SCAG's staff thus chose as the leader of the Greenprint effort an entity that is inherently biased when it comes to marshalling and balancing the many competing factors that must be carefully weighed in any sound land use decision-making. SCAG's choice of the The Nature Conservancy to lead the Greenprint effort is impolitic and has the appearance of prejudicing the Greenprint process. ***SCAG's staff must now employ a higher standard of care to assure that all other interests and stakeholders are heard and respected, that land use data sets in Greenprint are balanced, and that data is properly vetted, especially for scientific validity and acceptance, before proceeding to a final Greenprint.***

- Although the mitigation measure denominated SMM BIO-2 calls for a “multi-year effort” to marshal “best available scientific data,” four weeks ago, SCAG's staff reported out to stakeholders interested in the Greenprint process that it and The Nature Conservancy have already gathered 166 different data sets which they propose should all potentially overlie land use planning in the SCAG region. Generally (ignoring specifics at this point), the sources and qualities of many of these data sets are problematic by degree. Many of them are products of neither meaningful public processes nor the careful balancing that realistically must adhere to sound land use decision-making. Concerning the 166 data sets, a quick review indicates that 21 were compiled by non-governmental organizations (having their own agendas and biases), 14 were compiled by academics (potentially the same), and 38 reflect various constraints and data sets compiled over time by SCAG's staff. Concerning the latter, some are the products of SCAG's ad hoc working groups, which are typically populated through self-selection and often by single-issue advocates having different levels of real-world land use policy expertise. Such products cannot serve as substitutes for the kind of informed factual analysis and careful balancing that takes place within the respective local jurisdictions when they undertake land use decision-making. That is why it is particularly troubling that the 166 different data sets currently proposed to populate the Greenprint do not include locally-approved general plans and land use designations, which are perhaps the most important and relevant data of all. This cannot be regarded as consistent with SCAG's often-repeated pledge to respect and adhere to local control in land use planning.

Therefore, we urge SCAG to consider several options that should be pursued concerning the further development and ultimate use of the Greenprint, as follows:

- First, Greenprint can and should be appropriately limited in terms of its spatial applicability. Specifically, within the SCAG region, ***Greenprint should apply only where the respective local jurisdiction has identified areas as open space/agricultural land.*** Such a spatial limitation in terms of the Greenprint's applicability is consistent with the evolution of the relevant mitigation measures (SMM BIO-2 and SMM AG-2) which led to its formal adoption in connection with Connect SoCal last year.²
- Stating the same solution differently, ***the Greenprint should have no applicability to areas where the relevant local jurisdiction has identified land as suitable for development.*** Specifying such a limitation on the applicability of the Greenprint is needed so that local governments will be free to redesignate developable land for housing, infrastructure, and other appropriate uses. Such latitude is needed, given that local governments must work to meet RHNA allocation mandates, and otherwise take ongoing steps to address the housing shortage crisis in the region. Similarly, Greenprint should have no applicability where further land use approvals can and should be readily anticipated, such as within spheres of influence, where local governments may have dormant, but foreseeable, land use discretion.
- If the above-stated option (limiting the spatial applicability of the Greenprint) is not adopted, then the Greenprint foreseeably can and will be abused by the opponents of growth, infrastructure, and housing to attack general plans and projects under the California Environmental Quality Act (CEQA), which requires consideration and discussion (rationalization) of the consistency of approvals with regional plans.³ In other words, SCAG should not elevate each of the 166 potential data sets thus far identified by SCAG's staff to constitute 166 separate points of contention for vexatious litigants to grasp upon and advance. Nor should local governments be forced to marshal substantial evidence to counter each of the potentially 166 or more data sets, or their countless respective underpinnings in order to amend or even to maintain and reconfirm or effectuate their existing land

² Prior to being finalized and approved by the Regional Council, the penultimate draft of SMM BIO-2, in particular, expressly discussed using the Greenprint to identify infill and redevelopment opportunities, thus implying that the Greenprint might overlie developable areas and even already developed areas other than areas theretofore identified by the local jurisdiction as open space and agricultural lands. The implication was removed from SMM BIO-2 as ultimately expressed.

³ CEQA Guidelines section 15125(d) generally requires local jurisdictions acting as lead agencies to discuss and rationalize "any inconsistencies between the project and regional plans."

use plans and designations. Unless an appropriate spatial limitation on the Greenprint's applicability is put in place to protect local jurisdictions' existing, approved plans and visions, the Greenprint will be used by foes of land uses to undermine and negate plans and approvals based on an endless kitchen sink of considerations, some of which by degree are dubious or merely arguable.

- If the development and applicability of Greenprint is properly constrained and its underlying data is limited to that which is appropriate for its purpose, then additional data sets that were not appropriate for inclusion in Greenprint may still be made available by SCAG for strictly informational purposes through its online mapping and data sets. In this way, additional data could be made available, but without any prejudicial effect under CEQA. The data sets that are being proffered by various non-governmental organizations and academics for potential inclusion should be excluded, however, if and to the extent they were compiled and published without undergoing the kinds of public participation processes that governmental agencies must administer.

If SCAG were ultimately to refuse to qualify and limit the Greenprint as recommended above, then the Greenprint will constitute a radical expansion of SCAG's level of detailed prescription over local land use decisions, undertaken under the guise of conserving habitat and agricultural lands. This is easily understood when one considers SCAG's 2016 RTP/SCS, and particularly Appendix 10 thereto, entitled "Natural and Farm Lands." In that 2016 technical appendix, SCAG adopted a delineation of the SCAG region wherein they designated all privately owned, undeveloped land as one of three types: low, medium, or high value habitat.⁴ Importantly, even where SCAG labeled land as "high value habitat" back in 2016, any such labeling could be dealt with very easily and locally by undertaking or having in hand a local or project-specific habitat study, whereby superior local knowledge based on presence would speedily prevail. Therefore, SCAG's 2016 RTP/SCS delineations and the labeling of natural lands by their supposed habitat value did not create any Herculean CEQA challenges that might undermine, hamstring, or reverse local land use decision-making. For the reasons discussed above, however, if our concerns stated above were to fall on deaf ears, then the Greenprint as it is now unfolding, with its 166 potential data sets (so far), and with SCAG's staff seemingly intent upon applying these many data sets to every speck of land in the region, will create an infinite number of potential CEQA challenges to development, infrastructure, and housing.

⁴ SCAG's 2016 Natural and Farm Lands technical appendix, at page 3, explained that SCAG's habitat delineation was based on its own, internal analysis of "more than 70 GIS databases." The discussion and context suggest that these were mostly data sets published by the California Department of Fish and Wildlife and the United States Fish and Wildlife Service – which constitute data that are routinely applied to local land use decisions.

In light of the concerns stated above, we respectfully request that SCAG Leadership and the Regional Council take charge of the Greenprint process. In doing so, we ask the Regional Council to move the Greenprint forward in a manner and scope that is consistent with SCAG's mitigation measures (SMM BIO-2 and SMM AG-2) that call for its establishment. Through the Regional Council's involvement, SCAG must assure that the Greenprint will not conflict with local governments' existing land use plans and prerogatives. The result should be a Greenprint that is focused appropriately on the natural and agricultural lands most suitable for conservation and preservation.

We greatly appreciate SCAG's attention to the issues raised in this letter. We look forward to working with you over the weeks and months ahead to ensure that the SoCal Greenprint is appropriately crafted.

Sincerely,



Richard Lambros, Managing Director
Southern California Leadership Council



Tracy Hernandez, Chief Executive Officer
Los Angeles County Business Federation (BizFed)



Lucy Dunn, President & CEO
Orange County Business Council (OCBC)



Paul Granillo, President & CEO
Inland Empire Economic Partnership (IEEP)



Maria Salinas, President & CEO
Los Angeles Area Chamber of Commerce



Jon Switalski
Jon Switalski, Executive Director
Rebuild SoCal Partnership





Ray Baca, Executive Director
Engineering Contractors' Association (ECA)



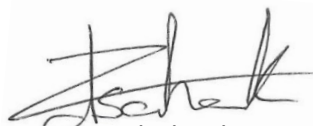
Bradley Kimball, Executive Vice President
Southern California Contractors Association (SCCA)



SOUTHERN CALIFORNIA CONTRACTORS ASSOCIATION



William R. Manis, President & CEO
San Gabriel Valley Economic Partnership



Ivan Volschenk, President & CEO
Santa Clarita Valley Chamber of Commerce



SANTA CLARITA VALLEY
Chamber of Commerce



Mario Rodriguez, Chairman
Hispanic 100



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Jeremy Harris, President & CEO
Long Beach Area Chamber of Commerce

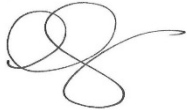


Donna Duperron, President & CEO
Torrance Area Chamber of Commerce

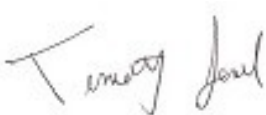


Barbara Thomas, Executive Director
South Orange County Economic Coalition

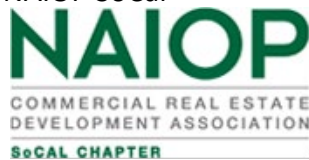




Louise Lampara, Executive Director
Ventura County Coalition of Labor, Agriculture
and Business (CoLAB)



Timothy Jemal, Chief Executive Officer
NAIOP SoCal



Mike Lewis, Senior Vice President
Construction Industry Air Quality Coalition (CIAQC)
and Construction Industry Coalition on Water
Quality (CICWQ)



Andrew W. Gregson, President & CEO
North Orange County Chamber of Commerce

