September 15, 2020

To: Board Members

From: Claire McCoy, Wildfire Planning Specialist

**Re: City of Murrieta Safety Element Update pursuant to GC § 65302.5**

**Background**

Under Government Code Section 65302.5(b), the Board of Forestry and Fire Protection (Board) is required to review any draft amendment to the safety element of a city or county’s general plan if that jurisdiction contains state responsibility area (SRA) or very high fire hazard severity zone (VHFHSZ) lands. § 65302.5(b)(2) allows the Board 60 days after receipt to review draft safety elements and provide recommendations to jurisdictions. If a jurisdiction determines not to accept some or all of these recommendations, it is required to communicate in writing to the Board its reasons for this decision. The Board is then allowed 15 business days to request in writing a consultation to occur within 30 business days of its request (§ 65302.5(b)(3)(B); 14 CCR § 1265.03(c)).

**City of Murrieta**

CAL FIRE LUPP staff received the City of Murrieta’s draft safety element revision on May 18, 2020. Staff reviewed the draft revision and provided recommendations in a Safety Element Assessment on May 19. The Board reviewed and affirmed the recommendations in the Assessment at their June 9 Joint Committee meeting.

On August 12,the City sent the Board a letter stating that all recommendations made by CAL FIRE staff to the Board had been met, except for one “regarding a potential policy to avoid or minimize development in the Very High Fire Hazard Severity Zone (VHFHSZ).” The City cited concerns that policy prohibiting development in certain areas could face legal challenge as a taking, as well as potential conflict with State law such as SB 330 (Skinner, 2019) which restricts the avoidance of potential development in residentially zoned areas. The City of Murrieta stated its unwillingness to take on those legal risks at the time.

Due to wildfire assignments, Board staff were unable to notify the Board until September 3 that it had until September 4 to request a consultation with the City regarding the contents of its letter pursuant to § 65302.5(b)(3)(B). Staff received no response, but has included the letter as part of the September 22 meeting materials for any desired discussion. Thank you.