

Appendices

Appendix FEIR-1

Draft EIR Comment Letters



James Harris <james.harris@lacity.org>

CEQA letter completed: 1000 Seward Project – NOC & NOA of dEIR

2 messages

Albert Lew <albert.lew@lacity.org>
 To: James Harris <james.harris@lacity.org>
 Cc: Christophe DeMonbrun <chris.demonbrun@lacity.org>

Mon, Aug 8, 2022 at 9:58 AM

Please find attached the official response. A hard copy will be sent to your office when normal operations resume.

Regards,

Albert C. Lew, P.E.

Wastewater Engineering Services Division (WESD)
 Bureau of Sanitation
 Department of Public Works
 City of Los Angeles
 Phone: 323.342.6207
 Fax: 323.342.6210



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 **07152022_1000 Seward Project - NOC & NOA of dEIR.pdf**
 112K

James Harris <james.harris@lacity.org>
 To: Albert Lew <albert.lew@lacity.org>
 Cc: Christophe DeMonbrun <chris.demonbrun@lacity.org>

Mon, Aug 8, 2022 at 10:18 AM

Good morning Albert
 Thank you for the comment letter to the 1000 Seward.
 Jim



Jim Harris
Major Projects
Los Angeles City Planning
 221 N. Figueroa St., Room 1350
 Los Angeles, CA 90012
 T: (213) 978-1241 | Planning4LA.org



8/8/22, 10:19 AM

City of Los Angeles Mail - CEQA letter completed: 1000 Seward Project – NOC & NOA of dEIR

[Quoted text hidden]

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: July 15, 2022

TO: Vincent P. Bertoni, Director of Planning
Department of City Planning

Attn: James Harris, City Planner
Department of City Planning

FROM: Rowena Lau, Division Manager 
Wastewater Engineering Services Division
LA Sanitation and Environment

**SUBJECT: 1000 SEWARD PROJECT- NOTICE OF COMPLETION AND
AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT**

This is in response to your June 9, 2022 Notice of Completion and Availability of Draft Environmental Impact Report for the proposed mixed-use project located at 1000 Seward Street, Los Angeles, CA 90038. LA Sanitation, Wastewater Engineering Services Division has received and logged the notification. Upon review, it has been determined the project is in the final stages of the California Environmental Quality Act review process and requires no additional hydraulic analysis. Please notify our office in the instance that additional environmental review is necessary for this project.

If you have any questions, please call Christopher DeMonbrun at (323) 342-1567 or email at chris.demonbrun@lacity.org

RL/CD: sa

c: Julie Allen, LASAN
Michael Scaduto, LASAN
Christine Sotelo, LASAN
Christopher DeMonbrun, LASAN



James Harris <james.harris@lacity.org>

1000 Seward Project - LADWP Comment Letter Forthcoming

Martin, Jazmin <Jazmin.Martin@ladwp.com>
To: "james.harris@lacity.org" <james.harris@lacity.org>
Cc: "Styers, Marshall" <Marshall.Styers@ladwp.com>

Mon, Jul 25, 2022 at 3:59 PM

Good afternoon James,

I am sending this note to let you know that the Los Angeles Department of Water and Power (LADWP) has prepared comments on the 1000 Seward Project but the comment letter is still being finalized and routed for signature. We recognize that the Notice requested comments by July 25, 2022 and will be sending you the signed letter just as soon as it is finalized.

Thank you for your understanding,

Jazmin Martin

Environmental Specialist, Environmental Planning and Assessment

Los Angeles Department of Water and Power

[111 N. Hope Street, Room 1044, Los Angeles, CA 90012](#)

Jazmin.Martin@ladwp.com | (213) 367-1768



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James Harris <james.harris@lacity.org>

1000 Seward Project - LADWP Comment Letter

1 message

Martin, Jazmin <Jazmin.Martin@ladwp.com>

Fri, Jul 29, 2022 at 4:31 PM

To: "james.harris@lacity.org" <james.harris@lacity.org>

Cc: "Styers, Marshall" <Marshall.Styers@ladwp.com>, "Hwang, Jin" <Jin.Hwang@ladwp.com>, "Tsui, Sabrina" <Sabrina.Tsui@ladwp.com>, "Kim, Theresa" <Theresa.Kim@ladwp.com>, "Parker, Nadia" <NadiaJ.Parker@ladwp.com>, "Hauptman, Jane" <Jane.Hauptman@ladwp.com>

Good afternoon Jim,

The Los Angeles Department of Water and Power (LADWP) would like to submit the attached comment letter to the project record for the 1000 Seward Project.

Please let me know if you have any questions.

Thank you,

Jazmin Martin

Environmental Specialist, Environmental Planning and Assessment

Los Angeles Department of Water and Power

111 N. Hope Street, Room 1044, Los Angeles, CA 90012

Jazmin.Martin@ladwp.com | (213) 367-1768



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 **ES22-0379 1000 Seward Project - Comment Letter_JAH.pdf**
281K

July 25, 2022

Mr. James Harris
City of Los Angeles
Department of City Planning
221 North Figueroa Street, Room 1350
Los Angeles, CA 90012

Dear Mr. Harris:

Subject: 1000 Seward Project

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the 1000 Seward Project (Project) located at 1000 and 1006 North Seward Street; 1003, 1007, and 1013 North Hudson Avenue; and 6565 West Romaine Street, Los Angeles, CA 90038. The mission of LADWP is to provide clean, reliable water and power to the City of Los Angeles. Based on our review of the Draft Environmental Impact Report prepared for the Project, we respectfully submit the comments below:

Comments:

Joint:

1. This response shall not be construed as an approval for any project.

Water System:

IV.J.1 Utilities and Service Systems – Water Supply and Infrastructure

1. Page IV.J.1-12: The bottom of the page includes information on LADWP's 2020 Urban Water Management Plan (UWMP). However, some parts in Section IV.J.1 reference the 2015 UWMP (footnotes 47 and 79). LADWP recommends these parts be revised to reference the 2020 UWMP.
2. Page IV.J.1-38: The second paragraph states that as the proposed project does not include residential uses, it would not represent any of the population growth in the Southern California Association of Governments (SCAG) region. However, the proposed project includes office, retail, and restaurant, which would increase the number of employees.

Mr. James Harris

Page 2

July 25, 2022

3. In general, projects that conform to the demographic projection (including employment) from the Regional Transportation Plan/Sustainable Communities Strategy by SCAG, and are currently located in the City of Los Angeles' service area are considered to have been included in LADWP's water supply planning efforts; therefore, the projected water supplies would meet projected demands.

For any questions regarding the above comments, please contact Mr. Marshall Styers of my staff at (213) 367-3541 or Marshall.Styers@ladwp.com.

Sincerely,

Charles C. Holloway
Manager of Environmental Planning and Assessment

MS:ml
c: Mr. Marshall Styers



James Harris <james.harris@lacity.org>

Request for Mailed Notice of Actions and Hearings – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

1 message

Alisha C. Pember <apember@adamsbroadwell.com>

Thu, Jun 16, 2022 at 5:07 PM

To: "vince.bertoni@lacity.org" <vince.bertoni@lacity.org>, "CityClerk@lacity.org" <CityClerk@lacity.org>,

"james.harris@lacity.org" <james.harris@lacity.org>

Cc: "Sheila M. Sannadan" <ssannadan@adamsbroadwell.com>

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

Thank you.

Alisha Pember

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 voice, Ext. 24
apember@adamsbroadwell.com

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**L6197-001acp - 1000 Seward Project - CEQA Notice Req (06-16-22).pdf**

126K

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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TANYA A. GULESSERIAN
DARIEN K. KEY
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO
MICHAEL R. SEVILLE

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO.

June 16, 2022

Via Email and U.S. Mail

Vince Bertoni, Director of Planning
City Planning Department
City of Los Angeles
200 N. Spring St., Suite 525
Los Angeles, CA 90012
Email: vince.bertoni@lacity.org

Holly L. Wolcott, City Clerk
Office of the City Clerk
200 N. Spring Street
City Hall - Room 360
Los Angeles, CA 90012
Email: CityClerk@lacity.org

Via Email Only

James Harris, Project Planner
Email: james.harris@lacity.org

Re: Request for Mailed Notice of Actions and Hearings – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237- VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

Dear Mr. Bertoni, Ms. Wolcott, and Mr. Harris:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to request mailed notice of the availability of any environmental review document, prepared pursuant to the California Environmental Quality Act, related to the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (“Project”), proposed by 39 South, LLC, as well as a copy of the environmental review document when it is made available for public review.

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

L6197-001acp

June 16, 2022

Page 2

We also request mailed notice of any and all hearings and/or actions related to the Project. These requests are made pursuant to Public Resources Code Sections 21092.2, 21080.4, 21083.9, 21092, 21108, 21152, 21167(f), and Government Code Section 65092, which require local agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send the above requested items by email and U.S. Mail to our South San Francisco Office as follows:

U.S. Mail

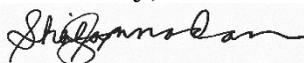
Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp



James Harris <james.harris@lacity.org>

Request for Immediate Access to Public Records - 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

1 message

Alisha C. Pember <apember@adamsbroadwell.com>

Thu, Jun 16, 2022 at 5:12 PM

To: "james.harris@lacity.org" <james.harris@lacity.org>, Beatrice Pacheco <beatrice.pacheco@lacity.org>, Lourdes Sanchez <lourdes.sanchez@lacity.org>

Cc: "vince.bertoni@lacity.org" <vince.bertoni@lacity.org>, "Sheila M. Sannadan" <ssannadan@adamsbroadwell.com>

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

Thank you.

Alisha Pember

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
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L6197-002acp - 1000 Seward Project - Imm PRA to City of LA (06-16-22).pdf

139K

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AIDAN P. MARSHALL
TARA C. RENGIFO
MICHAEL R. SEVILLE

June 16, 2022

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

VIA EMAIL AND U.S. MAIL

James Harris, Project Planner
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: james.harris@lacity.org

VIA EMAIL ONLY

Beatrice Pacheco, Chief Clerk Lourdes Sanchez, Sr Administrative Clerk
Email: beatrice.pacheco@lacity.org Email: lourdes.sanchez@lacity.org

Re: Request for Immediate Access to Public Records - 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

Dear Mr. Harris, Ms. Pacheco, and Ms. Sanchez:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to request ***immediate access*** to any and all public records referring or related to the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (“Project”), proposed by 39 South, LLC. This request includes, but is not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. This request ***does not include*** the Draft Environmental Impact Report (“DEIR”) or documents referenced or relied upon in the DEIR, **which we have requested in a separate letter pursuant to the California Environmental Quality Act.**

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The

L6197-002acp

June 16, 2022
Page 2

Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

This request is made pursuant to the California Public Records Act, Government Code §§ 6250, *et seq.* This request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

We request ***immediate access*** to review the above documents pursuant to section 6253(a) of the Public Records Act, which requires public records to be “open to inspection at all times during the office hours of the state or local agency” and provides that “every person has a right to inspect any public record.” Gov. Code § 6253(a). Therefore, the 10-day response period applicable to a “request for a copy of records” under Section 6253(c) does not apply to this request.

I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, if you have any questions or concerns regarding this request, my contact information is:

U.S. Mail

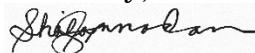
Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

CC: Vince Bertoni, Director of Planning
Email: vince.bertoni@lacity.org

SMS:acp

L6197-002acp



James Harris <james.harris@lacity.org>

Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

1 message

Alisha C. Pember <apember@adamsbroadwell.com>

Thu, Jun 16, 2022 at 5:17 PM

To: "vince.bertoni@lacity.org" <vince.bertoni@lacity.org>, "CityClerk@lacity.org" <CityClerk@lacity.org>,

"james.harris@lacity.org" <james.harris@lacity.org>

Cc: Beatrice Pacheco <beatrice.pacheco@lacity.org>, Lourdes Sanchez <lourdes.sanchez@lacity.org>, "Sheila M. Sannadan" <ssannadan@adamsbroadwell.com>

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

Thank you.

Alisha Pember

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
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**L6197-003acp - 1000 Seward Project - DEIR Ref Docs (06-16-22).pdf**

153K

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TARA C. RENGIFO
MICHAEL R. SEVILLE

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO.

June 16, 2022

Via Email and U.S. Mail

Vince Bertoni, Director of Planning
City Planning Department
City of Los Angeles
200 N. Spring St., Suite 525
Los Angeles, CA 90012
Email: vince.bertoni@lacity.org

Holly L. Wolcott, City Clerk
Office of the City Clerk
200 N. Spring Street
City Hall - Room 360
Los Angeles, CA 90012
Email: CityClerk@lacity.org

Via Email Only

James Harris, Project Planner
Email: james.harris@lacity.org

**Re: Request for Immediate Access to Documents Referenced in the
Draft Environmental Impact Report – 1000 Seward Project
(Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-
MCUP-SPR; SCH No. 2020120239)**

Dear Mr. Bertoni, Ms. Wolcott, and Mr. Harris:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to request ***immediate access*** to any and all documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report (“DEIR”) prepared for the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (“Project”), proposed by 39 South, LLC. *This request excludes a copy of the DEIR and its appendices. This request also excludes any documents that are currently available on the Project’s webpage on the City of Los Angeles website, as of today’s date.*¹

¹ Accessed <https://planning.lacity.org/development-services/eir/1000-seward-project-0> on June 15, 2022.

June 16, 2022

Page 2

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

Our request for ***immediate access*** to all documents referenced in the DEIR is made pursuant to the California Environmental Quality Act (“CEQA”), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.²

The Notice of Availability for the DEIR states that the documents referenced in the DEIR are available for public review, by appointment at City Planning offices located at 221 N Figueroa Street, Suite 1350, Los Angeles, CA 90012. I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, if you have any questions or concerns regarding this request, my contact information is:

U.S. Mail

Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

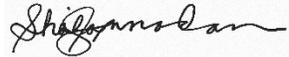
ssannadan@adamsbroadwell.com

² See Public Resources Code § 21092(b)(1) (stating that “all documents referenced in the draft environmental impact report” shall be made “available for review”); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the EIR . . . shall be readily accessible to the public”); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (EIR must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“[W]hatever is required to be considered in an EIR must be in that formal report. . .”), internal citations omitted.

June 16, 2022
Page 3

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

CC: Beatrice Pacheco, Chief Clerk
Email: beatrice.pacheco@lacity.org

Lourdes Sanchez, Sr Administrative Clerk
Email: lourdes.sanchez@lacity.org

SMS:acp



James Harris <james.harris@lacity.org>

Comments on the Draft Environmental Impact Report – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

2 messages

Alisha C. Pember <apember@adamsbroadwell.com>

Mon, Jul 25, 2022 at 2:55 PM

To: "james.harris@lacity.org" <james.harris@lacity.org>, "vince.bertoni@lacity.org" <vince.bertoni@lacity.org>

Cc: "Darien K. Key" <dkey@adamsbroadwell.com>

Good afternoon,

Please find the attached **Comments on the Draft Environmental Impact Report – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)** and **Attachments A-B**.

We are also providing a Dropbox link containing supporting references: https://www.dropbox.com/sh/xf20k5wkzoh9r8/AABhk73vGZN_TXs9XfxA0HqBa?dl=0

A hard copy of our Comments and Attachments A-B will be sent out today via overnight delivery.

If you have any questions, please contact Darien Key.

Thank you.

Alisha Pember

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 voice, Ext. 24
apember@adamsbroadwell.com

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 **L6197-004acp - 1000 Seward Comments and Attachments A-B.pdf**
1672K

James Harris <james.harris@lacity.org>

Mon, Jul 25, 2022 at 2:58 PM

To: "Alisha C. Pember" <apember@adamsbroadwell.com>

Thank you for your email and comment.

This email indicates that I have received your comment as part of the record.

Jim



LOS ANGELES
CITY PLANNING

Jim Harris

Major Projects

Los Angeles City Planning

221 N. Figueroa St., Room 1350

Los Angeles, CA 90012

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July 25, 2022

Via Email and Overnight Mail

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Re: Comments on the Draft Environmental Impact Report – 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239)

Dear Mr. Harris and Mr. Bertoni:

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”), we submit these comments on the Draft Environmental Impact Report (“DEIR”) for the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (“Project”), proposed by 39 South, LLC (“Applicant”), and prepared pursuant to the California Environmental Quality Act (“CEQA”)¹ by the City of Los Angeles (“the City”).

The Project includes the demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project includes the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

¹ Public Resources Code § 21000 *et seq.*; 14 Cal. Code Regs. (“C.C.R.”) §§ 15000 *et seq.*

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Our review of the DEIR demonstrates that the DEIR fails to comply with CEQA. As explained more fully below, the DEIR fails to accurately disclose the extent of the Project's potentially significant impacts related to air quality, public health, noise, greenhouse gas ("GHG") emissions, transportation and land use. The DEIR fails to support its significance findings with substantial evidence and fails to mitigate the Project's significant impacts to the greatest extent feasible, in violation of CEQA. As a result of these deficiencies, the City also cannot make the requisite findings to approve the Project under the City's municipal code or to adopt a statement of overriding considerations pursuant to CEQA.²

These comments were prepared with the assistance of environmental health, air quality, and GHG expert Dr. James Clark, Ph.D., and noise expert Deborah Jue of Wilson Ihrig. Comments and curriculum vitae of Dr. Clark are attached to this letter as Attachment A.³ Ms. Jue's comments and curriculum vitae are included as Attachment B.⁴ Attachments A and B are fully incorporated herein and submitted to the City herewith. Therefore, the City must separately respond to the technical comments in Attachments A and B.

For the reasons discussed herein, and in the attached expert comments, CREED LA urges the City to remedy the deficiencies in the DEIR by preparing a legally adequate revised DEIR and recirculating it for public review and comment.⁵

I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations formed to ensure that the construction of major urban projects in the Los Angeles region proceeds in a manner that minimizes public and worker health and safety risks, avoids or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development

² Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

³ **Attachment A:** Comments on 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Clark Comments").

⁴ **Attachment B:** 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (July 21, 2022), Comments on Noise Section by Wilson Ihrig ("Jue Comments").

⁵ We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); Public Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the Los Angeles region.

Individual members of CREED LA include John Ferruccio, Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live in the City of Los Angeles, and work, recreate, and raise their families in the City and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on-site.

CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for businesses and industries to expand in the region, and by making the area less desirable for new businesses and new residents. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

CREED LA supports the development of commercial, mixed use, and residential projects where properly analyzed and carefully planned to minimize impacts on public health, climate change, and the environment. These projects should avoid adverse impacts to air quality, public health, climate change, noise, and traffic, and must incorporate all feasible mitigation to ensure that any remaining adverse impacts are reduced to the maximum extent feasible. Only by maintaining the highest standards can commercial development truly be sustainable.

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.⁶ The EIR is a critical informational

⁶ Public Resources Code § 21100.

document, the “heart of CEQA.”⁷ “The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”⁸

CEQA has two primary purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.⁹ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”¹⁰ The EIR has been described as “an environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”¹¹ As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”¹²

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.¹³ The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.”¹⁴ If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has

⁷ *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 944 (citation omitted).

⁸ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

⁹ Public Resources Code § 21061; 14 C.C.R. §§ 15002(a)(1); 15003(b)–(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 (“[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”).

¹⁰ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564, quoting *Laurel Heights*, 47 Cal.3d at 392.

¹¹ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; see also *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”) (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).

¹² 14 C.C.R. § 15003(b).

¹³ 14 C.C.R. § 15002(a)(2), (3); see also *Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.

¹⁴ 14 C.C.R. § 15002(a)(2).

“eliminated or substantially lessened all significant effects on the environment” to the greatest extent feasible and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”¹⁵

While courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. *A clearly inadequate or unsupported study is entitled to no judicial deference.*”¹⁶ As the courts have explained, a prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”¹⁷ “The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail ‘to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’”¹⁸

III. THE DEIR FAILS TO PROVIDE A COMPLETE AND ACCURATE PROJECT DESCRIPTION

CEQA requires that an EIR “set forth a project description that is sufficient to allow an adequate evaluation and review of the environmental impact.”¹⁹ “The scope of the environmental review conducted for the initial study must include the entire project ... [A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.”²⁰ An accurate and complete

¹⁵ Public Resources Code § 21081(a)(3), (b); 14 C.C.R. §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

¹⁶ *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added), quoting *Laurel Heights*, 47 Cal.3d at 391, 409, fn. 12.

¹⁷ *Berkeley Jets*, 91 Cal.App.4th at 1355; see also *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

¹⁸ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516, quoting *Laurel Heights*, 47 Cal.3d at 405.

¹⁹ *San Joaquin Raptor Rescue Center v. County of Merced* 149 Cal.App.4th 645, 654 (citing 14 C.C.R. § 15124).

²⁰ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267 (internal quotations and citations omitted).

project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal ... and weigh other alternatives in the balance."²¹

CEQA Guidelines Section 15378 defines "Project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment."²² The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term does not mean each separate governmental approval.²³ Courts have explained that for a project description to be complete, it must address not only the immediate environmental consequences of going forward with the project but also all "reasonably foreseeable consequence[s] of the initial project."²⁴

A. The DEIR Fails to Adequately Describe Project Backup Generator Activities

The DEIR fails to provide a complete and accurate Project description by failing to fully describe operation of the backup generator ("BUG"). Buried in the CALREMMod files in Appendix B of the DEIR list a 500 horsepower BUG which will be used during Project operation.²⁵

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
Emergency Generator	1	0.25	10	500	0.73	Diesel

This section of the CALREMMod files details operational stationary equipment and shows that the BUG will run for 10 hours a year. Yet, there is no other description of the BUG or its operation in the DEIR. The DEIR fails to adequately describe this

²¹ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406 (internal quotations and citations omitted).
²² 14 C.C.R. 15378(a).
²³ CEQA Guidelines § 15378.
²⁴ *Laurel Heights, 47 Cal.3d at p. 396* (emphasis added); *see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-50.
²⁵ Appendix B, p. 48.
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aspect of the Project and, therefore, it is impossible for decisionmakers or the public to determine the extent of the Project's impacts from the BUG.

The DEIR must be revised to include a complete and accurate description of the BUG.

IV. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT ITS CONCLUSIONS IN THE DEIR REGARDING THE PROJECT'S POTENTIALLY SIGNIFICANT IMPACTS; THE DEIR FAILS TO INCORPORATE ALL FEASIBLE MITIGATION MEASURES NECESSARY TO REDUCE SUCH IMPACTS TO A LEVEL OF INSIGNIFICANCE

A. The DEIR Substantially Underestimates Emissions From the On-Site Back Up Generator

According to the DEIR, Project operation would not result in substantial emissions of air pollutants or toxic air contaminants including diesel particulate matter ("DPM"). The DEIR's "analysis" of air quality and health impacts is unsupported by substantial evidence and substantially underestimates emissions from the BUG.

First, the DEIR provides no description, let alone detailed analysis, of a BUG except for including the BUG in the CalEEMod files buried in Appendix B. As discussed above, this violates CEQA by failing to provide an adequate Project description, depriving the public and decisionmakers of the full scope of the Project.

Second, the CalEEMod files assume the BUG will be maintained and tested for no more than 10 hours per year. The DEIR provides zero support for this assumption. Indeed, SCAQMD permits backup generators to operate up to 200 hours per year and to maintained and tested no more than 50 hours per year.²⁶ As Dr. Clark explains, the "City's assumption that the BUG would operate at a substantially reduced rate ignores the legally acceptable threshold outlined" in SCAQMD Rules 1470 and 1110.2.²⁷ The City has, therefore, significantly underestimated the potential air quality and health impacts from the BUG's DPM and NOx emissions. Thus, the DEIR's conclusion that there will be less than significant impacts from the BUG is not supported by substantial evidence.

²⁶ SCAQMD Rule 1470; SCAQMD Rule 1110.2; Appendix B, p. 48.

²⁷ Clark Comments p. 8.

Third, the DEIR fails to analyze all uses that stem from the reasonably foreseeable increase of generator use during Public Safety Power Shutoff (“PSPS”) events and extreme heat events. The recent rise of extreme heat events (“EHE”) in the State has increased the amount of PSPS events and thus increased the amount of time generators are being run.²⁸ Dr. Clark explains that EHEs “are defined as periods where the temperatures throughout California exceed 100 degrees Fahrenheit.”²⁹ During two EHEs in 2021, backup generator owners were allowed to run their generators for 48 hours and 72 hours, respectively. Dr. Clark explains that these two events “would have increased the calculated DPM emissions by a factor of 5 from the Project.”³⁰

According to a California Public Utilities Commission (“CPUC”) de-energization report³¹ in October 2019, there were almost 806 PSPS events that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB’s data also indicated that, on average, each of these customers had about 43 hours of power outages in October 2019.³² Dr. Clark notes that CARB concluded that PSPS events in October of 2019 alone generated 126 tons of NOx, 8.3 tons of particulate matter and 8.3 tons of DPM.³³

In 2021, Governor Newsom issued an Executive Order highlighting the severity of EHEs and a Proclamation for a State of Emergency to help avoid PSPS

²⁸ Modern Health Care, California hospitals rely on generators during PG&E power outages, October 2019, <https://www.modernhealthcare.com/providers/california-hospitals-rely-generators-during-pge-power-outages>

²⁹ Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021; Clark Comments p. 9.

³⁰ Clark Comments p. 10.

³¹ <https://www.cpuc.ca.gov/deenergization/> as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

³² CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

³³ Clark Comments p. 10.

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events.³⁴ Further, CARB notes that the number of EHEs (and associated PSPS events) is likely to increase with continued climate change.³⁵

Dr. Clark concludes that “power produced [from generators] during PSPS or extreme heat events is expected to come from [diesel] engines” and would result in significantly increased DPM emissions.

The City’s analysis of air quality and public health impacts from the BUG is not supported by substantial evidence. Rather, substantial evidence demonstrates that the BUG could result in significantly more DPM emissions. The City must prepare a revised DEIR that adequately analyzes potentially significant impacts from operation and testing of the BUG.

B. The DEIR Fails to Adequately Disclose or Analyze the Health Risks Posed by the Project’s Construction and Operational Emissions; Substantial Evidence Shows the Project Would Result in Significant Health Risks

The DEIR fails to adequately disclose and analyze health risks from construction and operational emissions and lacks a quantitative health risk analysis (“HRA”), in violation of CEQA. An agency must support its findings of a project’s potential environmental impacts with concrete evidence, with “sufficient information to foster informed public participation and to enable the decision-makers to consider the environmental factors necessary to make a reasoned decision.”³⁶ In particular, a project’s health risks must be ‘clearly identified’ and the discussion must include ‘relevant specifics’ about the environmental changes attributable to the Project and their associated health outcomes.³⁷

Courts have held that an environmental review document must disclose a project’s potential health risks to a degree of specificity that would allow the public to make the correlation between the project’s impacts and adverse effects on human

³⁴ Cal. Governor Executive Order N-11-21, <https://www.gov.ca.gov/wp-content/uploads/2021/07/EO-N-11-21-Extreme-Heat-Event-07.10.21.pdf>; Cal. Governor Proclamation of a State of Emergency, June 16, 2021, <https://www.gov.ca.gov/wp-content/uploads/2021/06/6.17.21-Extreme-Heat-proclamation.pdf>.

³⁵ CARB 2017 Scoping Plan, p. 6, https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf

³⁶ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.

³⁷ *Id.* at 518.

health.³⁸ In *Bakersfield*, the court found that the EIRs' description of health risks were insufficient and that after reading them, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."³⁹ Likewise in *Sierra Club*, the Supreme Court held that the EIR's discussion of health impacts associated with exposure to the named pollutants was too general and the failure of the EIR to indicate the concentrations at which each pollutant would trigger the identified symptoms rendered the report inadequate.⁴⁰ Some connection between air quality impacts and their direct, adverse effects on human health must be made. As the Court explained, "a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact."⁴¹ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.⁴²

Failing to provide the information required by CEQA makes the meaningful assessment of potentially significant impacts impossible and is presumed to be prejudicial.⁴³ Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.⁴⁴ Courts reviewing challenges to an agency's approval of a CEQA document based on a lack of substantial evidence will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."⁴⁵

The DEIR's analysis of health impacts fails to satisfy CEQA's requirements. The DEIR concludes, without substantial evidence, that the Project's emissions of toxic air contaminants ("TACs") will be less than significant. But the DEIR fails to include a detailed or quantitative HRA which discloses the adverse health impacts

³⁸ *Id.* at 518–520; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

³⁹ *Id.* at 1220.

⁴⁰ *Sierra Club*, at 521.

⁴¹ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

⁴² *Sierra Club*, 6 Cal.5th at 518–522.

⁴³ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236–1237.

⁴⁴ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

⁴⁵ *Id.* (internal quotations omitted).

from exposure to TACs from the Project's construction and operational emissions. As a result, the DEIR fails to disclose the potentially significant health risks posed to nearby residents and children from TACs, and fails to mitigate those risks. Because the DEIR fails to include the necessary analysis disclosing the extent and severity of the Project's health risks, and fails to compare the Project's TAC emissions to applicable significance thresholds, the DEIR lacks substantial evidence to support its conclusion that the Project will not have significant health impacts from human exposure to DPM emissions generated during Project construction and operation.

Dr. Clark explains that one of the primary emissions of concern regarding the health effects of land development projects is DPM, which can be released during Project construction and operation. However, the DEIR failed to perform a quantitative assessment of the Project's DPM emissions, instead concluding based on the Project's *criteria pollutant emissions*, that the Project's cancer risk from exposure to DPM would be less than significant.⁴⁶ When assessing the impact of criteria pollution concentrations on sensitive receptors, the SCAQMD has developed localized significance thresholds ("LST") that are based on the number of pounds of emissions per day that can be generated by a project that would cause or contribute to adverse localized air quality impacts. For TACs though, there are no LSTs, nor levels of significance based on the pounds per day of emissions. Instead, significance must be determined based on a quantitative risk analysis that requires the City to perform a multistep, quantitative health risk analysis. No such analysis was included in the DEIR.

Further, the DEIR concludes there will be no significant construction health risk because construction will only last from 2022 to 2025, and cancer risk is calculated based on a 70-year exposure.⁴⁷ As Dr. Clark explains, this is an incorrect assumption because exposure to TACs has acute health impacts and contributes to increased cancer risk from even short-duration exposures. OEHHA⁴⁸ guidance sets a recommended threshold for preparing an HRA for a construction period of *two*

⁴⁶ Clark Comments, pp. 5-7.; DEIR, p. IV.A-45.

⁴⁷ DEIR, IV.A-44.

⁴⁸ OEHHA is the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. See OEHHA organization description, available at <http://oehha.ca.gov/about/program.html>.

months or more.⁴⁹ Construction of the Project will last at least 24 months.⁵⁰ Human exposure to construction TACs during that time period may result in a significant, increased cancer risk.

The nearest sensitive receptors to the Project site are residences just north and east of the site. According to the DEIR, these residences would experience the highest levels of Project emissions.⁵¹ As Dr. Clark explains, these receptors would be exposed to TACs, including DPM, during Project construction and operation. The DEIR completely fails to quantify the potential health impacts on these sensitive receptors.

Dr. Clark conducted his own analysis and found that, given the proximity of sensitive receptors to the site and the nature of the TACs emitted, the operational emissions from the backup generator alone would cause a significant health risk to receptors near the Project site.⁵²

The City must prepare a revised DEIR that fully analyzes and discloses the Project's potentially significant health impacts from construction and operational emissions.

C. The DEIR Fails to Adequately Disclose and Mitigate Potentially Significant Impacts from GHG emissions

CEQA requires the lead agency to use scientific data to evaluate impacts from GHG emissions directly and indirectly associated with a project.⁵³ The

⁴⁹ See "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/hotspots2015.html ("OEHHA Guidance"), p. 8-18.

⁵⁰ DEIR, p. IV.A-52

⁵¹ DEIR, p. I-2.

⁵² Clark Comments, p. 8.

⁵³ See 14 C.C.R. § 15064.4(a) (lead agencies "shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project); 14 C.C.R. § 15064(d) (evaluating significance of the environmental effect of a project requires consideration of reasonably foreseeable indirect physical changes caused by the project); 14 C.C.R. § 15358(a)(2) (defining "effects" or "impacts" to include indirect or secondary effects caused by the project and are "later in time or farther removed in distance, but are still reasonably foreseeable" including "effects on air"); CEQA Guidelines, Appendix G, § VIII: Greenhouse Gas Emissions (stating agencies should consider whether the project would "generate greenhouse gas emissions, **either directly or indirectly**, that may have a significant impact on the environment.") (emphasis added).

analysis must “reasonably reflect evolving scientific knowledge and state regulatory schemes.”⁵⁴ In determining the significance of impacts from GHG emissions, the agency must consider the extent to which the project may increase GHG emissions compared to the existing environmental setting and the “extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions.”⁵⁵

The City has not adopted a numerical significance threshold for assessing impacts from GHG emissions nor has the City formally adopted a local plan for reducing GHG emissions. Instead, the DEIR concludes that impacts from GHG emissions will be less than significant because the Project is consistent with the goals and actions to reduce GHG emissions found in the City’s Green New Deal, the 2017 California Climate Change Scoping Plan and the implementation of project design features.⁵⁶ The analysis is flawed.

Project design features are not enforceable, verifiable mitigation measures. Mitigation measures must be enforceable through conditions of approval, contracts or other means that are legally binding. This ensures that mitigation measures will actually be implemented. The DEIR’s reliance on the Applicant’s voluntary project design features is incorrect because the measures are not incorporated as binding mitigation measures and are, therefore, unenforceable. The project design features described in the DEIR are little more than wishful thinking, and the DEIR’s conclusion that the Project’s impacts from GHG emissions will be less than significant because of these measures is unsupported. If the City wishes to rely on project design features for its analysis, they must be incorporated into the Project’s Mitigation Monitoring and Reporting Program (“MMRP”) and Conditions of Approval.

⁵⁴ 14 C.C.R. § 15064.4(b); see also *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 504 (holding that lead agencies have an obligation to track shifting regulations and to prepare EIRs in a fashion that keeps “in step with evolving scientific knowledge and state regulatory schemes”).

⁵⁵ 14 C.C.R. § 15064.4(b)(1), (3).

⁵⁶ DEIR, p. IV.C-48

D. The DEIR Fails to Analyze the Project's Impacts on Air Quality and from GHG Emissions During Summer Months

Appendix D to the DEIR includes the CalEEMod files for the air quality GHG analyses. But the files only include analyses for the Project's operation during winter months. There are no output files for the Project's operation during summer months. This is a significant and fatal flaw since the City's conclusions in the DEIR regarding the Project's air quality and GHG emissions are not supported by substantial evidence. Moreover, decisionmakers and the public cannot meaningfully analyze the full extent of the Project's impacts related to air quality and GHG emissions. The City must prepare a revised DEIR that includes the Project's emissions during summer months.

E. The DEIR Fails to Adequately Disclose and Mitigate Significant Noise Impacts

The CEQA Guidelines require a DEIR to consider "whether a project would result in...[g]eneration of a substantial temporary or periodic increase in ambient noise levels in the vicinity of the project . . ." ⁵⁷ The DEIR's noise analysis fails to accurately disclose the Project's noise impacts for several reasons.

1. The DEIR Fails to Disclose and Analyze the Extent of Noise Impacts During Both Construction and Operation

a) The DEIR's Quantitative Analysis Fails to Accurately Establish Baseline Noise Conditions

CEQA does not set a numeric threshold for determining the significance of ambient noise increases. Lead agencies may select their own thresholds. The agency's selection of a threshold of significance must be supported by substantial evidence. ⁵⁸

The DEIR underestimates the existing ambient noise levels by performing baseline readings that were impermissibly narrow to establish a representative baseline. As explained by noise expert Jue, the 15-minute measurements taken only accounted for 2% of the total daytime period and 3% of the nighttime period, and

⁵⁷ CEQA Guidelines, Appendix G, Sec. XII(d).

⁵⁸ 14 C.C.R. § 15064(b); *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 884.

were taken at the noisiest times of both periods.⁵⁹ As a result, the DEIR underestimates the Project's noise impacts. Ms. Jue further notes that "by using Type 2 sound level meters, which are accurate within +/- 1.5 dBA, relying on these limited time results to characterize the ambient noise within tenths of a decibel is misleading because it implies a level of precision that is not supported by the instrumentation."⁶⁰ Ms. Jue concludes that "it appears probable that the true daytime ambient lies closer to 50dBA at some locations."⁶¹

The DEIR's failure to disclose the existing ambient noise, and as a result, the extent of the Projects noise impacts violates CEQA. By failing to disclose the full extent of noise impacts, the DEIR also fails to include all feasible mitigation to reduce the Project's significant noise impacts to a less than significant level.

b) The DEIR Fails to Disclose and Mitigate Potentially Significant Noise Impacts from Project Construction

The DEIR completely fails to analyze or disclose the Project's impacts on nearby studios from ground borne vibration.⁶² Ms. Jue notes how:

It is customary for noise studios to use room-within-room configurations to isolate the recording sessions from ambient noise within the control room and other parts of the studio and from airborne noise at the exterior. However, many *such facilities are not designed for ground borne vibration that can radiate sound into the interior.*⁶³

Ms. Jue explains that the FTA guidance cited by the DEIR for ground borne vibration includes a threshold of 25 dBA for recording studios. Based on the "General Vibration" assessment method in the FTA guidance, Ms. Jue concludes that the ground borne noise at Receptor R5 would be greater than 25 dBA and, therefore, would be significant.⁶⁴ The DEIR must be revised to disclose this significant impact.

⁵⁹ Jue Comments, pp. 1-2.

⁶⁰ Jue Comments, p. 2.

⁶¹ Jue Comments, p. 2.

⁶² Jue Comments, pp. 3-4.

⁶³ Jue Comments, p. 3 (emphasis added).

⁶⁴ Jue Comments, p. 4.

The DEIR must also be revised to incorporate all feasible mitigation to reduce this impact to a less than significant level. Ms. Jue recommends the following mitigation measures:

1. Prior to construction, measure the ambient noise environment on a 1/3 octave band basis within the recording studio(s) under normal recording conditions. The measurement period shall correspond to the quietest time of day that recordings are done (during construction hours) and shall have a duration of not less than 60 minutes. Statistical metrics should be determined in addition to the Leq. Noise measurement equipment shall conform to Type 1 or Class 1 sound level meters with professional quality recording devices such as a Sony PCM-D50 or better, or a digital data recorder such as a Rion DA-20 or equivalent.
2. Characterize the Project-vicinity vibration propagation to determine how on-site vibration will transmit to the recording studio. If it can be shown that all construction activities would not exceed the background noise levels (L90) measured in the studio(s) based on corresponding ground borne noise calculation to the interior of the studio spaces, then one construction-phase noise measurement will be required to confirm this result.
3. If any construction activities would exceed the existing ambient (e.g., Leq, and basic statistical metrics such as L90, L50, L10 and L1), then the contractor must provide a vibration control plan that demonstrates how they will use their vibration-generating equipment and/or schedule their activities in collaboration with the recording studio(s) to avoid interfering with each studio's normal recording activities.
4. This analysis and the vibration control plan will be subject to review and approval by the City of Los Angeles, and the affected sound recording studio operators will also have ample opportunity to review and resolve comments.

c) The DEIR Fails to Disclose and Mitigate Potentially Significant Noise Impacts from Project Operation

The DEIR's operational noise analysis suffers two serious flaws: (1) the Project contains a ground-level bar/lounge, but completely fails to analyze any noise stemming from these uses, such as from amplified sound systems; and (2) the described HVAC equipment is not nearly large enough to serve the entire building. Ms. Jue notes that "a building this size often includes a water tower or air-cooled condenser fan with a typical sound rating of 85 PWL, and several make-up air fans

as large as 40,000 CFM (90 PWL).” According to Ms. Jue, a combination of four fans would generate a noise level of 59 dBA or more to a distance of 50 ft and 55 dBA at a distance of 80 ft. “If this equipment operates continuously, the resulting CNEL would be 62 dBA, which alone would cause the future noise environment to increase by 4 dBA.”^{65,66} The DEIR fails to describe or analyze the noise generating activities that these Project components will cause.

The DEIR’s incomplete operational noise analysis fails to disclose the extent of the Project’s operational noise impacts. The City must revise the DEIR to include a complete operational noise analysis and all feasible mitigation measures to reduce potentially significant operational noise impacts.

d) The DEIR Fails to Require All Feasible Mitigation Before Concluding Impacts from Construction Noise Will be Significant and Unavoidable

The DEIR concludes that even with mitigation measures NOI-MM-1 and NOI-MM-2, construction noise impacts will remain significant and unavoidable.⁶⁷ CEQA requires all feasible mitigation to be applied before a significant and unavoidable impact finding can be made. Yet, the DEIR fails to require all feasible mitigation measures for construction noise impacts. As described above, there are four additional mitigation measures for construction noise that should be included in the DEIR.

The DEIR’s failure to require all feasible mitigation measures to reduce construction noise impacts before declaring them significant and unavoidable is a separate CEQA violation. The City should revise and recirculate the DEIR to include a complete noise analysis, and to require all feasible mitigation to reduce potentially significant operational noise impacts to the greatest extent feasible.

⁶⁵ Jue Comments, p. 5.

⁶⁶ Jue Comments, p. 4.

⁶⁷ DEIR, p. IV.I-52.

E. The DEIR Fails to Adequately Disclose and Mitigate Significant Transportation Impacts

The DEIR's Transportation section states that the Los Angeles Department of Transportation ("LADOT") Vehicle Miles Traveled ("VMT") Calculator estimates that the Project would generate a Project work VMT per employee of 7.5 miles.⁶⁸ This is barely below the applicable significance threshold for the Central APC Area of 7.6 miles per employee, and any level above 7.6 would be considered a significant impact.⁶⁹ The City's conclusion of 7.5 employee VMT, however, is incorrect. The City's conclusion is based on a presumed reduction in parking spaces, from 403 to 310 parking spaces.⁷⁰ But according to the DEIR Traffic Study, only 301 parking spaces are required pursuant to the LAMC.⁷¹ Therefore, the Project actually includes an *increased* number of parking spaces beyond those required by LAMC Section 12.21.A.4.

The DEIR's erroneous analysis regarding VMT must be revised based on the actual number of Project parking spots. Under CEQA Guidelines section 15064.3(b)(1), a reduction in VMT as a result of reduced parking spots can be presumed to create a less than significant transportation impact. But that is not the case here where the Project includes 9 additional parking spots beyond those required under the City's code.

V. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S CUMULATIVE IMPACTS

CEQA requires the lead agency to include a reasonable and good faith analysis of cumulative impacts in an EIR. Cumulative impacts are defined as "two or more individual effects which, when considered together, are considerable."⁷² Such impacts may "result from individually minor but collectively significant projects taking place over a period of time." Cumulatively considerable means that "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."⁷³ CEQA Guidelines section 15130(b)(1) provides two options for analyzing cumulative impacts: (A) list "past, present, and

⁶⁸ DEIR, IV.H-34; Appendix J, p. 128.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² 14 C.C.R. § 15355.

⁷³ 14 C.C.R. § 15355(b).

probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or” (B) summarize “projection contained in an adopted local, regional or statewide plan, or related planning document that describes or evaluates conditions contributing to the cumulative effect.” “When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable.”⁷⁴ A cumulative impact analysis must be sufficiently detailed to correspond to the severity of the impact and the likelihood that it will occur. While an EIR may provide less detail in its cumulative impact analysis than for project-specific effects, the discussion must provide sufficient specificity to enable the agency to make findings that a project will, or will not, have a significant cumulative impact where the possible effects of the project are “individually limited but cumulatively considerable.”⁷⁵

A. The DEIR Fails to Evaluate Cumulative Air Quality Impacts

The DEIR fails to consider the amount of emissions associated with the cumulative projects in the vicinity of the Project. As a result, the DEIR fails to evaluate or disclose the extent of the Project’s cumulative air quality impacts. This omission is particularly glaring given that the DEIR itself identified 17 other related cumulative projects near the Project site.

The law is clear that individually insignificant incremental contributions to air pollution are part of a cumulatively considerable impact requiring analysis in an EIR. In *Kings County Farm Bureau v. City of Hanford*, the City of Hanford prepared an EIR for a 26.4-megawatt coal-fired cogeneration plant. Notwithstanding the fact that the EIR found that the project region was out of attainment for PM10 and ozone, the City failed to incorporate mitigations for the project’s cumulative air quality impacts from project emissions because it concluded that the Project would contribute “less than one percent of area emissions for all criteria pollutants.” The Court held that it was an error for the City to not take into account the nonattainment with air quality standards. Regarding ozone, the Court reasoned that “[t]he relevant question to be addressed in the EIR is not the relative amount of [ozone] precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions

⁷⁴ 14 C.C.R. § 15130(b)(1); See also § 15130(a) (stating that the lead agency shall describe its basis for concluding that an incremental effect is not cumulatively considerable).

⁷⁵ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.

should be considered significant in light of the serious nature of the ozone problems in this air basin.” In addition, the Court generally held that the EIR improperly sidestepped the cumulative impacts analysis when it “focused on the individual project’s relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have upon air quality.”

Here, the DEIR acknowledges that the SCAQMD is in nonattainment for state air quality standards for O₃, PM_{2.5} and PM₁₀. Given these background conditions, even marginal contributions of O₃, PM_{2.5}, and PM₁₀ from the Project and other projects in the vicinity can have a significant cumulative effect of exacerbating the already serious nonattainment of air quality standards. Under *Kings County*, the Project’s incremental contribution to air pollution in the SCAB must be understood in the context of poor air quality that currently exists. Yet, the DEIR does not even mention O₃, PM_{2.5} or PM₁₀ in its discussion of cumulative impacts. The DEIR must be revised to consider the circumstances of the O₃, PM_{2.5} and PM₁₀ problem in the region in conjunction with the cumulatively considerable air quality impacts from the Project, which is a new and additional source of O₃, PM_{2.5} and PM₁₀ emissions in the SCAB.

VI. THE CITY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT’S LOCAL LAND USE PERMITS AND THE VESTING TENTATIVE MAP

The Project requires a number of discretionary entitlements and related approvals under local City plans and code sections, including a General Plan Amendment to change a portion of the Hollywood Community Plan from Medium Residential to Limited Manufacturing pursuant to Section 555 of the City Charter and LAMC section 11.5.6; a Vesting Zone Change from R3 and MR1 to M1 Zone pursuant to LAMC section 12.32 F and Q; a Height District change from the existing Height District 1 to Height District 2 with a D limitation, pursuant to LAMC § 12.32F; a Conditional Use Permit for the sale of full line alcoholic beverages, up to three suites, pursuant to LAMC § 12.21 W.1; and a Site Plan Review for a project that results in an increase of 50,000 gross square feet or more of nonresidential uses, pursuant to LAMC § 16.05.

Each approval requires the City to make findings regarding land use consistencies and/or environmental factors. As discussed herein, the City’s conclusions regarding the Project’s impacts related to air quality, GHG emissions, noise and transportation are not supported by substantial evidence and substantial

evidence shows that the Project may result in significant, unmitigated impacts. These unmitigated impacts create inconsistencies with several of the permits required for the Project.

Where a local or regional policy of general applicability, such as an ordinance, is adopted to avoid or mitigate environmental effects, a conflict with that policy constitutes a significant land use impact and, in itself, indicates a potentially significant impact on the environment.⁷⁶ A project's inconsistencies with local plans and policies also constitute significant impacts under CEQA.⁷⁷ The City must recirculate the DEIR to adequately disclose and mitigate the significant land use impacts discussed below.

A. General Plan Amendment, Vesting Zone Change and Height District Change

The Project Applicant is seeking: (1) a General Plan Amendment to change a portion of the Hollywood Community Plan from Medium Residential to Limited Manufacturing;⁷⁸ (2) a Vesting Zone Change from M3 Zone to C2 Zone pursuant to LAMC section 12.32 F and Q; and (3) a change from Height District No. 1 to Height District 2 with a D limitation.

With the approval of the Height District Change, the allowable FAR would increase from 1.5:1 to 4.5:1 resulting in a massive increase in potential FAR. The Project would create approximately 150,600 new square feet of developed floor area using all allowed space resulting in a total FAR of 4.4:1.⁷⁹

The General Plan Amendment would result in a permanent change that impacts the entire Community Plan Area and is not limited to the Project site. The General Plan Amendment would result in a higher FAR allowed in the Hollywood Community Plan with a greater Height District Change than is currently allowed. Higher floor area ratios result in denser construction. Additionally, the change from Medium Residential to Limited Manufacturing reduces areas where additional residences can be built, when California is already in dire need of additional housing. The DEIR lacks analysis of the impacts that the General Plan Amendment

⁷⁶ See, *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.

⁷⁷ *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376.

⁷⁸ DEIR, p. II-12.

⁷⁹ DEIR, p. II-7.

would have from increased development density and associated environmental and public health impacts that would result in the Hollywood Community Plan Area from a higher FAR and change from Medium Residential to Limited Manufacturing.

The DEIR also lacks substantial evidence to demonstrate that the Project satisfies the mandatory requirements for approving a General Plan Amendment. Under Section 556 of the City Charter, in order to amend the General Plan, the “City Planning Commission and the Council shall make findings showing that the action is in substantial conformance with the purposes, intent, and provisions of the General Plan.”⁸⁰ “Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be ‘in harmony’ with the policies stated in the plan.”⁸¹ It is the role of the City to determine the Project’s consistency with the General Plan, not to make the General Plan consistent with the Project.

Here, the proposed Project violates the existing General Plan, thus necessitating a General Plan Amendment to allow the Project to proceed. The DEIR lacks a detailed analysis of the impacts associated with the increased density that would be authorized by the Project’s increased FAR, and lacks an analysis of the impacts associated with the incremental increases in density that could later be authorized under subsequent Height District Changes in the Hollywood Community Plan. Impacts associated with an increased residential and commercial density that should have been analyzed in the Project’s CEQA document include increased air quality impacts, noise, transportation impacts, and impacts on public services, to name a few. A recirculated DEIR is required to analyze and mitigate the full extent of the Project’s impacts from the proposed General Plan Amendment.

Finally, the DEIR fails to include evidence that would support the approval of a General Plan amendment pursuant to LAMC Section 11.5.6(B). Pursuant to this section, the LAMC would not restrict the adoption of a General Plan Amendment which provides for an exclusively local workforce at the prevailing wage and provides affordable housing.⁸² Since the DEIR lacks evidence demonstrating that these factors will be met, the General Plan amendment is not eligible for approval under the LAMC.

⁸⁰ City of Los Angeles Charter § 556.

⁸¹ *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 638.

⁸² LAMC § 11.5.6(B)(2), (3).

The City failed to adequately analyze and mitigate the impacts associated with nonconformance with the existing General Plan and the City failed to analyze potentially significant impacts associated with this General Plan Amendment, in violation of CEQA. The City must revise the DEIR to adequately analyze and mitigate all impacts associated with the General Plan Amendment and Height District Change.

B. Conditional Use Permit Approval for the Sale of Alcohol

The Project must secure approval pursuant to LAMC Section 12.24-W,1 for the sale and dispensing of alcoholic beverages for on-site consumption for up to three suites.⁸³ Section 12.24-W,1, however, requires the Zoning Administrator to find, among other things, that that the proposed use “will not adversely affect the welfare of the pertinent community.”⁸⁴

The potential impacts of noise on neighboring residences from establishments serving alcohol can be significant. Noise from boisterous patrons and amplified music being played on the Project site will likely have an impact on the nearby residences directly north of the Project, the multi-family residences east of the Project on Hudson Ave and other sensitive receptors. The Project noise could impact residences’ interiors since windows have poor low-frequency attenuation. The resulting noise from these activities may require mitigation to reduce adverse impacts on neighboring residents.

The DEIR fails to disclose whether the Project anticipates the use of sound systems, alcohol on balconies and other sources of significant noise impacts, and fails to analyze whether the establishments serving alcohol will adversely affect the welfare of the pertinent community. The DEIR thus does not provide substantial evidence to support the required findings that must be made for approval of a Conditional Use Permit for the sale and dispensing of alcohol to be consumed at the site. The City must revise the DEIR so that it adequately discloses, analyzes and mitigates impacts associated with alcohol sales on the Project site.

VII. CONCLUSION

For the reasons discussed above, the DEIR is wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analyses of, and

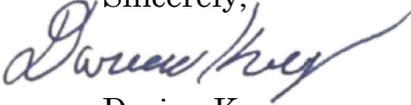
⁸³ DEIR, II-13.

⁸⁴ LAMC Section 12.24.W.1(a)(1).

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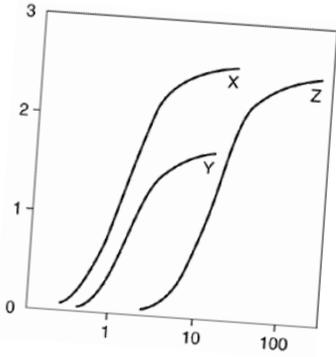
mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Darien Key

Attachments
DKK:acp

ATTACHMENT A



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July 25,2022

Adams Broadwell Joseph & Cardozo
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Attn: Mr. Darien Key

Subject: Comments On Draft Environmental Impact Report (DEIR) For 1000 Seward Project (the Project), State Case Number ENV-2020-1239-EIR

Dear Mr. Key:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the June 2022 City of Los Angeles' (the City's) DEIR of the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

Project Description:

According to the DEIR the 1000 Seward Project includes demolition of two existing commercial buildings totaling 10,993 square feet and a surface parking lot, and the development of a 10-story commercial building on a 34,152 square-foot (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street (Project Site) in the Hollywood Community Plan Area of the City.¹ The Project would include the development of new office, restaurant, and retail uses totaling 150,600 square feet. Specifically, the Project would develop 136,200 square feet of office

¹ City of Los Angeles. 2022. 1000 Seward Project. <https://planning.lacity.org/development-services/eir/1000-seward-project-0>

uses, 12,200 square feet of restaurant uses (of which 6,100 square feet may be used for an entertainment use), and 2,200 square feet of retail uses. The proposed uses would be located within a single 10-story building (with an additional rooftop level for mechanical equipment and an outdoor entertainment/tenant terrace) with a maximum height of 133 feet to the top of the highest occupiable level and a maximum height of 155 feet to the top of the mechanical equipment level. In accordance with the Los Angeles Municipal Code (LAMC), the Project would provide 310 vehicular parking spaces and 58 bicycle parking spaces (36 long-term and 22 short-term) within four subterranean parking levels, one at-grade level, and three fully enclosed and mechanically ventilated above grade parking levels.²

² City of Los Angeles. 2022. 1000 Seward Project. <https://planning.lacity.org/development-services/eir/1000-seward-project-0>



Figure 1: Project Site Location and Nearest Sensitive Receptors

The Project site is currently developed with two one-story buildings totaling 10,993 square feet, composed of a 2,551 square foot restaurant and 8,442 square foot studio and production space, along with surface parking areas. Existing landscaping within the Project Site includes one tree and other landscaping within small planted areas.

The proposed building's ground floor would include the retail and restaurant uses including an outdoor dining area, a lobby for the office use, and parking, as well as an electrical room, transformer, fan, and trash room. A necessary feature to the building not called out in the description is the 500 horse-power (hp) emergency back-up generator (BUG) that will be installed on site. The location of the BUG is not clearly marked in site plan but is assumed to be placed on the ground floor. Above the ground level, Levels 2 and 3 would include additional parking and additional office uses. Levels 4 through 9 would include office uses and several outdoor terraces and Level 10 would feature

restaurant/hospitality/entertainment uses, office uses, and an outdoor dining terrace. The roof would house the building's mechanical equipment as well as an outdoor tenant terrace.

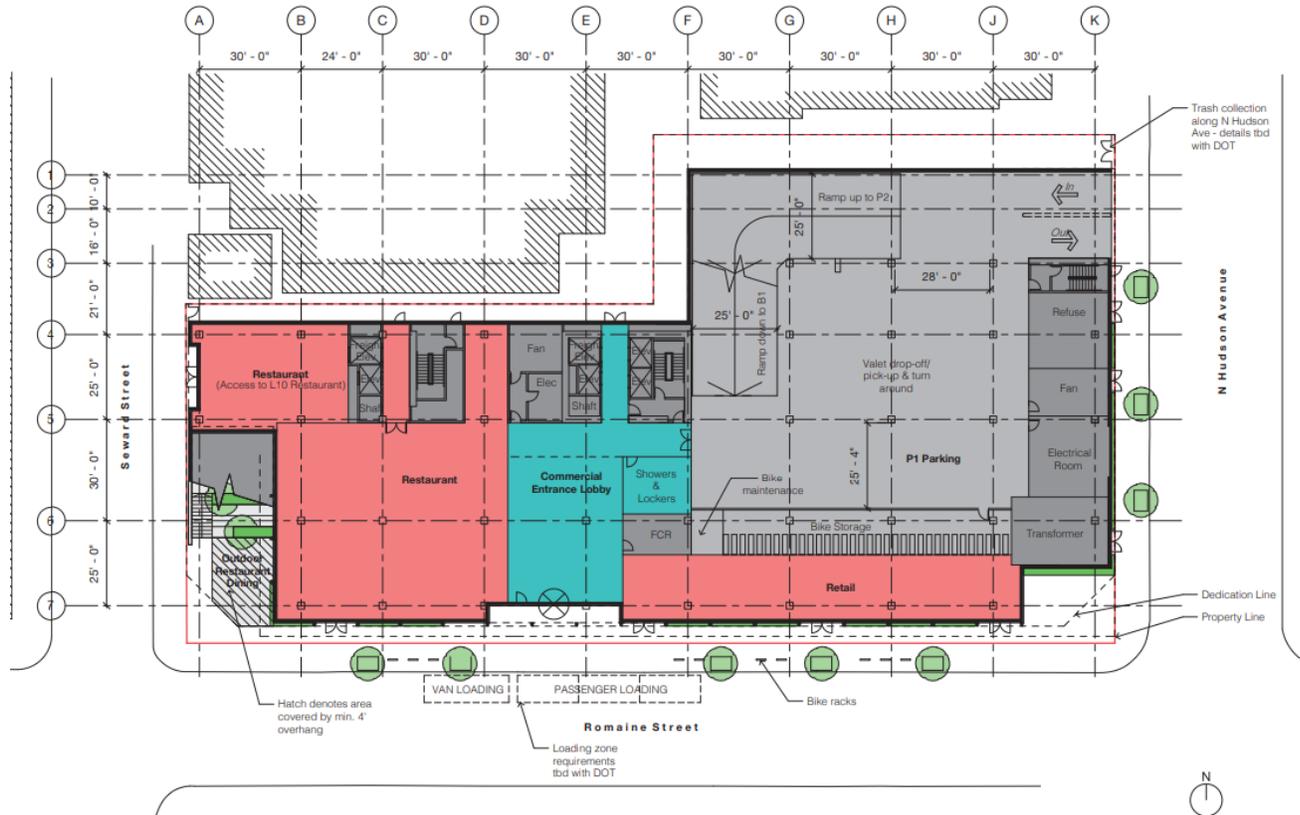


Figure 2: Conceptual Site Plan

Significant Impacts

The City³ determined through the Initial Study the potential for significant impacts in:

- Air Quality
- Cultural Resources
- Energy
- Greenhouse Gas Emissions
- Land Use and Planning
- Noise

³ City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report. Page I-2

- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

According to the City’s DEIR of the Project, the potentially significant impacts identified in the DEIR will be mitigated to less than significant levels or are significant and unavoidable. The conclusion from the City that the significant impacts can be mitigated is not supported by the facts of the Project. There are substantial impacts that are not addressed in the City’s analysis that must be addressed in a revised environmental draft impact report (R-DEIR).

Specific Comments:

1. The City’s Air Quality Analysis Fails To Include A Quantitative Health Risk Analysis Of The Impacts Of Toxic Air Contaminants From The Construction Phase And Operational Phase Of The Project For The Nearest Sensitive Receptor(s)

The City has failed to conduct a numerical health risk analysis (HRA) for the Project. The DEIR states that, for the purposes of assessing pollution concentrations upon sensitive receptors, the SCAQMD has developed LSTs that are based on the number of pounds of emissions per day that can be generated by a project that would cause or contribute to adverse localized air quality impacts. For the Criteria Pollutants assessed under CEQA, this is correct. For toxic air contaminants (TACs), there are no LSTs, nor levels of significance based on the pounds per day. According to the City of Los Angeles’ 2019 Air Quality And Health Effects Guidance airborne pollutants that may be expected to result in an increase in mortality or serious illness or which may pose a present or potential hazard to human health, and include both carcinogens and non-carcinogens are defined as toxic air contaminants.⁴ Diesel exhaust, in particular diesel particulate matter, is classified by the State of California as a toxic air contaminant. Instead, the determination of a significance threshold is based

⁴ City of Los Angeles. 2019. Air Quality and Health Effects Guidance. Pg 6.

on a *quantitative risk analysis* that requires the City to perform a multistep, quantitative health risk analysis for TACs.⁵

TACs, including diesel particulate matter (DPM)⁶, contribute to a host of respiratory impacts and may lead to the development of various cancers. Failing to quantify those impacts places the community at risk for unwanted adverse health impacts. *Even brief exposures to the TACs could lead to the development of adverse health impacts over the life of an individual.*

Diesel exhaust contains nearly 40 toxic substances, including TACs and may pose a serious public health risk for residents in the vicinity of the facility. TACs are airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. The current California list of TACs includes approximately 200 compounds, including particulate emissions from diesel-fueled engines.

Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.^{7,8,9} Fine DPM is deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death.¹⁰ Exposure to DPM increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung

⁵ City of Los Angeles. 2019. Air Quality and Health Effects Guidance. Pg 9, pg 36.

⁶ Because DPM is a TAC, it is a different air pollutant than criteria particulate matter (PM) emissions such as PM10, PM2.5, and fugitive dust. DPM exposure causes acute health effects that are different from the effects of exposure to PM alone.

⁷ California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998; see also California Air Resources Board, Overview: Diesel Exhaust & Health, <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=Diesel%20Particulate%20Matter%20and%20Health&text=In%201998%2C%20CARB%20identified%20DPM,and%20other%20adverse%20health%20effects.>

⁸ U.S. EPA, Health Assessment Document for Diesel Engine Exhaust, Report EPA/600/8-90/057F, May 2002.

⁹ Environmental Defense Fund, Cleaner Diesel Handbook, Bring Cleaner Fuel and Diesel Retrofits into Your Neighborhood, April 2005; http://www.edf.org/documents/4941_cleanerdieselhandbook.pdf, accessed July 5, 2020.

¹⁰ California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.

tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.¹¹ DPM is a TAC that is recognized by state and federal agencies as causing severe health risk because it contains toxic materials, unlike PM_{2.5} and PM₁₀.¹²

The inherent toxicity of the TACs requires the City to first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern. Following that analysis, then the City can make a determination of the relative significance of the emissions.

The nearest sensitive receptors reside just north of the Project Site and east of the Project Site across Hudson Avenue. According to the DEIR, these residences would experience the highest levels of Project emissions.¹³

These receptors would be exposed to TACs released during Project construction and operation, including DPM. No effort is made in the DEIR to quantify the potential health impacts from DPM generated by construction activities or operational activities from the Project on these sensitive receptors. The City's failure to perform such an analysis is clearly a major flaw in the DEIR and may be placing the residents of the adjacent structures at risk from the construction and operational phases of the Project.

2. Given The Proximity Of Sensitive Receptors To The Site And The Nature of The Toxic Air Contaminants Emitted, The Operational Emissions From The Back Up Generator Will Cause A Significant Health Risk To Residents Near The Project Site.

According to the DEIR¹⁴, the proposed project would not result in non-permitted stationary sources that would emit substantial air pollutants or TACs. Routine testing and maintenance of the diesel emergency generator would result in emissions of DPM. However, the applicant would be

¹¹ Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting.

¹² Health & Safety Code § 39655(a) (defining "toxic air contaminant" as air pollutants "which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health. A substance that is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412 (b)) is a toxic air contaminant.")

¹³ City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report.

¹⁴ City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report. Page I-2

required to work with the SCAQMD in order to obtain permits to operate. As part of the permit process, the SCAQMD will evaluate compliance with Rule 1401, New Source Review of Toxic Air Contaminants, and Rule 1401.1, Requirements for New and Relocated Facilities Near Schools. Rule 1401.1 identifies acceptable risk levels and emissions control requirements for new and modified facilities that may emit additional TACs. Under Rule 1401, permits to operate may not be issued when emissions of TACs result in a maximum incremental cancer risk greater than 1 in 1 million without application of best available control technology for toxics (TBACT), or a maximum incremental cancer risk greater than 10 in 1 million with application of T-BACT, or if the cumulative cancer burden (i.e., increase in cancer cases in the population) from all TACs emitted from a single piece of equipment exceeds 0.5, or a health hazard index (chronic and acute) greater than 1.0 (SCAQMD 2017b).

According to the CALEEMOD analysis presented in Appendix B of the DEIR, the proposed 500 hp emergency back-up generator (BUG) would be operated for a limited time (10 hours or less per year for testing and maintenance). Using the SCAQMD's Rule 1401 Risk Assessment Programs Risk Tool V1.103 software, it is possible to generate a site-specific screening level HRA for emissions from the back-up generator (BUG). Assuming the system is restricted to maintenance and testing for 10 hours per year or less, that the efficiency of the emission controls of the BUG are at least 85% effective, the model calculates emissions of DPM of approximately 0.5 lbs per year.

Based on the emission of 0.5 lbs per year of DPM, the SCAQMD Risk Tool calculates a risk of 54.7 in 1,000,000 for residents living within 83 feet (25 meters) of the Project Site. Commercial workers located within 80 feet (25 meters) of the site face a potential health risk of 18.9 in 1,000,000. The model was set to assume T-BACT controls were in place for the generator. All of the results for this analysis are presented in Exhibit B to this letter. The City must address this significant error in their air quality analysis in a revised EIR.

3. The City's CalEEMOD Analysis Of Emissions From The Back Up Generator (BUG) On-Site Must Include The Testing And Non-Testing (Operational) Impacts Of The BUG

According to SCAQMD Rules 1110.2, 1470, back-up generators (BUGs) are allowed to operate for up to 200 hours per year and maintenance cannot exceed more than 50 hours per year. The assumption by the City that maintenance and testing of the BUG would not exceed 10 hours per year

is unsupported. The City must revise its air quality analysis to include the use of BUGs onsite in a revised EIR.

In addition to the testing emissions, the air quality analysis must include the substantial increase in operational emissions from BUGs in the Air Basin due to unscheduled events, including but not limited to Public Safety Power Shutoff (PSPS) events and extreme heat events. Extreme heat events are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit.¹⁵ From January, 2019 through December, 2019, Southern California Edison reported 158 of their circuits underwent a PSP event¹⁶. In Los Angeles County, two circuits had 4 PSPS events during that period lasting an average of 35 to 38 hours. The total duration of the PSPS events lasted between 141 hours to 154 hours in 2019. In 2021, the Governor of California declared that, during extreme heat events, the use of stationary generators shall be deemed an emergency use under California Code of Regulations (CCR), title 17, section 93115.4 sub. (a) (30) (A)(2). The number of Extreme Heat Events is likely to increase in California with the continuing change in climate the State is currently undergoing.

Power produced during PSPS or extreme heat events is expected to come from engines regulated by CARB and California's 35 air pollution control and air quality management districts (air districts).¹⁷ Of particular concern are health effects related to emissions from diesel back-up engines. Diesel particulate matter (DPM) has been identified as a toxic air contaminant, composed of carbon particles and numerous organic compounds, including over forty known cancer-causing organic substances. The majority of DPM is small enough to be inhaled deep into the lungs and make them more susceptible to injury.

¹⁵ Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

¹⁶ SCAQMD. 2020. Proposed Amendment To Rules (PARS) 1110.2, 1470, and 1472. Dated December 10, 2020. http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1110.2/1110-2_1470_1472/par1110-2_1470_wgm_121020.pdf?sfvrsn=6.

¹⁷ CARB. 2019. Use of Back-up Engines For Electricity Generation During Public Safety Power Shutoff Events. October 25, 2019.

According to the California Public Utilities Commission (CPUC) de-energization report¹⁸ in October 2019, there were almost **806 PSPS events** (emphasis added) that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB's data also indicated that, on average, each of these customers had about 43 hours of power outage in October 2019.¹⁹ Using the actual emission factors for each diesel BUG engines in the air district's stationary BUGs database, CARB staff calculated that the 1,810 additional stationary generators (like those proposed for the Project) running during a PSPS in October 2019 generated 126 tons of NOx, 8.3 tons of particulate matter, and 8.3 tons of DPM.

For every PSPS or Extreme Heat Event (EHE) triggered during the operational phase of the project, significant concentrations of DPM will be released that are not accounted for in the City's analysis. In 2021, two EHEs have been declared so far. For the June 17, 2021 Extreme Heat Event, the period for which stationary generator owners were allowed to use their BUGs lasted 48 hours. For the July 9, 2021 EHE, the period for which stationary generator owners were allowed to use their BUGs lasted 72 hours. These two events would have increased the calculated DPM emissions by a factor of 5 from the Project if only the 10 hours of testing that is allowed were quantified for the Project's operational emissions. A revised EIR must be written for the Project that includes an analysis of the additional operation of the BUG that will occur at the project site that is not accounted for in the current air quality analysis.

4. The City's Air Quality And Greenhouse Gas (GHG) Analyses Are Incomplete

Appendix B of the DEIR includes the CalEEMOD outputs for the air quality and GHG analyses. The outputs provided in Appendix B-2.2 and Appendix B-3.2 are incomplete. In the appendices the City has included analyses of the operational phase of the Project for Winter months, but has not included the analyses for Summer months or the annual emissions analysis. Emissions produced during summer months may have a greater impact on air quality than winter months.

¹⁸ <https://www.cpuc.ca.gov/deenergization/> as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage..

¹⁹ CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

Historically summer emissions have a greater impact on the formation of smog within the South California Air Basin. This oversight must be addressed in a revised EIR which includes all periods for which the emissions can be calculated.

5. The City’s Greenhouse Gas Analysis Relies On An Unsupported Threshold

The City has not adopted a numerical significance threshold for assessing impacts related to GHG emissions and has not formally adopted a local plan for reducing GHG emissions. The DEIR concludes that the Project’s GHG impacts would be less than significant based on the Project’s consistency with the goals and actions to reduce GHG emissions found in the City’s Green New Deal, the 2017 California Climate Change Scoping Plan, and the implementation of project design features (PDFs – voluntary features which are not enforceable).

**Table IV.D-11
Annual Project GHG Emissions Summary (Buildout Year)^a
(metric tons of carbon dioxide equivalent [MTCO₂e])**

Scope	Project without Project Features	Project with Project Features	Reduction from Project Features
Area ^b	<1	<1	0
Energy ^c	945	887	(59)
Mobile ^d	1,933	1,075	(858)
EV Chargers ^e	(32)	(32)	0
Stationary ^f	2	2	0
Solid Waste ^g	28	28	0
Water/Wastewater ^h	174	136	(38)
Construction	124	124	0
Total Emissions	3,174	2,219	(955)

Claims by the City that the compliance by third parties (those they are reliant on for energy) to reduce GHG emissions will reduce the Project’s GHG emissions are unsupported and cannot be viewed as a reliable mitigation measure. The City must correct these assumptions regarding the GHG analysis in a revised EIR.

Conclusion

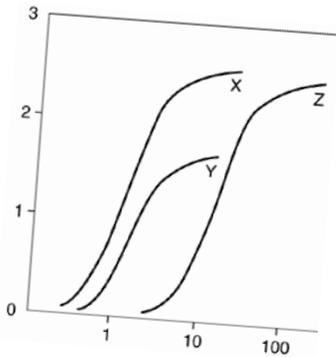
The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant unmitigated impacts if the DEIR is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised draft environmental impact report.

Sincerely,

A handwritten signature in black ink, appearing to read "J. J. Con". The signature is written in a cursive style with a horizontal line under the first letter.

EXHIBIT A

CV



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well-recognized toxicologist, air modeler, and health scientist. He has 30 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling, RESRAD, GENII); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client(s) - Confidential

Dr. Clark performed a historical dose reconstruction for community members from an active 700 acre petroleum refinery in Los Angeles. The analysis included a multi-year dispersion model was performed in general accordance with the methods outlined by the U.S. EPA and the SCAQMD for assessing the health impacts in Torrance, California. The results of the analysis are being used as the basis for injunctive relief for the communities surrounding the refinery.

Client(s) – Multiple

Indoor Air Evaluations, California: Performed multiple indoor air screening evaluations and risk characterizations consistent with California Environmental Protection Agency's (Cal/EPA) Department of Toxic Substances Control (DTSC) and Regional Water Quality Control Board (RWQCB) methodologies. Characterizations included the use of DTSC's

modified Johnson & Ettinger Model and USEPA models, as well as the attenuation factor model currently advocated by Cal/EPA's Office of Environmental Health and Hazard Assessment (OEHHA).

Client – Adams, Broadwell, Joseph Cardozo, P.C.

Dr. Clark has performed numerous air quality analyses and risk assessments of criteria pollutants, air toxins, and particulate matter emissions for sites undergoing evaluation via the California Environmental Quality Act (CEQA) process. The analyses include the evaluation of Initial Study (IS) and Environmental Impacts Reports (EIR) for each project to determine the significance of air quality, green house gas (GHG), and hazardous waste components of the projects. The analyses were compiled as comment letters for submittal to oversight agencies.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model were used to estimate acute and chronic exposure concentrations to multiple contaminants and were be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

PUBLIC HEALTH/TOXICOLOGY

Client: Confidential

Dr. Clark performed a historical dose reconstruction for community members from radiologically impacted material (RIM) releases from an adjacent landfill. The analysis was performed in general accordance with the methods outlined by the Agency for Toxic Substances Control (ATSDR) for assessing radiation doses from historical source areas in North St. Louis County, Missouri.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark managed the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa

Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark assisted the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential

Dr. Clark performed a historical dose reconstruction for community members exposed to radioactive waste released into the environment from legacy storage facilities. The releases resulted in impacts to soils, sediments, surface waters, and groundwater in the vicinity of the sites. The analysis was performed in general accordance with the methods outlined by the Agency for Toxic Substances Control (ATSDR) for assessing radiation doses from historical source areas in the community.

Client: Confidential

Dr. Clark performed a dose assessment of an individual occupationally exposed to metals and silica from fly ash who later developed cancer. A review of the individual's medical and occupational history was performed to prepare opinions regarding his exposure and later development of cancer.

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to hexavalent chromium who later developed cancer. A review of the individual's medical and occupational history was performed to prepare opinions regarding her exposure and later development of cancer.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

- Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.
- Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.
- Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.
- Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.
- Clark, J.J.J.** 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.
- Clark, J.J.J.** 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.
- Clark, J.J.J.** 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.
- Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

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- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, Volume 70 (2008) page 002254.
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- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.
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- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants –

DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. “The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations” The U.S. Composting Council’s 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. “The Value Of An Odor Quality Classification Scheme For Urban Odor” WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.

Clark, J.J.J. 2003. “Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophenoxyacetic Acid (2,4-D) in California Drinking Water Supplies.” National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

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Clark J.J.J., Brown, A., Ulrey, A. 1997. Impacts of Perchlorate On Drinking Water In The Western United States. U.S. EPA Symposium on Biological and Chemical Reduction of Chlorate and Perchlorate, Cincinnati, OH, December 5, 1997.

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- Tierney, D.F. and **J.J.J. Clark**. (1990). Lung Polyamine Content Can Be Increased By Spermidine Infusions Into Hyperoxic Rats. *American Review of Respiratory Disease*. 139(4):A41.

EXHIBIT B

SCAQMD Screening Health Risk Analysis of BUG

TIER 1 SCREENING RISK ASSESSMENT REPORT

(Procedure Version 8.1 & Package N, September 1, 2017)

Application deemed complete date: 1/1/2022

A/N , 1000 Seward Project

Equipment Type Other With T-BACT
 Nearest Receptor Distance (actual) 25 meters
 Receptor Distance (Table 1 Emission look up) 25 meters

Tier 1 Results	
Cancer/Chronic ASI	Acute ASI
6.70E+01 FAILED	PASSED

APPLICATION SCREENING INDEX CALCULATION

Compound	Average Annual Emission Rate (lbs/yr)	Max Hourly Emission Rate (lbs/hr)	Cancer/Chronic Pollutant Screening Level (lbs/yr) from Table 1	Acute Pollutant Screening Level (lbs/hr) from Table 1	Cancer/Chronic Pollutant Screening Index (PSI)	Acute Pollutant Screening Index (PSI)
Particulate Emissions from Diesel-Fueled Engines	3.24E+00	3.24E-01	4.83E-02		6.70E+01	
TOTAL (APPLICATION SCREENING INDEX)					6.70E+01	

EMISSIONS ARE ENTERED ON THE EMISSIONS WORKSHEET OR ON ONE OF EQUIPMENT WORKSHEETS
 INPUT PARAMETERS ENTERED ON THE EMISSIONS SHEET ARE USED FOR TIERS 1 AND TIER 2 ANALYSES

TIER 2 SCREENING RISK ASSESSMENT REPORT
(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.103

A/N: _____

Fac: 1000 Seward Project

Application deemed complete date: 1/1/2022

1. Stack Data

Equipment Type Generator

Combustion Eff 0.0
With T-BACT

Operation Schedule 0.25 hrs/day
1 days/week
40 weeks/year

Stack Height 18 ft

Distance to Residential 25 m

Distance to Commercial 25 m

Meteorological Station USC/Downtown L.A.

2. Tier 2 Data

Dispersion Factors tables	Point Source
For Chronic X/Q	Table 6
For Acute X/Q max	Table 6.4

Dilution Factors

Receptor	X/Q ($\mu\text{g}/\text{m}^3$)/(tons/yr)	X/Qmax ($\mu\text{g}/\text{m}^3$)/(lbs/hr)
Residential	45.34	676.64
Commercial - Worker	45.34	676.64

Intake and Adjustment Factors

	Residential	Worker
Year of Exposure	30	
Combined Exposure Factor (CEF) - Table 4	677.40	55.86
Worker Adjustment Factor (WAF) - Table 5	1	4.20

5a. MICR

MICR Resident = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Resident * CEF Resident * MP Resident * 1e-6 * MAAF

MICR Worker = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Worker * CEF Worker * MP Worker * WAF Worker * 1e-6 * MAAF

Compound	Residential	Commercial
Particulate Emissions from Diesel-Fueled En	5.47E-05	1.89E-05
Total	5.47E-05	1.89E-05
	FAIL	FAIL

5b. Is Cancer Burden Calculation Needed (MICR >1E-6)?

YES

New X/Q at which MICR_{70yr} is one-in-a-million [(µg/m³)/(tons/yr)]:

7.32E-01

New Distance, interpolated from X/Q table using New X/Q (meter):

191.04

Zone Impact Area (km²):

1.15E-01

Zone of Impact Population (7000 person/km²):

8.03E+02

Cancer Burden:

4.97E-02

Cancer Burden is less than or equal to 0.5

PASS

6. Hazard Index Summary

A/N: _____

Application deemed complete date: 01/01/22

HIA = [Q(lb/hr) * (X/Q)max * MWF] / Acute REL

HIC = [Q(ton/yr) * (X/Q) * MP * MWF] / Chronic REL

HIC 8-hr= [Q(ton/yr) * (X/Q) * WAF * MWF] / 8-hr Chronic REL

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL			N/A	Pass	Pass	Pass
Bones and teeth - BN			N/A	Pass	Pass	Pass
Cardiovascular system - CV			N/A	Pass	Pass	Pass
Developmental - DEV			N/A	Pass	Pass	Pass
Endocrine system - END			N/A	Pass	Pass	Pass
Eye			N/A	Pass	Pass	Pass
Hematopoietic system - HEM			N/A	Pass	Pass	Pass
Immune system - IMM			N/A	Pass	Pass	Pass
Kidney - KID			N/A	Pass	Pass	Pass
Nervous system - NS			N/A	Pass	Pass	Pass
Reproductive system - REP			N/A	Pass	Pass	Pass
Respiratory system - RESP		1.47E-02	N/A	Pass	Pass	Pass
Skin			N/A	Pass	Pass	Pass

A/N: _____

Application deemed complete date: 01/01/22

6a. Hazard Index Acute - Resident

HIA = [Q(lb/hr) * (X/Q)max resident * MWF] / Acute REL

Compound	HIA - Residential									
	AL	CV	DEV	EYE	HEM	IMM	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En										
Total										

6a. Hazard Index Acute - Worker

A/N: _____

Application deemed complete date: 01/01/22

$HIA = [Q(\text{lb/hr}) * (X/Q)\text{max Worker} * M\text{WAF}] / \text{Acute REL}$

Compound	HIA - Commercial									
	AL	CV	DEV	EYE	HEM	IMM	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En										
Total										

A/N: _____

Application deemed complete date: 01/01/22

6b. Hazard Index Chronic - Resident

HIC = [Q(ton/yr) * (X/Q) Resident * MP Chronic Resident * MWAF] / Chronic REL

Compound	HIC - Residential												
	AL	BN	CV	DEV	END	EYE	HEM	IMM	KID	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En												1.47E-02	
Total												1.47E-02	

A/N: _____

Application deemed complete date: 01/01/22

6b. Hazard Index Chronic - Worker

HIC = [Q(ton/yr) * (X/Q) * MP Chronic Worker * MWF] / Chronic REL

Compound	HIC - Commercial												
	AL	BN	CV	DEV	END	EYE	HEM	IMM	KID	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En												1.47E-02	
Total												1.47E-02	

6c. 8-hour Hazard Index Chronic - Resident

A/N: _____

Application deemed complete date: 01/01/22

HIC 8-hr = [Q(ton/yr) * (X/Q) Resident * WAF Resident * MWAF] / 8-hr Chronic REL

Compound	HIC - Residential												
	AL	BN	CV	DEV	END	EYE	HEM	IMM	KID	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En													
Total													

A/N: _____

Application deemed complete date: 01/01/22

6c. 8-hour Hazard Index Chronic - Worker

HIC 8-hr = [Q(ton/yr) * (X/Q) Worker * WAF Worker * MWAF] / 8-hr Chronic REL

Compound	HIC - Commercial												
	AL	BN	CV	DEV	END	EYE	HEM	IMM	KID	NS	REP	RESP	SKIN
Particulate Emissions from Diesel-Fueled En													
Total													

DIESEL ENGINE DATA

A/N , 1000 Seward Pt

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.103

Engine Horse Power	500	bhp
Engine Year Built	2022	
Generator Engine ?	YES	
Emission Factor from applicant or engine manufacturer's specification (*)		g/bhp-hr
EPA's PM non-road exhaust emission standards (**)	0.15	g/bhp-hr

Compound	R1 (Uncontrolled) (lbs/hr) (***)	Efficiency	R2 (Controlled) (lbs/hr)
Particulate Emissions from Diesel-Fueled Engines	1.65E-01	0.1	1.49E-01

(*) From applicant or engine manufacturer's specifications.

(**) From EPA non-road engine exhaust emission standards for Diesel ICE based on engine HP, engine year built and engine type. (<http://www.arb.ca.gov/msprog/offroad/offroad.htm> & <http://www.epa.gov/otaq/standards/nonroad/nonroadci.htm>)

(***) Uncontrolled emission R1 is calculated as followed:

$$R1 = \text{Engine Power [BHP]} \times \text{Emission Factor [g/BHP-hr]} \times 1 \text{ lb/454 g}$$

ATTACHMENT B



Letter EMY

WI #22-005.17

July 25, 2022

Darien K. Key, Esq.
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd, Suite 100
South San Francisco, California 94080

SUBJECT: 1000 Seward, Draft EIR, Comments on Noise Analysis

Dear Mr. Key,

Per your request, we have reviewed portions of the above referenced document, in particular Section II - Project Description and Section IV.F – Noise sections of the Draft EIR, as well as Appendix G. We have generated the following comments. The project includes the development of a 10-story mixed use office building in the Hollywood Community Plan area of LA. Demolition of existing structures will be required.

Existing Ambient Noise

The DEIR provides documentation for noise measured at five (5) receptor locations within 500 ft of the project site. At one location (R1) 24-hour measurements were made, and the hourly values are reported in Appendix G (page 4 of the PDF). These values are plotted in Figure 1. Based on these data, the average hourly Leq during typical construction hours (7 AM to 5 PM) was 57.0 dBA at R1- slightly less than the full daytime Leq of 56.4 dBA, and the standard deviation was 2.8 dBA over the course of the full daytime period (7 AM to 10 PM). The DEIR acknowledges that the noise environment measured at R1 might be unusually low to the different traffic patterns at that time due to the COVID-19 pandemic (DEIR p. IV-F.22); there is no mention of how the change in volume from COVID-affected conditions to normal conditions could affect the noise environment. The DEIR also indicates that 15-minute ambient measurements were made at the other locations (R2-R5) between 10 AM and 12 PM, and 11PM and 1 AM, and these data are included in Appendix G.

It is notable that 15-minute samples over the daytime hours (7 AM to 10 PM) is only 2% of the total daytime period; based on the results measured over a 24-hour period at Location R1 plotted in Figure 1, it appears that the daytime short-term measurements correspond to the noisiest time of the daytime period. Similarly, for the nighttime hours (10 PM to 7 AM), at 15-minute constitutes only 3% of the nighttime period, and based on the results measured at Location R1, it appears that the nighttime short-term measurements correspond to the noisiest time of the nighttime period. The standard deviation at Location R1 was 2.5 dBA over the course of the full nighttime period.

Furthermore, by using Type 2 sound level meters, which are accurate within +/- 1.5 dBA¹, relying on these limited time results to characterize the ambient noise within tenths of a decibel is misleading because it implies a level of precision that is not supported by the instrumentation. Since the DEIR relies on this data to determine the significance thresholds, it is imperative that the DEIR provide additional justification for using the short-term measurement results since it appears probable that the true daytime ambient lies closer to 50 dBA at some locations (R2, R3 and R4).

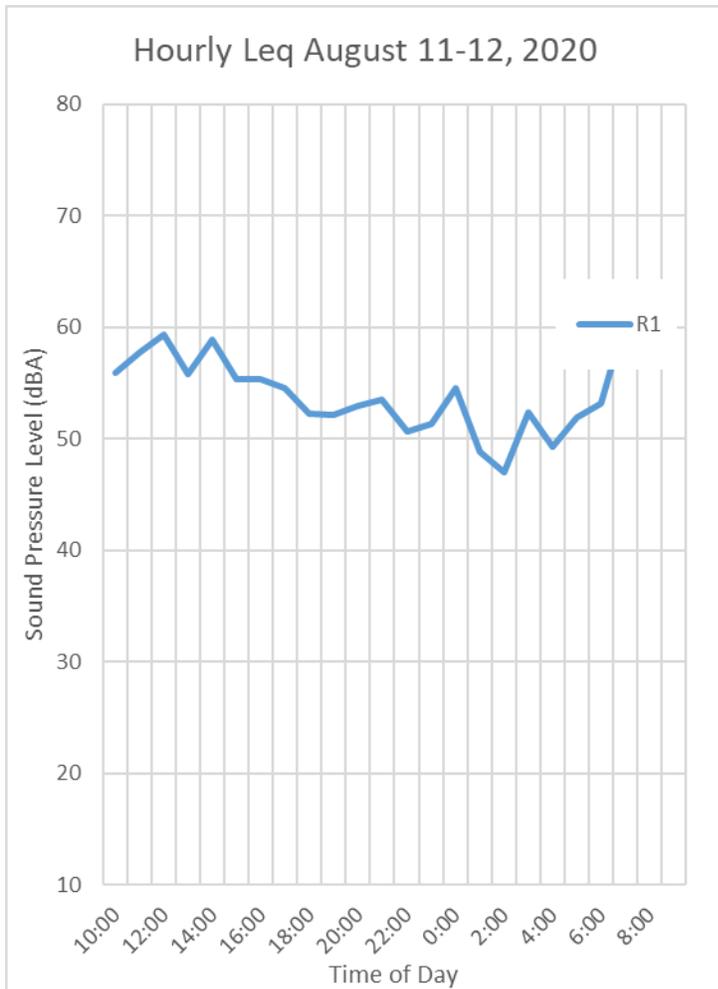


Figure 1 Long-Term noise measured in 2020 (source: Appendix G)

The DEIR uses the subsection header “Ambient Noise Levels” for the discussion of traffic noise that has been modeled using the Federal Highway (FHWA) Traffic Noise Model (TNM). There are no validation measurements provided in Appendix G that verify that the model is accurate within industry expectations. Caltrans acknowledges that a validated model may fall within +/- 3 dBA of the

¹ ANSI/ASA S1.43 Integrating Sound Level meters states that the tolerance limits for time averaging meters is +/- 1.5 dBA for Type 2 meters (Table 7) <https://law.resource.org/pub/us/cfr/ibr/002/ansi.s1.43.1997.pdf>

measured result², which undermines attempts to use modeled-only results from TNM for absolute noise characterization of the ambient condition. In the cases of urban environments, TNM does not take into account sound amplification from traffic noise reflecting off nearby buildings which occurred here.

Table IV.F-8 of the DEIR shows the traffic vehicle mix used for the traffic noise model, but the source of this information is not listed. The transportation study is included in Appendix J of the DEIR, and 24-hour traffic counts are included in its Appendix B. Calculating the traffic percentages *only* on Seward at Willoughby results in a distribution of 1412 vehicles between 7 AM and 7PM, 201 vehicles between 7 PM and 10 PM, and 151 vehicles during the nighttime (10 PM to 7 AM), resulting in percentages of 80%, 11%, and 9%, respectively. These are similar to the percentages shown in Table IV.F-8, however more discussion is required to explain how the noise analysis derived their values and vehicle mix from the transportation study, and why it is appropriate to apply the same percentages to all roads modeled in TNM.

It may be necessary to re-measure the ambient environment now that traffic patterns have largely returned to pre-pandemic conditions in many cities to update both the construction noise thresholds and the existing land use compatibility information.

Construction Noise and Mitigation

The DEIR foreshadows that on-site construction noise will cause a significant noise impact by including two provisions in the Project Design Features (PDFs) that are intended to reduce noise. These are:

1. Use mufflers and/or shielding in proper working condition
2. Prohibit the use of impact pile drivers

[DEIR at p. IV.F-32]

Despite these provisions and the addition of a temporary construction noise barrier that will purportedly provide 15-dBA of noise reduction [DEIR at p. IV.F-46], the DEIR nonetheless concludes that on-site construction noise will be significant and unavoidable [DEIR at p. IV.F-48]. With this determination comes the obligation to incorporate all feasible mitigation measures, which should include the following:

- Make NOI-PDF-1 (mufflers) and NOI-PDF-2 (no pile drivers) *bona fide* mitigation measures so that they are included in the Mitigation Monitoring and Reporting Program (MMRP) and are, hence, legally enforceable.

² Caltrans Technical Noise Supplement (2013). Page 4-8: "TNM cannot account for all the variables present in the real world. It uses relatively simple algorithms to approximate physical processes that are complex in nature. TNM for projects involving existing roadways should always be validated for accuracy by comparing measured sound levels to modeled sound levels using traffic data collected during the measurement. If modeled sound levels do not match measured sound levels within ± 3 dB the model parameters should be reviewed and adjusted if necessary to ensure that they accurately represent actual site conditions. If the measurements and model results are still not in agreement, the model should be calibrated." <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tens-sep2013-a11y.pdf>

- Include in NOI-MM-1 a commitment to monitor noise continuously during construction and to halt construction if noise levels exceed 74 dBA Leq at R1, 65 dBA Leq at R2, and/or 57 dBA Leq at R3 (these are the highest predicted levels in DEIR Table IV.F-11 less 15 dBA, the noise attenuation to be provided by the temporary noise barrier, rounded to the nearest decibel).

**Table IV.F-11
Construction Noise Impacts**

Off-Site Receptor Location	Approximate Distance from Receptor to Project Construction Area (feet)	Estimated Construction Noise Levels by Construction Phases (Leq (dBA))					
		Demo	Grading/Excavation	Mat Foundation	Foundation	Building Construction	Paving
R1	15	89.3	89.3	85.9	88.2	87.3	88.3
R2	70	79.2	80.2	76.4	77.7	79.5	77.3
R3	210	70.4	71.8	68.1	69.3	71.1	68.3
R4	500	53.1	54.7	51.1	52.1	54.1	50.9
R5	160	57.6	59.0	55.3	56.4	58.3	55.5

Excerpt of Table IV.F-11 [DEIR at p. IV.F-36]

- Given that construction of the project is anticipated to last from 2022 to 2025 [DEIR at p. II-12], another feasible mitigation measure for the immediate neighboring receptor R1 would be to offer to upgrade windows that face the site from what look like single-pane, aluminum sliders to double-pane, acoustically rated windows (Sound Transmission Class > 30).

In addition to the lack of construction noise mitigation measures, the DEIR lacks any analysis of potential groundborne noise impacts at nearby recording studios. It is customary for studios to use room-within-room configurations to isolate the recording sessions from ambient noise within the control room and other parts of the studio and from airborne noise at the exterior. However, many such facilities are not designed for groundborne vibration that can radiate sound into the interior.

The FTA guidance cited by the DEIR for groundborne vibration also includes a threshold of 25 dBA for recording studios. (FTA Table 6-4) See Figure 2. Based on the “General Vibration” assessment method outlined in the FTA guidance, the groundborne noise can be estimated from the ground vibration levels. In this case would be adjusted by -20 to -35 dBA to account for the type of soil and characteristics of the vibration source³. Thus, the vibration values shown in Table IV.F-21 of the DEIR would result in the groundborne noise levels shown in Table 1 at Receptor R5. Other recording studios that are further away could also be significantly impacted.

³ The LA Metro Regional Connector Final EIS-EIR analysis used a conversion factor of -35 dB; construction activity generally has higher frequency vibration than rail vehicles; thus a range of -20 to -30 dB is appropriate for this analysis. [Volume F-1 Final EIS-EIR Main Document - Dropbox](#)

Table 6-4 Indoor Ground-Borne Vibration and Noise Impact Criteria for Special Buildings

Type of Building or Room	Ground-Borne Vibration Impact Levels (VdB re 1 micro-inch/sec)		Ground-Borne Noise Impact Levels (dBA re 20 micro-Pascals)	
	Frequent Events	Occasional or Infrequent Events	Frequent Events	Occasional or Infrequent Events
Concert halls	65 VdB	65 VdB	25 dBA	25 dBA
TV studios	65 VdB	65 VdB	25 dBA	25 dBA
Recording studios	65 VdB	65 VdB	25 dBA	25 dBA
Auditoriums	72 VdB	80 VdB	30 dBA	38 dBA
Theaters	72 VdB	80 VdB	35 dBA	43 dBA

Figure 2 FTA Guidance for Special Buildings, including recording studios (from FTA 2018)

Table 1 Construction Groundborne Noise Impacts

Off-site Receptor Location	Estimated Groundborne Noise at the Off-Site Receptor R5 (dBA)					Significance Criteria (dBA)	Significant Impact?
	Large Bulldozer	Caisson Drilling	Loaded Trucks	Jackhammer	Small Bulldozer		
R5	28-43	28-43	27-42	20-35	≤1	25	Yes

Adapted from Table IV.F-21 of the DEIR

As shown in Table 1, several construction activities would generate significant groundborne noise impact, requiring mitigation.

Mitigation Measure NOI-MM-2 identifies vibration monitoring program; to mitigate this groundborne noise impact, but the following additional measures are required to reduce the impacts to non-significant levels:

1. Prior to construction, measure the ambient noise environment on a 1/3 octave band basis within the recording studio(s) under normal recording conditions. The measurement period shall correspond to the quietest time of day that recordings are done (during construction hours) and shall have a duration of not less than 60 minutes. Statistical metrics should be determined in addition to the Leq. Noise measurement equipment shall conform to Type 1 or Class 1 sound level meters with professional quality recording devices such as a Sony PCM-D50 or better or a digital data recorder such as a Rion DA-20 or equivalent.
2. Characterize the project-vicinity vibration propagation to determine how on-site vibration will transmit to recording studio. If it can be shown that all of the construction activities would not exceed the background noise levels (L90) measured in the studio(s) based on corresponding groundborne noise calculation to the interior of the studio spaces, then one construction-phase noise measurement will be required to confirm this result.
3. If any construction activities would exceed the existing ambient (e.g., Leq, and basic statistical metrics such as L90, L50, L10 and L1), then the contractor must provide a vibration control plan that demonstrates how they will use their vibration-generating equipment and/or schedule their activities in collaboration with the recording studio(s) to avoid interfering with each studio's normal recording activities.

4. This analysis and the vibration control plan will be subject to review and approval by the City of Los Angeles, and the affected sound recording studio operators will also have ample opportunity to review and resolve comments.

Operational Noise and Mitigation

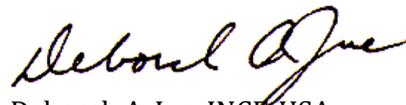
The DEIR noise analysis provides very little information to explain its methodology regarding how the traffic noises estimated from TNM were combined with the on-site noise sources (rooftop, loading noise, etc.). The short paragraphs in the Methodology section (3b) of Section IV.F and the technical Appendix G omit much detail and evidence to inform the reader of the model inputs. A 10-story building will require substantial mechanical equipment to ventilate and cool the spaces. There is no evidence provided regarding the size or quantity of the equipment. Based on our experience, rooftop equipment for a building this size often includes a water tower or air cooled condenser fans with a typical sound rating of 85 decibel sound power level (PWL), and several make up air fans as large as 40,000 cubic feet per minute (CFM) (90 dBA PWL). A combination of four or more fans would generate a noise level on the order of 59 dBA or more using spherical divergence (spreading) in a free-field (no ground reflections) to a distance of 50 ft or 55 dBA at a distance of 80 ft. If this equipment operates continuously, the resulting CNEL would be 62 dBA, which alone would cause the future noise environment to increase by 4 dBA.

The DEIR does not contain any analysis of the potential impact of music from outdoor amplified sound systems. Project Design Feature NOI-PDF-4 limits the noise emitted from each sound system but the DEIR does not appear to include the aggregate effect of sound systems complying with the PDF into its composite noise analysis. Compliance with the PDF and municipal codes notwithstanding the noise from music and elevated human voice from active life celebrations are potentially significant. Therefore, the DEIR must include mitigation that certifies that the operation of outdoor amplified sound systems would be in compliance with the applicable code to be declared a less than significant noise impact.

Please feel free to contact me with any questions on this information.

Very truly yours,

WILSON IHRIG



Deborah A. Jue, INCE-USA
Principal



DEBORAH JUE

Principal

Since joining Wilson Ihrig in 1990, Ms. Jue has been involved in with many projects from environmental assessments and entitlements, through design development, construction documents and construction administration support. As an acoustical consultant, she has provided noise measurement, analysis and recommendations to control noise and vibration both at the interior of the project and at the neighboring properties. She has authored many reports concerning compliance with the requirements of California Noise Insulation Standards, Title 24, local Noise Elements, environmental assessments and Federal noise criteria, and is well aware of the additional design and construction technique requirements to achieve industry standards. Ms. Jue has authored or provided input for many environmental documents and technical studies in accordance with NEPA and California's CEQA regulations, most of them related to surface transportation, and she gives presentations to public officials when necessary to explain construction noise problems, noise mitigation goals, and noise control methods. She can develop construction noise and vibration criteria to address vibration damage potential to nearby buildings and sensitive structures, and vibration annoyance or disruption potential for occupants of nearby buildings.

Education

- M.S. in Mechanical Engineering, University of California, Berkeley, 1998
- B.S. in General Engineering: Acoustics, Stanford University, 1988

Professional Associations (Member)

- American Society of Mechanical Engineers
- Acoustical Society of America
- National Council of Acoustical Consultants
- Institute of Noise Control Engineering
- WTS
- Transportation Research Board, AEP80 Standing Committee Member (2021-2024)

Research and Published Papers

- ACRP Report 175, ACRP 07-14, *Improving Intelligibility of Airport Terminal Public Address Systems*
- NCHRP 25-25, *Current Practices to Address Construction Vibration and Potential Effects to Historic Buildings Adjacent to Transportation Projects*
- *Transportation Research Record*, V. 2502, "Considerations to Establish Ground-Borne Noise Criteria to Define Mitigation for Noise-Sensitive Spaces"

Relevant Experience

- California High Speed Rail Caltrain Corridor EIR/EIS, San Francisco to San Jose
- UC Berkeley Northgate Hall A/V Renovations, Berkeley
- MacArthur Station, *long-term construction noise and vibration monitoring*, Oakland
- Safeway @ Claremont & College, *HVAC noise and construction noise monitoring*, Oakland
- ACTC I-80/Ashby, *interchange traffic noise analysis*, Berkeley and Emeryville
- ACTC I-680 Express Lanes, *traffic noise analysis*, Contra Costa County, CA
- Chase Arena, *construction noise and vibration monitoring*, San Francisco



James Harris <james.harris@lacity.org>

Fwd: Comment on Draft Environmental Impact Report, 1000 Seward Project

2 messages

Colby Gonzalez <colby@lozeaudrury.com>
To: james.harris@lacity.org

Tue, Jul 26, 2022 at 2:42 PM

Good afternoon Mr. Harris,

I had attempted to send comments on the DEIR for 1000 Seward Project yesterday but accidentally used the wrong email address. Please see below.

Thank you!
Colby Gonzalez

----- Forwarded message -----

From: **Colby Gonzalez** <colby@lozeaudrury.com>

Date: Mon, Jul 25, 2022 at 12:18 PM

Subject: Comment on Draft Environmental Impact Report, 1000 Seward Project

To: <james.harris@cityofla.org>

Cc: Molly Greene <molly@lozeaudrury.com>, Victoria Yundt <victoria@lozeaudrury.com>

Good afternoon Mr. Harris,

Please find attached a comment submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the 1000 Seward Project. If you would please confirm receipt of this letter, it would be greatly appreciated.

Best Regards,
Colby Gonzalez

--

Colby Gonzalez
Legal Assistant
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612
(510) 836-4200
(510) 836-4205 (fax)
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 **1000 Seward DEIR Comments.pdf**
257K

James Harris <james.harris@lacity.org>
To: Colby Gonzalez <colby@lozeaudrury.com>

Tue, Jul 26, 2022 at 2:47 PM

Thank you for the comment letter to the 1000 Seward project.
Your comment will be added to the record.
Jim



LOS ANGELES
CITY PLANNING

Jim Harris

Major Projects

Los Angeles City Planning

221 N. Figueroa St., Room 1350

Los Angeles, CA 90012

T: (213) 978-1241 | Planning4LA.org



[Quoted text hidden]



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
richard@lozeaudrury.com

Via Email

July 25, 2022

James Harris, City Planner
Department of City Planning
City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012
james.harris@cityofla.org

Re: Comment on Draft Environmental Impact Report, 1000 Seward Project

Dear Mr. Harris:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Draft Environmental Impact Report (“DEIR”) prepared for the 1000 Seward Project, including all actions related or referring to the proposed construction of a 10-story, 150,600 sf mixed use office building located at 1000/1006 North Seward Street; 1003/1007/1013 North Hudson Avenue; 6565 West Romaine Street in the City of Los Angeles (“Project”).

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Planning Division address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approvals for the Project.

We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,

A handwritten signature in black ink that reads "Victoria Yundt". The signature is written in a cursive, flowing style.

Victoria Yundt

Ph: (626) 381-9248
Fx: (626) 389-5414
Em: info@mitschtsailaw.com



Mitchell M. Tsai
Attorney At Law

139 South Hudson Avenue
Suite 200
Pasadena, California 91101

VIA E-MAIL

June 9, 2022

Beatrice Pacheco, Chief Clerk
City of Los Angeles Planning Records Management
221 North Figueroa Street, Room 1450
Los Angeles, CA 90012
Em: Beatrice.pacheco@lacity.org

RE: Public Records Act and Mailing List Request Regarding the 1000 Seward Project (SCH#:2020120239).

Dear Beatrice Pacheco,

On behalf of Southwest Regional Council of Carpenters (“**SWRCC**” or “**Southwest Carpenters**”) and its members, this Office requests that the City of Los Angeles (“**City**”) provide any and all information referring or related to the 1000 Seward Project (SCH#:2020120239) (“**Project**”) pursuant to the California Public Records Act (“**PRA**”), Cal. Government (“**Gov’t**”) Code §§ 6250–6270 (collectively “**PRA Request**”).

Moreover, SWRCC requests that City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

The Southwest Regional Council of Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects, such as the Project.

I. PUBLIC RECORDS ACT REQUEST.

Southwest Carpenters is requesting any and all information referring or related to the Project.

The Public Records Act defines the term “public record” broadly as “any writing containing information relating to the conduct of the public’s business . . . regardless of physical form and characteristics.” Gov’t Code § 6252(d). “Records” includes all communications relating to public business regardless of physical form or characteristics, including but not limited to any writing, picture, sound, or symbol, whether paper, magnetic, electronic, text, other media, or written verification of any oral communication. Included in this request are any references in any appointment calendars and applications, phone records, or text records. These “records” are to include, but are not limited to correspondences, e-mails, reports, letters, memorandums, and communications by any employee or elected official of City concerning the Project.

Please include in your response to this request the following examples of “records,” as well as any similar physical or electronic forms of communication: any form of writing such as correspondence, electronic mail records (“email”), legal and factual memoranda, facsimiles, photographs, maps, videotapes, film, data, reports, notes, audiotapes, or drawings. Cal. Government Code § 6252(g) (defining a writing to including “any record thereby created, regardless of the manner in which the record has been stored”). Responsive correspondence should include, inter alia, emails, text messages, or any other form of communication regardless of whether they were sent or received on public or privately-owned electronic devices “relating to the conduct of the public’s business.” Cal. Government Code § 6252(e); *Citizens for Ceres v. Super. Ct.* (“Ceres”) (2013) 217 Cal. App. 4th 889, 909; *Citizens for Open Gov’t v. City of Lodi* (“Lodi”) (2012) 205 Cal.App.4th 296, 307, 311; *City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 625 (finding that a public employee or officer’s “writings about public business are not excluded” from the California Public Records Act “simply because they have been sent, received, or stored in a personal account.”) .

This Office requests any and all information referring or related to the Project, including but not limited to:

- (1) All Project application materials;
- (2) All staff reports and related documents prepared by the City with respect to its compliance with the substantive and procedural requirements of the California Environmental Quality Act, Public Resources Code § 21000 et seq., and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 et seq. (collectively

“**CEQA**”) and with respect to the action on the Project;

- (3) All staff reports and related documents prepared by the City and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the agency pursuant to CEQA;
- (4) Any transcript or minutes of the proceedings at which the decisionmaking body of the City heard testimony on, or considered any environmental document on, the Project, and any transcript or minutes of proceedings before any advisory body to the public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the Project;
- (5) All notices issued by the City to comply with CEQA or with any other law governing the processing and approval of the Project;
- (6) All written comments received in response to, or in connection with, environmental documents prepared for the Project, including responses to the notice of preparation;
- (7) All written evidence or correspondence submitted to, or transferred from, the City with respect to compliance with CEQA or with respect to the Project;
- (8) Any proposed decisions or findings submitted to the decisionmaking body of the City by its staff, or the Project proponent, Project opponents, or other persons;
- (9) The documentation of the final City decision and approvals, including the final environmental impact report, mitigated negative declaration, negative declaration, or notice of exemption, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;
- (10) Any other written materials relevant to the public agency's compliance with CEQA or to its decision on the merits of the Project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public

review, and copies of studies or other documents relied upon in any environmental document prepared for the Project and either made available to the public during the public review period or included in the City 's files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA; and

- (11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of any litigation.

Please respond within 10 days from the date you receive this request as to whether this request specifies identifiable records not exempt from disclosure under the PRA or otherwise privileged or confidential, and are therefore subject to disclosure. This Office understands that this time may be extended up to 14 days for unusual circumstances as provided by Cal. Government Code § 6253(c), and that we will be notified of any extension and the reasons justifying it.

We request that you provide all documents in electronic format and waive any and all fees associated with this Request. SWRCC is a community-based organization. Please notify and obtain express approval from this Office before incurring any duplication costs.

If any of the above requested documents are available online, please provide us with the URL web address at which the documents may be downloaded. If any of the requested documents are retained by the City in electronic computer-readable format such as PDF (portable document format), please provide us with pdf copies of the documents via email, or inform us of the location at which we can copy these documents electronically.

In preparing your response, please bear in mind that you have an obligation under Government Code section 6253.1 to (1) identify all records and information responsive to our request or the purpose of our request; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

In responding to this request, please bear in mind that any exemptions from disclosure you may believe to be applicable are to be narrowly construed. *Marken v. Santa Monica-Malibu Unif. Sch. Dist.* (2012) 202 Cal. App. 4th 1250,1262; and may be further narrowed or eliminated by the adoption of Proposition 59, which amended article I, section 3(b)(2) of the California Constitution to direct that any “statute ... or other authority ... [that] limits the right of access” to “information concerning the conduct of the people’s business” must be “narrowly construed.”

As for any records that you nonetheless decline to produce on the grounds of an exemption, please bear in mind that the case law under the Public Records Act imposes a duty on you to distinguish between the exempt and the non-exempt portion of any such records, and to attempt in good faith to redact the exempt portion and to disclose the balance of such documents.

Please bear in mind further that should you choose to withhold any document from disclosure, you have a duty under Government Code section 6255, subd. (a) to “justify withholding any record by demonstrating that the record in question is exempt under express provisions” of the Public Records Act or that “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

Finally, please note that you must retain and not destroy any and all records, notwithstanding any local record retention or document destruction policies. As the Court noted in *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733 that a public agency “must retain ‘[a]ll written evidence or correspondence submitted to, or transferred from’ . . . with respect to” CEQA compliance or “with respect to the project.”

II. NOTICE LIST REQUEST.

We also ask that you put this Office on its notice list for any and all notices issued under the CEQA and the Planning and Zoning Law.

In particular, we request that City send by mail or electronic mail notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivision for the Project, or supported, in whole or in part, through permits, contracts, grants, subsidies, loans, or other forms of approvals, actions or assistance, including but not limited to the following:

- Notices of any public hearing held in connection with the Project; as well as
- Any and all notices prepared pursuant to CEQA, including but not limited to:
- Notices of determination that an Environmental Impact Report (“EIR”) or supplemental EIR is required for a project, prepared pursuant to Public Resources Code Section 21080.4;
- Notices of availability of an EIR or a negative declaration for a project prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations;
- Notices of approval or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of approval or certification of any EIR or negative declaration prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of exemption from CEQA prepared pursuant to Public Resources Code section 21152 or any other provision of law; and
- Notice of any Final EIR prepared pursuant to CEQA.

This Office is requesting notices of any approvals or public hearings under CEQA and the California Planning and Zoning Law. This request is filed pursuant to California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 requiring agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

Please send notice by regular and electronic mail to:

Mitchell M. Tsai, Attorney At Law
139 South Hudson Avenue
Suite 200
Pasadena, California 91101
Em: mitch@mitchtsailaw.com
Em: brandon@mitchtsailaw.com

Em: rebekah@mitchtsailaw.com

Em: maria@mitchtsailaw.com

Em: hind@mitchtsailaw.com

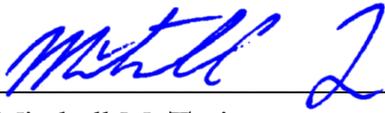
Em: malou@mitchtsailaw.com

Em: steven@mitchtsailaw.com

Em: info@mitchtsailaw.com

We look forward to working with you. If you have any questions or concerns, please do not hesitate to contact our Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional Council
of Carpenters