March 2, 2015

City of Oakland
City Planning Commission
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Re: Recommendations for the Final Draft Coliseum Area Specific Plan and Proposed Planning Code Amendments

Dear Commissioners Pattillo, Moore, Bonilla, Coleman, Myres, Nagraj, and Weinstein:

We are a coalition of Oakland residents, workers, faith leaders, youth, unions, and community organizations from various sectors invested in the health and economy of Oakland. Collectively, we represent tens of thousands of individuals who believe that if done right, the Coliseum City project has the potential to transform East Oakland by creating good jobs, affordable housing, safe and healthy communities, and cleaner air.

While we are pleased with many of the changes that staff has made to the Draft Coliseum Area Specific Plan since the previous draft, we call on the Planning Commission to make targeted improvements to the Specific Plan and related Planning Code changes at its March 4th meeting. These additional modifications are needed to ensure that the Specific Plan and Planning Code promote a Coliseum City that respects the diversity, culture, deep roots, and urgent needs of the current community while welcoming more local residents. The result will be a more equitable, environmentally sound, and economically successful project.¹

Specifically, we urge the Commission to add new policies to and strengthen existing policies in the Specific Plan, and to revise the proposed Planning Code amendments related to the following priorities:

• **Community and economic benefits**, including an emphasis on good jobs, targeted hiring of displaced residents, the use of project labor agreements, pathways for formerly incarcerated individuals, community health, and promoting youth services;

• **Affordable and family housing**, including a meaningful density bonus, a target for 3-4 bedroom units, a higher percentage of affordable housing, more deeply affordable housing, land banking and use of public land, preference for local and displaced residents for affordable units, and eliminating conditional use permit requirements for permanent housing that includes supportive services;

• **Anti-displacement protections**, including stronger rent stabilization, just cause, and condo conversion regulations; education about tenants’ rights; and more robust relocation assistance;

• **Environmental health**, sustainability, public transit, buffers against air pollution and
noise, indoor air quality improvements, and transportation and freight safety; and

- **Transit that is accessible and affordable** to low income residents and workers, youth, seniors, and individuals with disabilities, including discounted transit passes, expanded bus service.

East Oakland is an established community of hard-working people who have been living, working, shopping, worshiping, and raising their families there for generations. After decades of neglect, the City has the opportunity to encourage investment and development that will help these residents and local businesses thrive. We strongly urge you to direct the Planning Department to include the recommendations below before you approve the Specific Plan and Planning Code changes. (Suggested deletions are in strikethrough, and additions are in underline.) The Specific Plan must integrate the plan areas with the larger East Oakland community, rather than establishing a separated and insulated neighborhood; it should be coordinated and harmonized with existing communities and their needs. Without the critical changes proposed here, the Coliseum City plan will fail East Oakland residents and the environment.

I. **Specific Plan**

   A. **Community and Economic Benefits**

   We are grateful for the addition of the section on community and economic benefits and appreciate that staff have attempted to address community concerns. Nevertheless, we suggest the following changes to further strengthen this section and ensure that the adjacent community truly benefits from the planned investments:

   1. **Good jobs**: Revise Goal 2 (pp.4, 58) to emphasize *good* jobs and to read: “Create a regionally significant jobs and employment area that can expand Oakland’s ability to attract new businesses and employers, and support existing businesses, given the area’s available land and its prime transit-oriented and airport-adjacent location. Participate in the Bay Area’s dynamic ‘innovation economy’, and attract new businesses and jobs accessible to local residents and retain existing jobs with family-supporting wages and benefits in opportunities to the surrounding East Oakland area.”

   2. **Targeted hiring of displaced residents**: Revise LU Policy 3-41 (p.74) to include residents who were displaced from Oakland to read: “The City supports and encourages local hiring and training of Oakland residents, including residents from the adjacent East Oakland neighborhoods and those displaced within the previous 5 years, for the new jobs envisioned in the Plan.”

      Those who experience displacement as a result of increased housing prices spurred by demand in the area around Coliseum City should be first in line for jobs that can help them afford to return to their community.

   3. **Project labor agreements**: Strengthen LU Policy 3-44 (p.74) to read: “Require Consider Project Labor Agreements (PLAs) and labor peace agreements for developments in the
Plan Area which include City of Oakland subsidy, benefit from City infrastructure investments, or are located on publicly owned land, and where the City is a market participant in the development project.”

PLAs are an important tool for protecting the City’s proprietary interests through ensuring that developments in the Plan Area pay good wages, provide adequate job training and apprenticeship opportunities for local residents, and ensure efficient completion of the project construction.

4. **Pathways for formerly incarcerated individuals:** Add a policy to section 3.11 (pp.74-75) that reads: “Increase public safety, community health, and economic development by creating pathways into good jobs for those with criminal records through “ban the box” policies and other similar means.”

Local hire cannot be fully implemented for our entire community without ensuring pathways into jobs that would prevent employers from asking about criminal records on the front end of the job application process and enable job seekers to get a foot in the door.

5. **Youth services:** Strengthen LU Policy 3-45 (p.74) to read: “The Plan can support healthy recreation and the social lives of neighborhood youth of all ages and create safe neighborhoods and opportunities, with the inclusion of by including a youth/teen center, or other innovative spaces that could ______ be programmed by local youth and providers in or near the Plan Area; also, by the improvement of existing recreation faculties.”

East Oakland is a community of families in great need of recreational and educational resources for youth.

6. **Community health:** Strengthen LU Policy 3-48 (p.75) to read: “Consider including a health center (such as a YMCA) in, or near, the Plan Area to support the health and fitness of the East Oakland community and new residents....”

**B. Affordable Housing and Family Housing**

We are pleased that the draft Specific Plan now contains a more robust discussion of housing and displacement; however, it still fails to meaningfully respond to the housing needs of nearby existing and future lower-income households. For example, the Specific Plan envisions household sizes and affordability levels that do not reflect those in the surrounding communities. Therefore, we strongly recommend the following changes:

1. **Equity goal:** Revise Land Use Core Goal 4 (pp.4, 60) to read: “Create a vibrant and socio-economically diverse urban mixed-use district, attracting a significant community of residential and commercial uses....”

2. **Meaningful density bonus:** Revise LU Policy 3-12 (p.59) to read: “Development should emphasize moderate to higher density uses that make best use of the Plan Area’s transit and transportation facilities while making effective use of density bonus and other incentives to encourage integration of affordable housing, and position the Plan Area as
an asset for the City of Oakland and surrounding region.”

While mechanisms such as parking incentives and density bonuses mentioned in section 7.7 (p.169) are useful in some contexts, they are unlikely to be utilized if land is over-zoned to allow all developers to build the maximum desirable density and height without accessing these incentives. We are concerned that the proposed rezoning will render ineffective the voluntary bonus and incentives program for producing affordable housing referenced in LU Policy 3-20 (p.60). Due to over-zoning in other parts of Oakland, density bonus incentives are rarely utilized, because zoning and development standards already permit and exceed the types of development that the market will support. This mistake should not be repeated in Coliseum City.

3. **Family housing:** Revise LU Policy 3-50 (p.77) to specifically encourage new housing units for large families (3-4 bedrooms) to ensure that the housing mix reflects the needs of families with children in the surrounding community.

While the Specific Plan envisions small units averaging 1.74 to 2.50 people per household², which will not meet the needs of families with children, as the current median household size in the surrounding neighborhoods is approximately 3.62.³

4. **Higher percentage and depth of affordable housing:** Strengthen LU Policy 3-51 (p.77) to read: “Encourage at least 15 percent of Establish housing affordability targets for all new units built in the Plan Area to be affordable to low and moderate income households to ensure that the housing mix is at least equivalent to the Regional Housing Needs Allocation for extremely low-, very low-, and low-income households described in the City’s adopted Housing Element, through a combination of in-mixed income developments, as well as in developments that are and 100 percent affordable housing developments units. According to the Coliseum Specific Plan EIR, the Plan Area is projected to add between 4,000 and 5,750 new housing units over the next 20-25 years; so of the total number of units, the affordable housing target will be 600 to 860 units.”⁴

The City has already established targets for affordable housing needs in its Housing Element. The large scale of this project, its location on public land, and the needs of the surrounding community make it particularly important in helping Oakland meet the goals adopted in its Housing Element. More than 50% of Oakland households qualify as extremely low-, very low- or low-income⁵, and many live in overcrowded, unhealthy, and unaffordable conditions due to the lack of adequate affordable housing opportunities. In the 94621 zip code, where Coliseum City will be located, the median household income is $31,082, nearly 70% of households are renters, and nearly 70% of those renters are rent-burdened (paying more than 30% of their income for rent).

5. **Land banking:** Strengthen LU Policy 3-53 (p.77) to read: “Consider the creation of a land banking program for the Coliseum Plan Area, should funding become available, that would set aside money, or dedicate Prioritize the use of public land, for sites for affordable housing and other community uses, and evaluate which parcels would be most appropriate for land banking, including land owned by the County, the Port of Oakland, and BART, before any public land is disposed of for other purposes.”

Setting aside public land is an essential strategy for serving community needs and for
achieving a mixed-income neighborhood, especially given the City’s very limited affordable housing funds. Disposition of public land should be aligned with the City’s recently passed ordinance governing all public land, both surplus and otherwise.

6. **Preference for local and displaced residents:**
   
a. Add a policy to section 3.12 (pp.75-77) as follows: “Prioritize Oakland residents and those who have been displaced within the previous 5 years for new affordable housing units constructed in the Plan Area.”

   b. Revise LU Policy 3-59 (p.79) to read: “Strengthen local relocation policies to ensure that any Oakland resident displaced as a result of a no-fault eviction, including building closure due to uninhabitable conditions, or publicly funded development, receives just compensation, priority for new affordable units, and comprehensive relocation assistance.”

   Those experiencing displacement as a result of increased demand spurred by the development of Coliseum City should be first in line to return to their community.

7. **“Workforce housing”:** Reframe the discussion of “workforce housing” in Section 7.7.2 (p.168) to acknowledge the reality of low-wage retail, service, and hospitality jobs created by this plan by defining it as serving those making between 30% and 120% of area median income (AMI), or approximately $27,600 to $110,400 per year for a family of four.

Most households between 25-60% AMI are part of the workforce. The section currently limits the term “workforce housing” to those earning more than 60% of AMI, or $55,200, but many hard-working Oaklanders earn far less than this. Those earning Oakland’s new minimum wage, for example, bring home only $25,000 per year, and nearly half of the new jobs created by the Plan will pay less than $20 per hour.6

C. **Anti-Displacement Protections**

The addition of section 3.13 on addressing “indirect residential displacement” is a significant improvement over the previous draft, and appropriately acknowledges the vulnerability of East Oakland residents. It is important, however, that this section not only recognize the risks but include policies and commitments to address those risks and improve opportunities for the families who already live there.

1. **Rent stabilization and just cause outreach and enforcement:** Strengthen LU Policy 3-56 (p.78) to read: “Continue and consider expanding Rent Adjustment outreach to tenants, and enforcement of Rent Adjustment regulations regarding rent increases and Just Cause eviction regulations.”

2. **Condominium conversion improvements:** Strengthen LU Policy 3-58 (p.78) to include other possible revisions to the Condominium Conversion Ordinance to ensure real replacement units get built and tenants are protected from displacement if their building converts, such as limiting conversion rights to new permanent rental housing and expanding tenant protections to provide security of tenure and limited rent
increases.

3. **Landlord harassment of tenants outreach and enforcement**: Add a policy to section 3.13 (pp.77-79) to enforce the recently passed Tenant Protection Ordinance (TPO): “Expand outreach to tenants regarding their rights under the Tenant Protection Ordinance and other protections, and ensure effective enforcement of such policies.”

Attachment I to the previous draft Specific Plan (Oct. 1, 2014, p.6) included LU Policy 3-58 regarding advising tenants about landlord anti-harassment policies. However, this particular policy somehow did not make it into the final draft. With the adoption of the TPO, it is especially critical that tenants know their rights and that the TPO is effectively enforced.

**D. Environmental Health**

While the Specific Plan contains laudable ambitions concerning design of new development, we remain concerned that the Specific Plan fails to identify specific environmental health goals and objectives. East Oakland residents in the areas surrounding the project already face a disproportionate amount of air pollution and health disparities. Residents of East Oakland experience more than twice the rate of asthma emergency department visits than Alameda County at large. As currently drafted, the Specific Plan and zoning changes are inadequate to address the air pollution and environmental health impacts that increased traffic and construction will have on existing and future East Oakland.

The Community Design provisions of the Specific Plan should be amended as follows:

1. **Sustainability goal**: Revise the Goal under section 4.6 (p.96) to read: “Integrate sustainable and environmentally sensitive buildings, landscapes, and infrastructure into Plan Area development and surrounding areas.”

2. **Health equity**: Apply the Healthy Development Guidelines Tool and Healthy Equity Policy Agenda to the Plan Area. These tools guide developers and the City to put health equity at the center of their projects.

3. **Public transit improvements**: Strengthen CD Policy 4-30 (p.96) to read: “Projects should be designed to make best use of, and improve upon, existing infrastructure and take full advantage of the site’s close link to work with BART and other public transit options providers to improve upon existing public transit service both within and outside the Plan Area.”

4. **Cumulative impacts**: East Oakland bears cumulative impacts of many environmental stressors, due in part to “checkerboard” zoning. While this Specific Plan alone cannot address all historic and existing cumulative impacts, specific measures should be taken to prevent exacerbation of these impacts. We have concerns related to environmental health and safety that are not currently addressed in the Specific Plan:

   a. **Buffers to advance multiple goals**: The Specific Plan will vastly increase traffic, reducing local air quality and increasing noise and circulation hazards. The
Specific Plan section on Transportation (pp.99-119) should be amended to provide for installation of buffers that provide maximum protection from pollution-generating receptors, including: industrial uses, truck routes and highways. Buffers should help filter air pollutants and be visually integrated (i.e., tree canopies, not walls). Such buffers should be required along vehicle routes that are anticipated to see increased vehicle traffic, not only within the Plan Area, but at a minimum within a mile radius of the Plan Area.

b. **Indoor air quality improvements to both new and existing structures:** We support the Specific Plan Community Design provisions described above. The increase in traffic, however, will contribute to poor existing air quality in local building stock. The area includes many sensitive receptors, such as schools, senior centers and libraries. The Specific Plan’s new building standards conveying benefits such as energy efficiency retrofits and state of the art air filtration should be directed at a minimum, to sensitive receptors and homes within a mile radius of the Plan Area.

c. **Transportation and freight safety:** As noted above, the Specific Plan contemplates a significant increase in area residents. In addition, the Specific Plan anticipates attracting people from outside the project area to use “enhanced open space” (see Goal 5) in addition to fans coming to sporting events. However, Section 2.2.6 (p.28) correctly observes that “[n]o hospitals or major medical centers are located nearby – the closest are in downtown Oakland and San Leandro;...” Moreover, although the area hosts a fire station, staffed by eight highly qualified fire fighters, in the event of a serious accident, whether on the Union Pacific shared rail line or on Interstate 880, these emergency health services will not compensate for the lack of any nearby hospital.

Risk of explosion is not remote, unfortunately. Oakland has seen spectacular tanker truck explosions on Interstate 880, including the “Maze Meltdown” in 2007. Fortunately, the community has not had train derailments, like the Lac Megantic catastrophe in 2013, or the very recent West Virginia fiery disaster, in which rail cars that were built to current federal specifications exploded in flame, but the Specific Plan should anticipate and plan for these potential disasters.

The Specific Plan should be amended to address three critical public safety elements:

i. Crude by rail – the Union Pacific rail lines, which are shared by Amtrak and run through the Coliseum area, are slated to transport crude oil by rail.

ii. Crude by truck – large trucks are prohibited on Interstate 580, so all transport of oil tanker trucks bisects the project area.

iii. Truck routes – once they exit Interstate 880, trucks carrying all manner of freight travel the streets of East Oakland.

The Specific Plan should also be amended to include at least one map that
overlays the most recent truck route map, and at least one map that overlays the vehicular emergency egress routes in the event of explosion, as well as natural events, such as extremely foreseeable earthquakes and floods. While circulation within the Plan Area is important, the safe evacuation of both local residents and visitors to the area is even more critical and should be specified.

Finally, Chapter 7.6.2 (p.159) provides numerous suggestions for funding sources that could address both rail and truck safety, were the Specific Plan deliberately to bundle the two.

E. Transit

The Specific Plan provides detailed plans for transportation and public transit. However, in order to maximize outcomes for the environment and to ensure that residents and workers in and around the Plan Area have meaningful access to their jobs, schools, shopping, and other activities, it is critical that public transit is accessible and affordable to transit-dependent populations, including low-income residents, seniors, youth, and individuals with disabilities. We strongly urge you to include the following changes to the Specific Plan to reflect these priorities:

1. **Transit access and affordability goals:**
   a. Revise Core Goal 3 (p.4) to read: “Improve the area’s existing investments in transit and transportation infrastructure; ensure that transit is accessible and affordable to transit-dependent populations, including low-income residents and workers, seniors, youth, and individuals with disabilities; create a Transit Oriented Development (TOD)....”
   b. Revise the Goal under section 5.1 (p.99) to read: “Provide a balanced and complete circulation network that accommodates the internal and external transportation needs of the Plan Area by promoting walking, biking, and accessible and affordable transit while continuing to serve automobile traffic.”

2. **Expanded bus service:** Revise TR Policy 5-44 (p.115) to read: “Collaborate with AC Transit to improve bus service to the Plan Area and in surrounding neighborhoods by either providing new routes, altering existing routes, increasing headways, and expanding service hours....”

   Common challenge faced by transit riders in under-served communities include long waits at bus stops and the inability to get to work during early or late shifts.

3. **Discounted transit passes:** Revise TR Policy 5-49 (p.117) to read: “Provision of a transit subsidy to employees and residents, particularly low-income residents and workers, seniors, youth, and individuals with disabilities, by the project applicant....”

   On top of increasing housing costs, the cost of public transportation can be burdensome for vulnerable populations, especially those who depend on transit to access jobs and services.
II. Planning Code Amendments

While the Specific Plan articulates important goals and policies, the Planning Code provides concrete rules about what can be built where. As a result, the Planning Code Amendments that the Commission approves are critical determinants of how much affordable housing the Plan Area can actually support given the allowable density, location and amount of publicly owned land, and other regulations. The actual Code language will also determine the environmental protections offered to existing residents from impacts of the new project. In order to ensure that the City has all the tools at its disposal, we strongly urge the Commission to incorporate the following recommendations:

1. **Publicly owned land for affordable housing:** Provide detailed information about which sites in the Plan Area are publicly owned and zoned for residential or mixed-use development, which entity owns the land (including the City, County, and the Port), and what efforts will be made to preserve the land for affordable housing.

2. **Supportive housing by right:** Allow supportive housing for people with disabilities by right. Currently, “service-enriched permanent housing,” or supportive housing for people with disabilities, is allowed only as a conditional use in the portions of the Plan Area zoned residential or mixed use (p.4). Even where permitted as of right, service-enriched housing cannot be located closer than 300 feet from any other such activity (Attachment C, p.12).

   Although the same is true for the zoning throughout the city, Coliseum City presents an opportunity to be more inclusive, particularly as a transit-oriented development project intended to provide greater access to jobs, services, amenities, and transit that people with disabilities sorely need. Not only is it the right thing to do, but both California statutory law and recent federal case law interpreting federal and state fair housing and disability rights statutes prohibit this type of discrimination, even if unintentional.

3. **Meaningful density bonus:** Ensure that the allowable density does not preclude density bonuses for affordable housing and other benefits.

   As discussed above, Oakland’s density bonus program, contained in Planning Code Chapter 17.107 and mandated by California Government Code 65915, is not an effective incentive for affordable housing because the allowable density in Oakland – and likely in the Coliseum Area Plan – exceeds what the market will permit.

The Planning Commission has a unique opportunity and important responsibility to ensure that development in Oakland promotes opportunity for everyone. The Coliseum City Plan represents a transformative moment for East Oakland with the potential to bring great opportunity to Oakland residents and workers. Without the right policies, however, East Oakland residents, who are disproportionately low-income and people of color who have waited generations for meaningful investment in their communities, will be excluded from the benefits that Coliseum City brings. We hope you will ensure that the Specific Plan includes these residents in a meaningful way before you vote to recommend approval to the City Council.
Sincerely,

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Notes

1 Moreover, as the State has recognized, ensuring that low-income households are included in the plan and preventing the displacement of existing residents has clear environmental benefits, as low-income residents both use transit the most and are most likely to give up their cars when they live near transit, thus reducing vehicle miles traveled and greenhouse gas emissions. See TransForm and California Housing Partnership Corporation, Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy (May 2014), available at http://www.chpc.net/dnl/AffordableTODResearch051514.pdf.
2 City of Oakland, Coliseum Area Specific Plan Final Draft (Jan. 2015) (pp.36, 77). The plan will add around 10,000 new residents and between 4,000 and 5,750 new housing units.
3 City of Oakland, Draft Environmental Impact Report for the Coliseum Area Specific Plan, Vol. II (Aug. 22, 2014) (pp.4.11-6, 4.11-8).
4 Association of Bay Area Governments, Regional Housing Need Plan, San Francisco Bay Area 2014-2022 (p.21), available at http://www.abag.ca.gov/files/ABAG_Final_RHNA_Publication.pdf; City of Oakland Housing Element (p.223) (the City “assumed that half of the very low income need is for extremely low income families).
7 For Zip codes 94621 & 94603, the rate of asthma emergency department (ED) visits is 1,230 per 100,000 residents; the Alameda County rate is 553 per 100,000. The asthma ED visit rate for children is 2,048 per 100,000 (0-4 year-olds) compared to the Alameda County rate of 1,301 per 100,000. Asthma inpatient hospitalization rate is 339 per 100,000 residents; the county rate is 147 per 100,000. The childhood asthma hospitalization rate is 908 per 100,000; the county rate is 477 per 100,000. ACPHD CAPE Unit with 2008-2010 data from California Office of Statewide Health Planning and Development (OSHPD).
8 See California Government Code section 65583(a)(5), which includes the following: “Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.”
9 See Pacific Shores Properties, LLC v. City of Newport Beach, 730 F.3d 1142 (9th Cir. 2013) (finding substantial evidence that an ordinance that required group homes for people recovering from alcohol and drug addiction to undergo a permit process which considered, among other things, the number of similar facilities in the neighborhood, violated the Fair Housing Act, the Americans with Disabilities Act, and the Fair Employment and Housing Act); Bay Area Addiction Research and Treatment, Inc. v. City of Antioch, 179 F.3d at 725 (9th Cir. 1999) (holding that an ordinance prohibiting methadone recovery clinics from operating within 500 feet of any residential property was discriminatory). See generally Disability Rights California, Everyone’s Neighborhood: Addressing “Not in My Backyard Opposition to Supportive Housing for People with Mental Health Disabilities” (Sept. 2014), available at http://www.disabilityrightsca.org/pubs/CM5301.pdf.