

## APPLICATIONS

### APPEAL APPLICATION Instructions and Checklist



### RELATED CODE SECTION

Refer to the Letter of Determination (LOD) for the subject case to identify the applicable Los Angeles Municipal Code (LAMC) Section for the entitlement and the appeal procedures.

### PURPOSE

This application is for the appeal of Los Angeles City Planning determinations, as authorized by the LAMC, as well as first-level Building and Safety Appeals.

### APPELLATE BODY

**Check only one. If unsure of the Appellate Body, check with City Planning staff before submission.**

- ☐ Area Planning Commission (APC)      ☐ City Planning Commission (CPC)      ☒ City Council  
☐ Zoning Administrator (ZA)      ☐ Director of Planning (DIR)

### CASE INFORMATION

**Case Number:** ENV-2017-506-EIR; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN; ZA-2021-7053-ZAI

**Project Address:** 754 South Hope Street; 609 - 625 West 8th Street

**Final Date to Appeal:** VTT-74864-CN-1A - October 6; CPC-2017-505-TDR-ZV-SPPA-DD-SPR - October 11

### APPELLANT

**For main entitlement cases, except for Building and Safety Appeals:**

**Check all that apply.**

- ☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved  
☐ Representative      ☐ Property Owner      ☐ Applicant      ☐ Operator of the Use/Site

**For Building and Safety Appeals only:**

**Check all that apply.**

- ☐ Person claiming to be aggrieved by the determination made by **Building and Safety**<sup>1</sup>  
☐ Representative      ☐ Property Owner      ☐ Applicant      ☐ Operator of the Use/Site

<sup>1</sup> Appellants of a Building and Safety Appeal are considered the Applicant and must provide the Noticing Requirements identified on page 4 of this form at the time of filing. Pursuant to LAMC Section 12.26 K, an appeal fee shall be required pursuant to LAMC Section 19.01 B.2.

## APPELLANT INFORMATION

**Appellant Name:** CREED LA c/o Aidan P. Marshall

**Company/Organization:** Adams, Broadwell, Joseph & Cardozo

**Mailing Address:** 601 Gateway Blvd. Ste. 1000

**City:** South San Francisco **State:** CA **Zip Code:** 94080

**Telephone:** (650) 589-1660 **E-mail:** amarshall@adamsbroadwell.com

Is the appeal being filed on your behalf or on behalf of another party, organization, or company?

☐ Self ☒ Other: CREED LA

Is the appeal being filed to support the original applicant's position?

☐ YES ☒ NO

## REPRESENTATIVE / AGENT INFORMATION

**Representative/Agent Name (if applicable):** Aidan P. Marshall

**Company:** Adams, Broadwell, Joseph & Cardozo

**Mailing Address:** 601 Gateway Blvd. Ste. 1000

**City:** South San Francisco **State:** CA **Zip Code:** 94080

**Telephone:** (650) 589-1660 **E-mail:** amarshall@adamsbroadwell.com

## JUSTIFICATION / REASON FOR APPEAL

Is the decision being appealed in its entirety or in part?

☒ Entire ☐ Part

Are specific Conditions of Approval being appealed?

☒ YES ☐ NO

If Yes, list the Condition Number(s) here: All Conditions

On a separate sheet provide the following:

- ☒ Reason(s) for the appeal
- ☒ Specific points at issue
- ☒ How you are aggrieved by the decision
- ☒ How the decision-maker erred or abused their decision

## APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true.

**Appellant Signature:**  **Date:** 10/5/23

## GENERAL NOTES

*A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.*

*The appellate body must act on the appeal within a time period specified in the LAMC Section(s) pertaining to the type of appeal being filed. Los Angeles City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.*

### THIS SECTION FOR CITY PLANNING STAFF USE ONLY

Base Fee: \$ 166

Reviewed & Accepted by (DSC Planner): J. Chan

Receipt No.: 06102303A Date : 10/6/23

☒ Determination authority notified ☐ Original receipt and BTC receipt (if original applicant)

## GENERAL APPEAL FILING REQUIREMENTS

If dropping off an appeal at a Development Services Center (DSC), the following items are required. See also additional instructions for specific case types. To file online, visit our [Online Application System \(OAS\)](#).

### APPEAL DOCUMENTS

#### 1. Hard Copy

Provide three sets (one original, two duplicates) of the listed documents for each appeal filed.

- ☐ Appeal Application
- ☐ Justification/Reason for Appeal
- ☐ Copy of Letter of Determination (LOD) for the decision being appealed

#### 2. Electronic Copy

- ☐ Provide an electronic copy of the appeal documents on a USB flash drive. The following items must be saved as individual PDFs and labeled accordingly (e.g., “Appeal Form”, “Justification/Reason Statement”, or “Original Determination Letter”). No file should exceed 70 MB in size.

#### 3. Appeal Fee

- ☐ *Original Applicant.* The fee charged shall be in accordance with LAMC Section 19.01 B.1(a), or a fee equal to 85% of the original base application fee. Provide a copy of the original application receipt(s) to calculate the fee.
- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).

#### 4. Noticing Requirements (Applicant Appeals or Building and Safety Appeals Only)

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per the LAMC for all Applicant appeals. Appellants for BSAs are considered Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning’s mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

## SPECIFIC CASE TYPES

### ADDITIONAL APPEAL FILING REQUIREMENTS AND / OR LIMITATIONS

#### DENSITY BONUS (DB) / TRANSIT ORIENTED COMMUNITIES (TOC)

Appeal procedures for DB/TOC cases are pursuant to LAMC Section 12.22 A.25(g).

- Off-Menu Incentives or Waiver of Development Standards are not appealable.
- Appeals of On-Menu Density Bonus or Additional Incentives for TOC cases can only be filed by adjacent owners or tenants and is appealable to the City Planning Commission.
- ☐ Provide documentation confirming adjacent owner or tenant status is required (e.g., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, driver's license, bill statement).

#### WAIVER OF DEDICATION AND / OR IMPROVEMENT

Procedures for appeals of Waiver of Dedication and/or Improvements (WDIs) are pursuant to LAMC Section 12.37 I.

- WDIs for by-right projects can only be appealed by the Property Owner.
- If the WDI is part of a larger discretionary project, the applicant may appeal pursuant to the procedures which govern the main entitlement.

#### [VESTING] TENTATIVE TRACT MAP

Procedures for appeals of [Vesting] Tentative Tract Maps are pursuant LAMC Section 17.54 A.

- Appeals must be filed within 10 days of the date of the written determination of the decision-maker.

#### BUILDING AND SAFETY APPEAL

##### First Level Appeal

Procedures for an appeal of a determination by the Los Angeles Department of Building and Safety (LADBS) (i.e., Building and Safety Appeal, or BSA) are pursuant LAMC Section 12.26 K.1.

- The Appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

##### 1. Appeal Fee

- ☐ Appeal fee shall be in accordance with LAMC Section 19.01 B.2 (i.e., the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code, plus surcharges).

##### 2. Noticing Requirement

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.3. Appellants for BSAs are considered Original Applicants.

- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

## Second Level Appeal

Procedures for a appeal of the Director's Decision on a BSA Appeal are pursuant to LAMC Section 12.26 K.6. The original Appellant or any other aggrieved person may file an appeal to the APC or CPC, as noted in the LOD.

### 1. Appeal Fee

- ☐ *Original Applicant.* Fees shall be in accordance with the LAMC Section 19.01 B.1(a).

### 2. Noticing Requirement

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.7. Appellants for BSAs are considered Original Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

## NUISANCE ABATEMENT / REVOCATIONS

Appeal procedures for Nuisance Abatement/Revocations are pursuant to LAMC Section 12.27.1 C.4. Nuisance Abatement/Revocations cases are only appealable to the City Council.

### 1. Appeal Fee

- ☐ *Applicant (Owner/Operator).* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(a).

For appeals filed by the property owner and/or business owner/operator, or any individuals/agents/representatives/associates affiliated with the property and business, who files the appeal on behalf of the property owner and/or business owner/operator, appeal application fees listed under LAMC Section 19.01 B.1(a) shall be paid, at the time the appeal application is submitted, or the appeal application will not be accepted.

- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).

ADAMS BROADWELL JOSEPH & CARDOZO

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MARC D. JOSEPH  
DANIEL L. CARDOZO

October 5, 2023

**VIA ONLINE SUBMISSION**

Los Angeles City Council

Online Portal: <https://plncts.lacity.org/oas>

**VIA EMAIL AND OVERNIGHT MAIL**

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**Re: Appeal of City Planning Commission Approval of the 8th, Grand and Hope Project (Case Nos. ENV-2017-506-EIR; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN).**

Dear City Council President Krekorian, Councilmembers, and Ms. Majas:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit this appeal of the City of Los Angeles ("City") City Planning Commission ("Commission") September 26, 2023 approvals of the 8th, Grand and Hope Project (SCH No. 2019050010, Case Nos. ENV-2017-506-EIR; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN; ZA-2021-7053-ZAI) ("Project"), proposed by Mitsui Fudosan America ("Applicant"). On September 26, 2023, the Commission issued three separate Letters of Determination ("LOD") for Case Numbers VTT-74876-CN, CPC-2017-505-TDR-ZV-SPPA-DD-SPR, and ZA-2021-7053-ZAI. This appeal concerns Case Numbers VTT-74876-CN and CPC-2017-505-TDR-ZV-SPPA-DD-SPR.

The scope of the Commission's determination for Case No. VTT-74876-CN includes approval of a Vesting Tentative Tract Map; certification of an Environmental Impact Report ("EIR"); adoption of Environmental Findings, Statement of Overriding Considerations; and Mitigation Monitoring Program ("MMRP"); denying the appeal in part and granting the appeal in part, and sustained the decision of the Advisory Agency dated May 26, 2023. The scope of the

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Commission's determination for Case No. CPC-2017-505-TDR-ZV-SPPA-DD-SPR includes approval of zone variances, approval of Specific Plan Project Permit Adjustments, approval of a Director's Decision to allow 79 trees to be planted on-site, Site Plan Review, and a recommendation to City Council to approve a Transfer of Floor Area Rights ("TFAR"). The Commission issued its LOD on September 26, 2023.

CREED LA submitted comments on the Project's Draft EIR ("DEIR") on January 5, 2022 during the public review period required by Section 15087 of the California Environmental Quality Act ("CEQA") Guidelines.<sup>1</sup> CREED LA's comments on the DEIR demonstrated that the DEIR fails to comply with CEQA by failing to accurately disclose potentially significant impacts, failing to support its significance findings with substantial evidence, and failing to mitigate the Project's significant impacts to the greatest extent feasible, in violation of CEQA. The City included responses to comments in the Final EIR ("FEIR") pursuant to Section 15088 of the CEQA Guidelines. CREED LA submitted comments explaining that the DEIR's flaws were not remedied in the City's FEIR. Subsequently, a public hearing for the Project was held by the Deputy Advisory Agency and Hearing Officer on behalf of the City Planning Commission on February 15, 2023. The Advisory Agency's LOD was mailed on May 26, 2023. CREED LA appealed the Advisory Agency's determination to the Commission. CREED LA's appeal and other approvals were considered by the Commission at its July 13, 2023, meeting.

CREED LA hereby appeals all actions taken by the Commission with regard to the Project as described in the LODs for Case Numbers VTT-74876-CN and CPC-2017-505-TDR-ZV-SPPA-DD-SPR. This appeal is timely filed in compliance with the LAMC. The reasons for this appeal are set forth herein and in the attachments, which include CREED LA's comments on the DEIR and FEIR,<sup>2</sup> appeal to the Advisory Agency,<sup>3</sup> and letter to the Advisory Agency responding to the staff report

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<sup>1</sup>14 Cal. Code Regs. §§ 15000 et seq.; see Cal. Pub. Res. Code §§ 21000 et seq.

<sup>2</sup> **Attachment A:** Letter from Adams Broadwell Joseph & Cardozo to City re: Comments on 8th, Grand and Hope FEIR (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (February 15, 2023); Comments on 8th, Grand and Hope DEIR (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (Jan. 5, 2022).

<sup>3</sup> **Attachment B:** Appeal of Advisory Agency Approval of the 8th, Grand and Hope Project (Case Nos. ENV-2017-506-EIR; ZA-2021-7053-ZAI; VTT-74876-CN). (June 2, 2023)



prepared for the Project.<sup>4</sup> We incorporate by reference the attached comments and exhibits, which are in the City's record of proceedings for the Project.<sup>5</sup>

As explained herein and in the attached comments, the Commission abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.<sup>6</sup>

## I. STANDING TO APPEAL

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 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, Gery 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.

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<sup>4</sup> **Attachment C:** Letter from ABJC to City Re: Agenda Item 8 and 10 – 8th, Grand and Hope Project (Case Nos. ENV-2017-506-EIR; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN; ZA-2021-7053-ZAI) (July 11, 2023).

<sup>5</sup> We reserve the right to supplement these comments at later hearings and proceedings on the Project. Gov. Code § 65009(b); PRC § 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,

<sup>6</sup> Code Civ. Proc. § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

Section 17.06 of the LAMC, “Tentative Map and Appeals,” provides that “[t]he subdivider, the Mayor, any member of the City Council, the Advisory Agency, or any other interested person adversely affected by the proposed subdivision may appeal any action of the Appeal Board<sup>7</sup> with respect to the tentative map or the kinds, nature or extent of the improvements required by the Appeal Board to the City Council.” CREED LA and its members are interested persons who would be adversely affected by the Vesting Tentative Tract Map approved by the Advisory Agency.

Section 12.27(O) of the LAMC, “Variances,” provides that “[a]n appeal from a decision of the Area Planning Commission granting or affirming the grant of a variance may be filed by the applicant or any person aggrieved by the decision.” CREED LA and its members are aggrieved by the Commission’s decision. And Section 11.5.7(J) of the LAMC, “Specific Plan Procedures,” provides for appeal of Area Planning Commission decisions to the City Council.

As CREED LA’s appeal is timely filed, CREED LA has standing to appeal the Commission’s decision to City Council.

## **II. REASONS FOR APPEAL**

### **A. The Commission’s Approval of a Vesting Tentative Tract Map Was Contrary to Law and Unsupported by the Record**

The Subdivision Map Act (“SMA”) provides guidance as to the findings that the agency must make when approving a tentative map, and requires agencies to deny map approval if the project would result in significant environmental or public health impacts. Government Code, section 66474, provides:

A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

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<sup>7</sup> LAMC Section 17.02 defines “Appeal Board” as “The Area Planning Commission where the map is located for any parcel map or tentative map that: (a) creates or results in less than 50,000 gross square feet of nonresidential floor area; or (b) creates or results in fewer than 50 dwelling units, guest rooms, or combination of dwelling units and guest rooms; or (c) involves a lot with fewer than 65,000 square feet of lot area. Otherwise, the City Planning Commission.”

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

LAMC Section 17.15(c)(2), “Vesting Tentative Maps,” provides that “a permit, approval, extension, or entitlement may be conditioned or denied if the Advisory Agency, or the City Planning Commission or the City Council on appeal determines:

- (a) A failure to do so would place the occupants of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

(b) The condition or denial is required in order to comply with state or federal law.

Here, approval of the vesting tentative tract map would place the community in a condition dangerous to its health and safety.

First, CREED LA's comments on the EIR explained that the EIR failed to adequately disclose and analyze significant health impacts on the community from exposure to Diesel Particulate Matter ("DPM") generated by construction activities or Project operations. Specifically, the EIR failed to analyze impacts on all sensitive receptors, including children. Analysis of impacts on children is essential due to the increased sensitivity of children to Toxic Air Contaminants like DPM. As discussed in CREED LA's comments on the FEIR, Dr. James Clark corrected the City's analysis to address impacts on children, and found that the Project's operational and construction impacts exceed the 10 in 1 million cancer risk significance threshold. Dr. Clark's analysis found that for a resident living near the Project site, the risk for a child born and living during the first two years of life will exceed 60 in 1,000,000, which exceeds the 10 in 1 million threshold. Thus, the Vesting Tentative Tract Map must be denied pursuant to LAMC Section 17.15(c)(2) and Government Code Section 66474.

Second, the Project would have significant construction noise impacts. As explained in CREED LA's comments, excessive noise or significant increases in noise can impact public health. The City must adopt all feasible mitigation measures to reduce these noise impacts before the Project can be approved. CREED LA's expert identified mitigation measures which would reduce the magnitude of these impacts. The City cannot approve the Project pursuant to LAMC Section 17.15(c)(2) and the SMA unless this impact is mitigated to the fullest extent feasible.<sup>8</sup>

For these reasons, and others discussed in CREED LA's comments, approval of the Project is likely to cause significant air quality, public health, greenhouse gas, and noise impacts. The Commission therefore lacked substantial evidence to make the necessary findings. The City must correct the errors in the EIR, adopt adequate mitigation measures to reduce impacts to less than significant levels, and must

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<sup>8</sup> Government Code, section 66474.01.  
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provide substantial evidence supporting the Project's proposed statement of overriding considerations to address the Project's outstanding, unmitigated significant impacts before the City can approve the VTTM.

**B. The Commission's Approval of Project Permit Adjustments Was Contrary to Law and Unsupported by the Record**

The Commission approved, pursuant LAMC Section 11.5.7(E), a Specific Plan Project Permit Adjustment for a Director's Determination for an Alternative Design to allow a deviation from the Ground Floor Treatment regulations in Section 4 of the Downtown Design Guide, as well as a Specific Plan Project Permit Adjustment to allow a deviation from Section 5 of the Downtown Design Guide to allow building and balcony projections up to nine feet and 25 feet into the sidewalk easements along Hope Street and Grand Avenue respectively, and allow projections to begin at an elevation of 25 feet above grade along Hope Street and Grand Avenue.

LAMC Section 11.5.7 (E)(3) requires the following findings to be made in order to approve a Project Permit Adjustment, in addition to any other required specific plan findings that may pertain to the Project Permit Compliance:

- (a) That there are special circumstances applicable to the project or project site which make the strict application of the specific plan regulation(s) impractical;
- (b) That in granting the Project Permit Adjustment, the Director has imposed project requirements and/or decided that the proposed project will substantially comply with all applicable specific plan regulations;
- (c) That in granting the Project Permit Adjustment, the Director has considered and found no detrimental effects of the adjustment on surrounding properties and public rights-of-way; and
- (d) That the project incorporates mitigation measures, monitoring of measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible.

As summarized herein and in the attachments, the Project would have detrimental health risk, air quality, greenhouse gas, noise, and other impacts on the

surrounding properties. The Project fails to incorporate the requisite mitigation measures to mitigate the negative environmental effects of the Project to the extent physically feasible. As a result, the Commission could not make the requisite findings to approve the Project Permit Adjustments.

**C. The Commission's Approval of Zone Variances Was Contrary to Law and Unsupported by the Record**

The Commission approved, pursuant to LAMC Section 12.27, a Zone Variance to allow relief from providing an additional 10-inch clear space to the parking stall widths when adjoined on their longer dimension by an obstruction, and a Zone Variance to allow relief to allow reduced drive aisle widths of 24 feet in lieu of the required drive aisle width.

LAMC Section 12.27(D) requires the following findings to be made in order to approve a Zone Variance.

1. that the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations;
2. that there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity;
3. that the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question;
4. that the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and
5. that the granting of the variance will not adversely affect any element of the General Plan.

Additionally, Section 12.27(E) provides that the decisionmaker may impose those conditions it deems necessary to remedy a disparity of privileges and

necessary to protect the public health, safety or welfare and assure compliance with the objectives of the General Plan and the purpose and intent of the zoning.

The Commission approved the Project's Zone Variances despite the Project's health risk, air quality, greenhouse gas, noise, and other impacts. These impacts are materially detrimental to the public welfare. These impacts precluded the Commission from making the requisite findings to approve the Project Permit Adjustments. And the Commission failed to use its authority to adopt the necessary conditions to protect the public health, safety and welfare.

**D. The Project's Environmental Review Fails to Comply with CEQA**

CREED LA's comments on the EIR demonstrated that the EIR fails to comply with CEQA. As explained more fully in CREED LA's comments on the DEIR and FEIR, the EIR failed to accurately disclose the extent of the Project's potentially significant impacts on air quality, public health, noise, and greenhouse gas emissions. The EIR failed to support its significance findings with substantial evidence, and failed 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 adopt a statement of overriding considerations pursuant to CEQA.<sup>9</sup>

**III. CONCLUSION**

CREED LA respectfully requests that the City set a hearing on this appeal, and that the City Council uphold this appeal and vacate the City Planning Commission's approval of the Project.

Sincerely,



Aidan P. Marshall

APM:lj1

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<sup>9</sup> Pub. Resources Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.  
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# **ATTACHMENT A**



ADAMS BROADWELL JOSEPH & CARDOZO

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February 15, 2023

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**Re: Agenda Item 1: Comments on 8th, Grand and Hope Project (SCH  
No. 2019050010, Case Nos. ENV-2017-506-EIR; ZA-2021-7053-ZAI; CPC-  
2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN)**

Dear Ms. Majas:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments on the Final Environmental Impact Report ("FEIR") and related entitlements for the 8th, Grand and Hope Project (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) ("Project"), proposed by Mitsui Fudosan America ("Applicant"), and prepared pursuant to the California Environmental Quality Act ("CEQA")<sup>1</sup> by the City of Los Angeles ("the City"). The Project's FEIR and entitlements will be considered at the February 15, 2023 Deputy Advisory Agency, Hearing Officer, and Zoning Administrator hearing as Agenda Item #1.

The Applicant proposes to construct a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would be located at 754 S. Hope Street and 609 and 625 W. 8th Street in the City of Los Angeles, California (Assessor's Parcel Numbers 5144-011-009 and 5144-011-016).

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<sup>1</sup> Public Resources Code § 21000 *et seq.*; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 *et seq.*

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On January 5, 2021, we submitted comments on the Draft EIR (“DEIR”) prepared for the Project.<sup>2</sup> Our comments of the DEIR demonstrated that the DEIR failed to comply with CEQA by failing to accurately disclose potentially significant impacts, failing to support its significance findings with substantial evidence, and failing to mitigate the Project’s significant impacts to the greatest extent feasible, in violation of CEQA. As will be explained herein, these flaws have not been remedied in the City’s FEIR, which contains inadequate responses to our comments. As a result of these unresolved deficiencies, the Project’s environmental review still does not meet the standards of CEQA.

Several discretionary approvals are required to implement the Project, including a Vesting Tentative Tract Map pursuant to Los Angeles Municipal Code (“LAMC”) Section 17.03 and 17.15; a Transfer of Floor Area Rights pursuant to LAMC Section 14.5.6; Zone Variances pursuant to LAMC Section 12.27, Specific Plan Project Adjustments pursuant LAMC Section 11.5.7 E; Director's Decision to allow 79 trees to be planted on-site in lieu of the otherwise required 145 trees pursuant to LAMC Section 12.21 G.2(a)(3); Site Plan Review pursuant to LAMC Section 16.05, Zoning Administrator's Interpretation pursuant to LAMC Section 12.21 A.2 (collectively, “Approvals”). Due to the Project’s inadequate environmental review, the City cannot make the requisite findings to approve the Project Approvals under the City’s municipal codes, or to certify the FEIR or adopt a statement of overriding considerations pursuant to CEQA.<sup>3</sup>

These comments were prepared with the assistance of environmental health, air quality, and GHG expert Dr. James Clark, Ph.D.,<sup>4</sup> and noise expert Derek Watry of Wilson Ihrig.<sup>5</sup> Their comments are fully incorporated herein and submitted to the City herewith.

Based upon our review of the FEIR and supporting documentation, we conclude that the FEIR fails to comply with the requirements of CEQA. Although the City revised its air quality analysis and prepared a quantified health risk analysis (“HRA”) in response to our DEIR comments, our review demonstrates that the FEIR’s air quality, health risk, noise, and land use analyses remain substantially inaccurate and incomplete. As a result, the FEIR still fails to adequately disclose and mitigate the Project’s significant public health, air quality,

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<sup>2</sup> **Attachment C:** Comments on 8th, Grand and Hope DEIR (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (Jan. 5, 2022).

<sup>3</sup> Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

<sup>4</sup> Comments and curriculum vitae of Mr. Clark are attached to this letter as **Attachment A**.

<sup>5</sup> Mr. Watry’s comments and curriculum vitae are included as **Attachment B**.

and noise impacts. Like the DEIR, the FEIR still lacks substantial evidence to support its conclusions and still fails to properly mitigate the Project's significant environmental impacts. Further, the City cannot make the requisite findings under the LAMC to make the requested Approvals because these impacts remain significant and unmitigated.

The City cannot approve the Project until the errors and omissions in the FEIR are remedied, and a revised DEIR is recirculated for public review and comment which fully discloses and mitigates the Project's potentially significant environmental and public health impacts. CREED LA urges the Deputy Advisory Agency, Hearing Office, and Zoning Administrator require the City revise and recirculate the DEIR before any further action is taken on the Project.

Additionally, the agenda for this hearing was uploaded to the City website on February 14, less than 72 hours prior to the hearing, in violation of the Brown Act. As will be explained below, the hearing must be continued to a later date to be properly noticed.

## **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 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, Gery 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 business and industry 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 medical office 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. BROWN ACT

The agenda for this hearing was uploaded to the City website on February 14, less than 72 hours prior to the hearing, in violation of the Brown Act. The Brown Act provides that members of the public have the right to review the agenda of a board's upcoming meeting in advance of the meeting. Government Code section 54954.2 specifically requires that the governing body post the agenda for a regular meeting 72 hours before the meeting and 24 hours before a special meeting. This includes posting the agenda in a physical location and on the agency's "primary internet homepage."<sup>6</sup> In addition to making the agenda available, materials related to agenda items and used by the governing body during a meeting must also be made available for review.<sup>7</sup>

Today's hearing is a regular meeting of the Department of City Planning Subdivisions and Hearing Officer. It is not a special meeting. Accordingly, the City was required to post the agenda for public review no later than 72 hours prior to the hearing, by February 12, 2023 at 10:00a.m. The City failed to timely post the agenda. On February 14, we emailed the Department of City Planning and explained that the agenda and staff report for the Project's hearing were not available online. Later that day, these documents were uploaded to the City website.<sup>8</sup> Here, the screenshot below of the agenda's<sup>9</sup> document properties shows

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<sup>6</sup> Gov. Code § 54954.2)(a)(2)(A).

<sup>7</sup> Gov. Code, § 54957.5, subd. (b)(2).

<sup>8</sup> <https://planning.lacity.org/dcpapi/meetings/document/73909>.

<sup>9</sup> The digital agenda is available at <https://planning.lacity.org/dcpapi/meetings/document/73909>.

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that the agenda was last modified on February 13, 2023, which demonstrates that it was not uploaded any earlier than February 13:

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The document properties above show that the agenda was last modified on 2/13, indicating that it was not uploaded 72 hours before the February 15<sup>th</sup> hearing. Similarly, below is a screenshot of the staff report's<sup>10</sup> document properties, also showing that the agenda was last modified on February 13, 2023.

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<sup>10</sup> Staff report, [https://planning.lacity.org/plndoc/Staff\\_Reports/2023/02-13-2023/VTT\\_74876.pdf](https://planning.lacity.org/plndoc/Staff_Reports/2023/02-13-2023/VTT_74876.pdf)

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The City's failure to timely post the agenda in a physical location and on the agency's "primary internet homepage"<sup>11</sup> is a violation of the Brown Act. This violation prejudiced CREED LA and other members of the public's ability to attend the hearing and respond to the agenda and staff report for the Project. The 90-page staff report contains Findings regarding the Project's Approvals, and necessary details of the Approvals sought. Without the necessary notice required by the Brown Act, the public has not had sufficient time to review and comment on the Project's Approvals. Per the requirements of the Brown Act, the hearing must be continued to a later date to be properly noticed.

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<sup>11</sup> Gov. Code § 54954.2)(a)(2)(A).

### III. THE FEIR FAILS TO ADEQUATELY ANALYZE, QUANTIFY, AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT IMPACTS

An EIR must fully disclose all potentially significant impacts of a project, and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact must be supported by accurate scientific and factual data.<sup>12</sup> An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.<sup>13</sup>

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by law.<sup>14</sup> 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.<sup>15</sup> In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."<sup>16</sup>

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not "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."<sup>17</sup>

CEQA requires that a lead agency evaluate and prepare written responses to comments in an FEIR.<sup>18</sup> Agencies are required to provide "detailed written response to comments . . . to ensure that the lead agency will fully consider the environmental consequences of a decision before it is made, that the decision is well informed and open to public scrutiny, and the public participation in the environmental review process is meaningful."<sup>19</sup> When a comment raises a "significant environmental issue," the written responses must describe the

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<sup>12</sup> 14 CCR § 15064(b).

<sup>13</sup> *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

<sup>14</sup> *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

<sup>15</sup> *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

<sup>16</sup> *Id.*; *Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.

<sup>17</sup> *Berkeley Jets*, 91 Cal.App.4th at 1355.

<sup>18</sup> PRC § 21091(d); 14 CCR §§ 15088(a), 15132.

<sup>19</sup> *City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.4th 889, 904.

disposition of each such issue raised by commentators.<sup>20</sup> Specifically, the lead agency must address the comment “in detail giving reasons why” the comment was “not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.”<sup>21</sup>

### **A. The FEIR Still Fails to Recognize the City’s Legal Duty to Analyze Health Risks from Construction and Operational Emissions**

In our previous comments on the DEIR, we explained that the City was required to prepare a quantified HRA for the Project because CEQA requires that 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.”<sup>22</sup>

In response, the City prepared an HRA for the Project’s construction and operations and included it in the FEIR.<sup>23</sup> But the City maintains that the HRA was only conducted for informational purposes, and continues to assert that a HRA is not required by CEQA.<sup>24</sup> The FEIR, in Response to Comment 3-6, reasons that construction emissions of Diesel Particulate Matter (“DPM”) need not be analyzed in an HRA because they occur over a shorter time period than 70 years.<sup>25</sup> This reasoning is flawed and should be struck from the FEIR. Individual cancer risk is not just affected by the duration of exposure to TACs, but also the concentration of the individual’s unique exposure scenario and the toxicity of the chemical. Accordingly, OEHHA<sup>26</sup> guidance sets a recommended threshold for preparing an HRA of a construction period of two months or more.<sup>27</sup>

### **B. The FEIR’s HRA Fails to Analyze Health Risk Impacts on All Groups of Sensitive Receptors**

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<sup>20</sup> PRC §21091(d); 14 CCR §§15088(c), 15132(d), 15204(a).

<sup>21</sup> 14 CCR § 15088(c); see *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124 (“*Laurel II*”); *The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal. App. 4th 603, 615.

<sup>22</sup> *Id.* at 518.

<sup>23</sup> Appendix FEIR-2.

<sup>24</sup> FEIR, pg. II-33; Appendix FEIR-2, pg. 2.

<sup>25</sup> FEIR, pg. II-31.

<sup>26</sup> 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>.

<sup>27</sup> 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](http://oehha.ca.gov/air/hot_spots/hotspots2015.html) (“OEHHA Guidance”), p. 8-18.



CEQA requires analysis of human health impacts. Its fundamental purpose is to maintain a quality environment for “the people “of the state. CEQA’s statutory scheme and legislative intent include an express mandate that agencies consider and analyze human health impacts, acknowledges that human beings are an integral part of the “environment”, and mandates that public agencies determine whether a the “***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly,***”<sup>28</sup> and to “take immediate steps to identify any critical thresholds for the ***health and safety of the people*** of the state and take all coordinated actions necessary to prevent such thresholds being reached.”<sup>29</sup>

The HRA prepared in response to CREED LA’s comments fails to analyze impacts on all sensitive receptors, and therefore remains inadequate. Health risk impacts on children are measured using Age Sensitivity Factors (“ASFs”).<sup>30</sup> As stated in the FEIR, ASFs “account for increased sensitivity of early-life exposure to carcinogens.”<sup>31</sup> ASFs account for increased sensitivity of children by weighting the impacts of their exposure to a project’s estimated emissions of Toxic Air Contaminants (“TACs”). In the Project’s HRA, the City fails to make early-life exposure adjustments to analyze impacts on children, thus failing to disclose the severity of the Project’s health risk impacts on this group of sensitive receptors. The Project site is surrounded by residential and mixed-use land uses that can hold children, as identified in the EIR’s environmental setting.<sup>32</sup>

The FEIR incorrectly states that relevant guidance does not support the use of ASFs to analyze health impacts of DPM generated by construction activities or Project operations.<sup>33</sup> This response is a red herring which ignores CEQA’s legal requirement to analyze whether the “environmental effects of a project will cause substantial adverse effects on *human beings*, either directly or indirectly,”<sup>34</sup> which necessarily includes children and infants. Children and infants are more sensitive to acute exposure to TACs, and suffer greater health impacts over short periods of exposure. ASFs are a scientifically accepted method of quantifying the risk to children and infants. The City provides no alternative analysis.

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<sup>28</sup> Pub. Res. Code (“PRC”) § 21083(b)(3), (d) [emphasis added].

<sup>29</sup> See PRC §21000 et seq. [emphasis added]

<sup>30</sup> Appendix FEIR-2, pg. 4.

<sup>31</sup> Appendix FEIR-2, pg. 4; *see also* City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10.

<sup>32</sup> DEIR, pg. III-2.

<sup>33</sup> Appendix FEIR-2, pg. 4-6.

<sup>34</sup> PRC § 21083(b)(3), (d) (emphasis added).

The FEIR considers guidance by California Office of Environmental Health Hazard Assessment (“OEHHA”), acknowledging that it recommends an age-weighting factor be applied to all carcinogens regardless of purported mechanism of action.<sup>35</sup> Since DPM is carcinogenic, the OEHHA guidance provides that ASFs should be applied to analyze this Project’s DPM impacts on children.<sup>36</sup> But the FEIR argues that the OEHHA guidance should not be considered because it has not been adopted by SCAQMD as a CEQA significance threshold.<sup>37</sup> This argument is flawed because the City does not identify any supporting evidence demonstrating that OEHHA’s scientific conclusions regarding children’s heightened susceptibility to TACs such as DPM should be overlooked. The FEIR’s argument also overlooks the City’s ability to select its own methodology, independent of those used by regulatory agencies, if the methodology is supported by substantial evidence, as with OEHHA’s.<sup>38</sup> Further, the City elects to rely on guidance from U.S. EPA,<sup>39</sup> which like the OEHHA guidance, also has not been adopted by SCAQMD as a CEQA significance threshold, rendering the FEIR’s justification for omitting ASFs specious.

The FEIR elects to rely on U.S. EPA guidance<sup>40</sup> related to early life exposure adjust factors whereby the adjustment factors are only considered when carcinogens act “through the mutagenic mode of action.”<sup>41</sup> The FEIR concludes that DPM is not mutagenic because only some of its constituent particles are mutagenic – and as a result, use of ASFs is not required for measuring DPM health impacts. In support, the FEIR cites to the U.S. EPA’s Integrated Risk Information System (“IRIS”). However, the FEIR’s interpretation of this guidance is incorrect. IRIS Chemical Assessment Summary for Diesel Particulate Matter states that DPM is mutagenic:

[D]iesel exhaust (DE) is likely to be carcinogenic to humans by inhalation from environmental exposures. The basis for this conclusion includes the following lines of evidence: [...] **extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE** and its organic constituents, and knowledge of the known mutagenic and/or

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<sup>35</sup> Appendix FEIR-2, pg. 4.

<sup>36</sup> City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10.

<sup>37</sup> Appendix FEIR-2, pg. 4-5.

<sup>38</sup> *N. Coast Rivers Alliance v. Marin Mun. Water Dist.* (2013) 216 Cal.App.4th 614, 642-643.

<sup>39</sup> Appendix FEIR-2, pg. 6.

<sup>40</sup> U.S. EPA. 2006. Memorandum – Implementation of the Cancer Guidelines and Accompanying Supplemental Guidance – Science Policy Council Cancer Guidelines Implementation Workgroup Communication II: Performing Risk Assessments That Include Carcinogens Described in the Supplemental Guidance as having a Mutagenic Mode of Action.

<sup>41</sup> Appendix FEIR-2, pg. 6.

carcinogenic activity of a number of individual organic compounds that adhere to the particles and are present in the DE gases.<sup>42</sup> [emphasis added]

The U.S. EPA clearly identifies DPM as a mutagenic carcinogen. Thus, even by the City's preferred methodology, the effect of the Project's DPM emissions on children must be analyzed using ASFs. Further, Dr. Clark identifies additional guidance from the Scientific Review Panel identifying DPM as mutagenic.<sup>43</sup> And the City of Los Angeles's own Air Quality And Health Effects guidance provides that exposure to DPM may be particularly harmful to children, whose lungs are still developing.<sup>44</sup>

As demonstrated above, health impacts on children are not disclosed without use of ASFs due to the increased sensitivity of children to the harmful effects of DPM. Because the City's HRA omitted application of ASFs, the Project's health risk impacts on especially-sensitive populations has not been analyzed. The omission of information regarding the Project's health effects on children constitutes an ongoing failure to analyze a potentially significant impact under CEQA.

### **C. Substantial Evidence Demonstrates that the Project will have a Significant Health Risk Impact on Children**

The FEIR's HRA concludes that the Project's impacts will not exceed the City's significance threshold, which provides that health impacts are significant when the Project exposes sensitive receptors to air contaminants that exceed the maximum incremental cancer risk of 10 in one million.<sup>45</sup> But as explained above, this HRA fails to apply ASFs to evaluate impacts on children. Dr. Clark corrected the City's analysis to address impacts on children, and found that the Project's operational and construction impacts exceed the 10 in 1 million threshold.

Dr. Clark conducted this analysis using the concentrations of DPM calculated by the City, but incorporating ASFs to evaluate impacts on children.<sup>46</sup> This analysis finds that for a resident living near the Project site, the risk for a child born and living during the 1<sup>st</sup> two years of life will exceed 60 in 1,000,000, which exceeds the

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<sup>42</sup> U.S. Environmental Protection Agency, Integrated Risk Information System (IRIS) Chemical Assessment Summary: Diesel engine exhaust; CASRN N.A., pg. 11, available at [https://iris.epa.gov/static/pdfs/0642\\_summary.pdf](https://iris.epa.gov/static/pdfs/0642_summary.pdf).

<sup>43</sup> Clark Comments, pg. 4.

<sup>44</sup> City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10, available at [https://planning.lacity.org/odocument/e1a00fbf-6134-4fa9-b6fd-54eee631effb/City\\_of\\_LA\\_-\\_Air\\_Quality\\_and\\_Health\\_Effects\\_and\\_Attachments.pdf](https://planning.lacity.org/odocument/e1a00fbf-6134-4fa9-b6fd-54eee631effb/City_of_LA_-_Air_Quality_and_Health_Effects_and_Attachments.pdf).

<sup>45</sup> Appendix FEIR-2, Executive Summary, pg. 1.

<sup>46</sup> Clark Comments, pg. 5.

10 in 1 million threshold.<sup>47</sup> Thus, the Project would have a significant health risk impact unanalyzed in the EIR. Thus, the FEIR must be revised and recirculated.

**D. The FEIR Fails to Mitigate the Project's Significant Health Risk Impact to a Less-Than-Significant Level**

As demonstrated in Dr. Clark's comments, the Project would have a significant health risk impact as of result of DPM emitted during Project construction and operations. The mitigation measures identified in the FEIR's Mitigation Monitoring Program ("MMRP") fail to reduce these impacts to a less-than-significant level. CEQA prohibits agencies from approving projects with significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts.<sup>48</sup> To fully mitigate the Project's significant health risk impacts, the FEIR must be revised to identify measures that limit DPM emissions during construction. For example, requiring use of construction equipment that meets EPA Tier 4 engine emissions standards would reduce emissions of PM and NOx over uncontrolled emissions.<sup>49</sup> Use of such equipment is feasible and effective.<sup>50</sup>

**E. The FEIR Fails to Analyze and Mitigate Potentially Significant Health Risks from Exposure to Natural Gas**

The Project's operations would involve residential use of natural gas.<sup>51</sup> The Project's operations would consume a total of 4,859,882 cf of natural gas each year.<sup>52</sup> Although the Project will not use natural gas fireplaces, the Project's EIR does not preclude use of other gas appliances like stoves.<sup>53</sup>

Substantial evidence demonstrates that residential natural gas use has potentially significant health risks on residents.<sup>54</sup> In a 1992 meta-analysis of

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<sup>47</sup> Clark Comments, pg. 5.

<sup>48</sup> Pub. Resources Code § 21002.

<sup>49</sup> See Emissions Standards, US Nonroad Diesel Engines, available at <https://dieselnet.com/standards/us/nonroad.php>.

<sup>50</sup> San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects." August 2015, *available at*: [https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San\\_Francisco\\_Clean\\_Construction\\_Ordinance\\_2015.pdf](https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San_Francisco_Clean_Construction_Ordinance_2015.pdf).

<sup>51</sup> DEIR, IV.B-15.

<sup>52</sup> DEIR, IV.B-25.

<sup>53</sup> FEIR, IV-3.

<sup>54</sup> <https://www.washingtonpost.com/politics/2023/01/06/gas-stove-pollution-causes-127-childhood-asthma-study-finds/>; <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>;

studies on this topic, scientists at the EPA and Duke University found that nitrogen dioxide exposure that is comparable to that from a gas stove increases the odds of children developing a respiratory illness by about 20 percent.<sup>55</sup> Since then, numerous other studies have documented the effects of gas stove exposure on respiratory health. A 2013 meta-analysis of 41 studies found that gas cooking increases the risk of asthma in children and that NO<sub>2</sub> exposure is linked with currently having a wheeze.<sup>56</sup> Most recently, a study published last December found that 12.7 percent of childhood asthma cases in the U.S. can be attributed to gas stove use.<sup>57</sup> Dr. Clark's comments present further evidence demonstrating the potentially significant nature of this impact. The City cannot approve the Project unless this impact is analyzed and mitigated.

To mitigate this impact, the City must analyze the feasibility of measures which reduce the toxicity of operational natural gas use. These may include building electrification measures. The City's project design feature AIR-PDF-2, which precludes use of gas-powered fireplaces, does not implicate stoves in residential units. And GHG-PDF-1, which calls for the use of Energy Star-labeled appliances, would not reduce natural gas emissions from stoves, as "[t]here is no Energy Star label for residential ovens, ranges, or microwave ovens at this time."<sup>58</sup>

#### **F. The FEIR Fails to Require All Feasible Mitigation Measures to Reduce Significant Noise Impacts**

The FEIR acknowledges that the Project would have significant construction noise impacts. In our initial comments, Mr. Watry identified additional feasible mitigation measures that would reduce the Project's significant construction noise impacts. Mr. Watry recommended that the FEIR's mitigation measure be revised to provide either plexiglass barriers or sound blankets attached to scaffolding for each story of adjacent buildings during Project construction in order to further reduce noise above the FEIR's proposed noise barrier.<sup>59</sup>

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<sup>55</sup> Hasselblad et al., Synthesis of Environmental Evidence: Nitrogen Dioxide Epidemiology Studies; Journal of the Air & Waste Management Association Volume 42, 1992 - Issue 5, available at <https://www.tandfonline.com/doi/abs/10.1080/10473289.1992.10467018>.

<sup>56</sup> Lin et al., Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children, International Journal of Epidemiology, Volume 42, Issue 6, December 2013, Pages 1724–1737 <https://academic.oup.com/ije/article/42/6/1724/737113?login=false>.

<sup>57</sup> Gruenwald et al., Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States, Int. J. Environ. Res. Public Health 2023, 20(1), 75, available at <https://www.mdpi.com/1660-4601/20/1/75>.

<sup>58</sup> [https://www.energystar.gov/products/appliances/microwaves\\_ovens\\_and\\_ranges](https://www.energystar.gov/products/appliances/microwaves_ovens_and_ranges).

<sup>59</sup> Watry DEIR Comments, pp. 2-3.

In Responses 3-39 and 3-40, the City argues that these measures would be infeasible. The City first reasons that the project Applicant does not own the affected buildings, and thus cannot require the implementation of Mr. Watry's proposed measures. But Mr. Watry explains that the Applicant can make offers to neighboring residents to install noise-attenuating barriers. Mr. Watry points to other projects that implemented similar mitigation, demonstrating their general feasibility.<sup>60</sup>

The City also reasons that constructing the proposed noise barriers would in and of itself would create a significant noise impact. But Mr. Watry's comments explain that temporarily installing clear plexiglass or acrylic panels around balconies that face the project site would not be expected to generate a significant noise impact.<sup>61</sup> The City must consider this mitigation in a revised FEIR.

#### **IV. THE PROJECT DOES NOT PROVIDE AFFORDABLE HOUSING, IN CONFLICT WITH LOCAL LAND USE GOALS, OBJECTIVES, AND POLICIES**

The Project proposes to construct 580 residential units, but fails to provide any of the residential units at a below-market rate.<sup>62</sup> The Project's lack of affordable housing conflicts with applicable local goals, objectives, and policies promoting affordable housing. CEQA Guidelines section 15125(d) requires that an environmental impact report "discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans," which includes regional housing plans.<sup>63</sup> Therefore, the Project's inconsistency with applicable goals, objectives, and policies is also a violation of CEQA.

##### **A. The Project is Inconsistent with the Housing Element Update of the General Plan**

The Regional Housing Needs Assessment ("RHNA") is the California State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.<sup>64</sup> Accordingly, the Housing Element of the City's General Plan

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<sup>60</sup> Watry FEIR Comments, pg. 2.

<sup>61</sup> Watry FEIR Comments, pg. 2.

<sup>62</sup> DEIR, pg. IV.D-26, Appendix D, Table 4, pg. 6; FEIR, Section II, Responses to Comments; Planning Department Staff Report (these documents discuss the Project's consistency with housing policies but fail to identify any low-income housing provided by the Project).

<sup>63</sup> See also *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal. App. 5th 467, 543.

<sup>64</sup> Cal. Gov. Code Section 65580 – 65589.9; see City of Los Angeles, Draft Housing Element 2021-2019: What to Know about: RHNA, Site Selection, and Rezoning, available at

identifies the City’s housing conditions and needs, evaluates the City’s ability to meet its RHNA numbers, establishes the goals, objectives, and policies of the City’s housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.<sup>65</sup> The Housing Element Annual Progress Report (“APR”), as required by Government Code Section 65400, requires jurisdictions to report on the annual progress towards meeting the RHNA during the calendar year, as well as on the status of implementation programs identified in the Housing Element.

The City’s 2021 Housing Element APR shows that the City has not produced enough housing in the lower and moderate-income categories. As shown in the excerpted tables below from the 2021 APR, Los Angeles was obligated to identify capacity for 82,002 new units of housing in the 2013-2021 RHNA cycle.<sup>66</sup> And while the City produced more than 82,002 new units (118,604 total), the City failed to produce enough very-low, low, and moderate-income housing, with a deficit of 32,491 units.<sup>67</sup>

Income Level		RHNA Allocation by Income Level	2021	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	20,427	1,979	8,991	11,436
	Non-Deed Restricted		-		
Low	Deed Restricted	12,435	536	4,263	8,172
	Non-Deed Restricted		-		
Moderate	Deed Restricted	13,728	18	845	12,883
	Non-Deed Restricted		-		
Above Moderate		35,412	13,082	118,604	-
Total RHNA		82,002			
Total Units			15,615	132,703	32,491

In the current cycle (2021-2029), Los Angeles is obligated to identify capacity for 456,643 new units of housing.<sup>68</sup> 115,978 of this total must be for very-low income

[https://planning.lacity.org/odocument/9feedc9d-07b6-479f-8ad9-84e93192c97a/What to Know about RHNA, Site Selection, and Rezoning - Updated.pdf](https://planning.lacity.org/odocument/9feedc9d-07b6-479f-8ad9-84e93192c97a/What%20to%20Know%20about%20RHNA,%20Site%20Selection,%20and%20Rezoning%20-%20Updated.pdf)

<sup>65</sup> City of Los Angeles, Draft Housing Element 2021-2019, Executive Summary, pg. 16-17, available at [https://planning.lacity.org/odocument/3d0775b4-6e54-4294-ad5a-85df6b8eaf82/Executive Summary \(Adopted\).pdf](https://planning.lacity.org/odocument/3d0775b4-6e54-4294-ad5a-85df6b8eaf82/Executive%20Summary%20(Adopted).pdf).

<sup>66</sup> City of Los Angeles, 2021 Housing Element Progress Report, Table B, [https://planning.lacity.org/odocument/e7ecf035-0003-4474-995b-b7a1a9f3cef8/Los Angeles 2021 APR - Summary.pdf](https://planning.lacity.org/odocument/e7ecf035-0003-4474-995b-b7a1a9f3cef8/Los%20Angeles%202021%20APR%20-%20Summary.pdf).

<sup>67</sup> *Id.*

<sup>68</sup> SCAG 6th Cycle Final RHNA Allocation Plan (approved by HCD on 3/22/21 and modified on 7/1/21), pg. 3, available at <https://scag.ca.gov/sites/main/files/file-attachments/6th-cycle-rhna-final-allocation-plan.pdf?1625161899>.

housing, 68,743 for low income housing, and 75,091 for moderate housing.<sup>69</sup> But the City's models show that the City is not on track to meet this RHNA requirement. AB 1397 (2017) requires the City to model the new housing units permitted during the upcoming cycle. However, the Housing Element concludes that the "model's prediction of approximately 47,000 new units being permitted in the city within the bonus-zoned cap in the span of 8 years falls an order of magnitude short of the city's upcoming cycle RHNA of 456,643 units."<sup>70</sup> The City estimates that affordable housing benefits would raise the 8- year prediction for new units permitted within the bonus-zoned cap from 47,208 to 61,158, which still falls short.<sup>71</sup>

Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA. The Project does not provide any affordable units, and is therefore inconsistent with the Housing Element affordable housing goals. Specifically, Objective 2.2 states: "Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit." The City claims that the Project is consistent with this Objective because the Applicant would construct a mixed-use development with residential units at varying cost levels.<sup>72</sup> But the EIR fails to require the range of cost levels to include low-income units. The City does not acknowledge that while Objective 2.2 plainly promotes mixed-income housing, the Project fails to include any mixed-income affordable units. Thus, the Project is inconsistent with Objective 2.2.

Objective 2.5 provides that the City must "[p]romote a more equitable distribution of affordable housing opportunities throughout the city." Accordingly, Policy 2.5.2 provides: "Foster the development of new affordable housing units citywide and within each Community Plan area." The City failed to analyze the Project's consistency with Objective 2.5 and Policy 2.5.2.<sup>73</sup> To analyze consistency with these provisions, the City must revise the EIR to disclose the availability of affordable housing opportunities in the Central City Community Plan area, and analyze whether the Community Plan area has sufficient affordable housing relative to the rest of the City. Here, because the Project fails to provide any affordable housing, there is no evidence that the Project contributes to an equitable distribution of affordable housing opportunities throughout the City.

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<sup>69</sup> *Id.*

<sup>70</sup> Housing Element 2021-2029, Appendix 4.6-3, available at [https://planning.lacity.org/odocument/15117d38-35ca-416b-9980-25eb20201ba2/Appendix\\_4.6\\_-\\_Regression\\_Methodology.pdf](https://planning.lacity.org/odocument/15117d38-35ca-416b-9980-25eb20201ba2/Appendix_4.6_-_Regression_Methodology.pdf).

<sup>71</sup> *Id.*

<sup>72</sup> DEIR, Appendix D, Table 4, pg. 26.

<sup>73</sup> DEIR, Appendix D, Table 4.



Policy 2.5.1 further provides: “Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed use development, Transit Oriented Districts and designated Centers.” The City also failed to analyze the Project’s consistency with this policy.<sup>74</sup> Here, the Project proposes residential units in a Transit Oriented Communities Area and designated High Quality Transit Area (“HQTA”).<sup>75</sup> But, whereas Policy 2.5.1 promotes locating affordable housing in such areas, the Project fails to include any affordable units and fails to take advantage of affordable housing incentives. Thus, the Project is inconsistent with Policy 2.5.1.

Further, the Project is not consistent with the Housing Element Update, which was adopted on June 14, 2022. Housing Element Update Policy 1.1.2 states: “Plan for appropriate land use designations and density to accommodate an ample supply of housing units by type, **cost**, and size within the City to meet housing needs, according to Citywide Housing Priorities and the City’s General Plan.” [emphasis added]. Here, the City produced enough above-moderate housing units in 2013 through 2021, but fell short in production of very-low, low, and moderate income housing. By proposing 580 residential units, but zero affordable housing units, the Project fails to provide an ample supply of housing units by costs which meet the City’s housing needs, as required by the Housing Element.

Objective 1.2 states: “Facilitate the production of housing, especially projects that include Affordable Housing and/or meet Citywide Housing Priorities.” Accordingly, Policy 1.2.1 provides: “Expand rental and for-sale housing for people of all income levels. Prioritize housing developments that result in a net gain of Affordable Housing and serve those with the greatest needs.” Because the instant Project fails to provide affordable housing, approval of the Project would be inconsistent with the Policy 1.2.1’s prioritization of affordable housing development.

Objective 3.2 states: “Promote environmentally sustainable buildings and land use patterns that support a mix of uses, housing for various income levels and provide access to jobs, amenities, services and transportation options.” Accordingly, Policy 3.2.2 provides: “Promote new multi-family housing, particularly Affordable and mixed-income housing, in areas near transit, jobs and Higher Opportunity Areas, in order to facilitate a better jobs-housing balance, help shorten commutes, and reduce greenhouse gas emissions.” Here, the Project proposes residential units in a designated HQTA.<sup>76</sup> But whereas Policy 3.2.2 promotes locating affordable and

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<sup>74</sup> DEIR, Appendix D, Table 4.

<sup>75</sup> DEIR, Section IV.D-17.

<sup>76</sup> DEIR, Section IV.D-17.

mixed-income housing in such areas, the Project fails to include affordable units. Thus, the Project is inconsistent with Policy 3.2.2.

As a result of these inconsistencies, the Project fails to comply with the Housing Element of the General Plan. The FEIR further fails to disclose and mitigate the above inconsistencies, in violation of CEQA. The FEIR must be revised and recirculated before the Project can be approved.

## **B. City of Los Angeles General Plan Framework**

Policy 4.1.1 of the City of Los Angeles General Plan Framework states: “Provide sufficient land use and density to accommodate an adequate supply of housing units by type and cost within each City subregion to meet the twenty-year projections of housing needs.” Here, the Project fails to propose any affordable residential units while the City fails to meet its RHNA. Thus, this Project fails to contribute to an adequate supply of housing units by cost.

## **V. CONCLUSION**

As is explained herein, timely access to the hearing’s agenda and staff report is required for the public to have an adequate opportunity to review and comment on the Project’s Approvals. The hearing must be continued to a later date to comply with the Brown Act.

Further, the FEIR’s air quality, health risk, noise, and land use analyses remain substantially inaccurate and incomplete, failing to comply with the requirements of CEQA. As a result, the FEIR still fails to adequately disclose and mitigate the Project’s significant public health, air quality, and noise impacts. As a consequence of these impacts, the City cannot make the requisite findings under the LAMC to make the requested Approvals because these impacts remain significant and unmitigated.

The City cannot approve the Project until the errors and omissions in the FEIR are remedied, and a revised FEIR is recirculated for public review and comment which fully discloses and mitigates the Project’s potentially significant environmental and public health impacts. CREED LA urges the Deputy Advisory

February 15, 2023

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Agency, Hearing Office, and Zoning Administrator require the City revise and recirculate the FEIR before any further action is taken on the Project.

Sincerely,

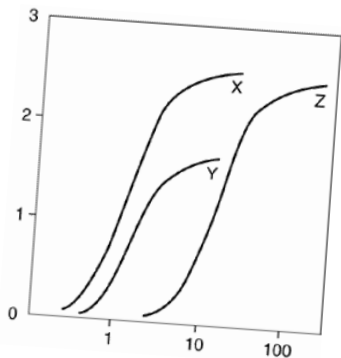


Aidan P. Marshall

Attachments

APM:acp

# **ATTACHMENT A**



## Clark & Associates

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January 8, 2023

Adams Broadwell Joseph & Cardozo  
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**Attn: Mr. Aidan Marshall**

**Subject: Comments On Final Environmental Impact Report  
(FEIR) For 8<sup>th</sup>, Grand, and Hope Street Project (ENV-  
2017-506-EIR) State Clearinghouse No. 2019050010**

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Dear Mr. Marshall,

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the January 2023 City of Los Angeles Final Environmental Impact Report (FEIR) 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:**

The Project involves the construction of a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would provide 636 vehicle parking spaces within three subterranean levels and eight above-grade levels and four vehicle parking spaces on the ground floor. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. Upon completion, the total building floor area would be 554,927 square feet with a maximum height of 592 feet and a Floor Area Ratio (FAR) of approximately 9.25:1.

The Project is located at 754 South Hope Street and 609 and 625 West 8<sup>th</sup> street in the City of Los Angeles. The parcels that comprise the Project Site are rectangular in share and the site is comprised of two tax assessor parcels (APNs: 5144-011-009 and 5144-011-016), which encompass a total of approximately 34,679 square feet of lot area (0.83 acre). The Project Site is currently developed with a low-rise four-story parking structure and a surface parking lot that is entirely paved and devoid of landscaping. The currently existing commercial parking structure provides 324 parking spaces.

The maximum depth of the subterranean levels (parking) for the Project would be approximately 63 feet below ground level. The building would include levels 1 through 50 with a maximum height of 592 feet above grade to the top of the parapet. The ground floor of the new building would be occupied by a residential lobby on 8<sup>th</sup> Street, as well as commercial/retail/restaurant uses, which will be located on the corner of Hope Street and 8<sup>th</sup> Street and at the corner of Grand Avenue and 8<sup>th</sup> Street.

Construction of the Project would commence with site clearance and demolition of the existing parking structure and parking lot, resulting in approximately 15,000 cubic yards of demolition debris, followed by grading and excavation for the subterranean levels. Construction is anticipated to occur over a 36-month period and is anticipated to be completed in 2025. Approximately 89,750 cubic yards of soil would be exported and hauled away from the Project Site during the excavation phase.

In response to comments from the community on the DEIR, the City has added two mitigation measures to the FEIR related to air quality. Project Design Feature AIR-PDF-1 requires the use of electricity from power poles or solar powered generators where possible rather than temporary diesel or gasoline generators during construction. Project Design Feature AIR-PDF-2 prohibits the use of natural gas-fueled fireplaces in the residential units. Neither of these PDFs will provide sufficient decreases in the air quality impacts during the construction and operational phases of the project.

The conclusion from the City that all other potential impacts would be less than significant is in fact without merit. There are substantial impacts that are not addressed in the City's analysis that must be addressed in a revised environmental impact report (REIR).

### **Specific Comments:**

**1. The City's Air Quality Analysis Includes 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) That Fails To Include An Analysis Of The Most Sensitive Receptors (Infants and Children), Underestimating The Potential Health Impacts**

The City has failed to conduct a numerical health risk analysis (HRA) for Project. According to the HRA in Appendix 2 of the FEIR:

“Exhaust emissions from construction and operational equipment were treated as a set of side-by-side elevated volume sources. The release height was assumed to be 12 feet. This represents the mid-range of the expected plume rise from frequently used construction equipment and operational heavy-duty trucks during daytime atmospheric conditions. All construction exhaust emissions were assumed to take place over a 36- month (3 year) duration on weekdays between 7 A.M. to 3 P.M. (8-hour period). Operational exhaust emissions were assumed to take place 6-days per week between 7 A.M. to 3 P.M. (8-hour period) and included 15 minutes of idle time to account for ingress, egress, and travel on-site.

Emergency generator emissions were assumed to take place for up to 200 hours per year. Operating hours were assumed to occur at any time of the year (24-hours a day). The release height was assumed to be 15 feet high, with a stack diameter of 6 inches, and an exit temperature of 852°F or 455°C.”<sup>1</sup>

In the spreadsheet provided in the HRA<sup>2</sup> which the City cites a cumulative risk of 3.9 in 1,000,00 it is clear that the input values for the HRA do not reflect the construction and operational phases of the Project nor do the breathing rates reflect the current assumptions outlined by OEHHA.

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<sup>1</sup> City of Los Angeles. 2023. FEIR. Appendix 2. Pg 14

<sup>2</sup> City of Los Angeles. 2023. FEIR. Appendix 2. Pg 14 of 95

Residential Receptor - 70 year Exposure Duration			
Diesel Particulate Matter Emission Rate Calculation / Scaler		Construction	Operations
	Year -->	2022-2025	2025-2092
Average Annual Emission Rate (g/s) <sup>a</sup>		7.96E-03	-
Scaler Concentration (ug/m3) <sup>b</sup>		27.10	-
Diesel Particulate Concentration (ug/m3)		0.216	0.0001
Cancer Risk Calculations - DPM			
Parameter	2022-2025	2026-2092	Total
Breathing Rate	393	393	
Exposure Frequency (EF)	350	350	
Exposure Duration (ED) (years)	3.00	67.00	70
AT	25550	25550	
70-Year (Lifetime) Concentration (ug/m3)	2.16E-01	1.25E-04	
70-Year (Lifetime) Dose (mg/kg-d)	8.13E-05	4.72E-08	
Carcinogen Potency (CPF) (mg/kg-d) <sup>-1</sup>			
- Diesel Particulate Matter	1.1	1.1	
Cancer Risk	3.83E-06	4.97E-08	3.88E-06
Risk per Million (DPM)	3.8	0.05	3.9

<sup>a</sup> Emissions based on a 4-year average

<sup>b</sup> Scaler concentration based on an AERMOD emission rate of 1 g/s, 8-hours per day

The averaged breathing rate assumed in the HRA, 393 Liters per kilogram of body weight (L/kg) is not reflected in the current Air Toxic Hot Spots Program Guidance Manual (Dated February 2015) list of residential daily breathing rates.

**Table 5.6 Point Estimates of Residential Daily Breathing Rates for 3<sup>rd</sup> trimester, 0<2, 2<9, 2<16, 16<30 and 16-70 years (L/kg BW-day)**

	3 <sup>rd</sup> Trimester <sup>a</sup>	0<2 years	2<9 years	2<16 years	16<30 years	16<70 years
	L/kg-day					
Mean	225	658	535	452	210	185
95th Percentile	361	1090	861	745	335	290

<sup>a</sup> 3<sup>rd</sup> trimester **breathing rates** based on breathing rates of pregnant women using the assumption that the dose to the fetus during the 3rd trimester is the same as that to the mother.

The HRA fails to consider the impact that the age of exposure will have on residents near the site. In its 1998 Report On Diesel Exhaust,<sup>3</sup> the Scientific Review Panel (SRP) staffed by members of the California Air Resources Board (CARB) and the Office of Environmental Health Hazard Assessment (OEHHHA) has concluded that “Diesel exhaust contains genotoxic compounds in both the vapor phase and the particle phase. Diesel exhaust particles or extracts of diesel exhaust particles are

<sup>3</sup> CARB. 2022. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel’s April 22, 1998, Meeting. Site reviewed August 11, 2022.  
<https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf>



*mutagenic* (emphasis added) in bacteria and in *mammalian cell systems*, and *can induce chromosomal aberrations, aneuploidy, and sister chromatid exchange in rodents and in human cells in vitro*. Diesel exhaust particles induced unscheduled DNA synthesis in vitro in mammalian cells.”<sup>4</sup>

In the SCAQMD’s recent MATES V (Multiple Air Toxics Exposure Study in the South Coast AQMD) study in the risk characterization section of the study AQMD noted that the method utilized combined exposure factor that accounted for the exposure factor for each assigned age bin. Each assigned age bin was made up of the daily breathing rate, exposure duration of the age bin, fraction of time at home, and ***an age sensitivity factor***.<sup>5</sup> SCAQMD is stating that they included the use of the ASFs that were previously identified for DPM.

Therefore, to be consistent with the State’s designation of DPM as a mutagenic chemical and SCAQMD’s quantification of health risks in the Air Basin, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State. To that end, ASFs of 10 for exposures prior to age 2, ASFs of 3 for exposure from age 2 to 16 , and an ASF of 1 for exposures to DPM for adults should have been performed. The City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby.

Using the concentrations estimated in the FEIR and incorporating the ASFs, it is clear that the exposure of residents near the site will exceed 10 in 1,000,000 from the construction phase of the Project when the actual duration of construction (3years) and operation are accurately expressed.

Age Group	Risk	Age Sensitivity	FAH	ED	CPF	Dose Air	Cair	BR/BW
3rd Trimester	2.50E-06	10	0.85	0.25	1.1	7.48E-05	0.216	361
0<2	6.03E-05	10	0.85	2	1.1	2.26E-04	0.216	1090
2<9	4.54E-06	3	0.72	0.75	1.1	1.78E-04	0.216	861
2<16	0.00E+00	3	0.72	0	1.1	1.54E-04	0.216	745
16<30	0.00E+00	1	0.73	0	1.1	6.94E-05	0.216	335
16-70	0.00E+00	1	0.73	0	1.1	6.01E-05	0.216	290

For a resident living near the Project site, the risk for a child born and living during the 1<sup>st</sup> two years of life, the risk will exceed 60 in 1,000,000 based on the City’s air model. The City must update

<sup>4</sup> CARB. 2022. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel’s April 22, 1998, Meeting. Site reviewed August 11, 2022.  
<https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf>

<sup>5</sup> SCAQMD. 2022. MATES V Study. <http://www.aqmd.gov/docs/default-source/planning/mates-v/mates-v-final-report-9-24-21.pdf?sfvrsn=6>

it's HRA to accurately reflect the risks based on the guidance from OEHHA that it cited in it's own HRA. This update must be presented in a revised EIR.

## **2. The Air Quality Analysis For The Project Fails To Include An Analysis Of The Impacts Of Natural Gas Features Included in the Project's Residential Units.**

The Project proposes to construct 580 residential units. These residential uses would consume a portion of the Project's total operational natural gas consumption of 4,859,882 cf of natural gas each year.<sup>6</sup> This residential nature gas use would include use of appliances that would result in unintended degradation of indoor air quality by introducing volatile organic compounds into each of the residential units. In 1996, the State of California Department of Health Services (CDHS) released guidance on reducing the exposure of occupants to VOCs. Under the Health Effects of VOCs, the State notes that "exposure to VOCs may result in short- and long-term health effects at concentrations typically measured in non-industrial environments. The United States Environmental Protection Agency (USEPA) reported that long-term health effects "...can be severely debilitating or fatal" and "...may show up years after exposure has occurred or only after long or repeated periods of exposure" (USEPA, 1993a). According to the USEPA, long-term health effects include respiratory diseases and cancer. Short-term health effects are usually treatable and "...may appear after a single, high-dose exposure or repeated exposures" (USEPA, 1993a). Short-term health effects include "...irritation of eyes, nose, and throat, headaches, dizziness, and fatigue" (USEPA, 1993a)."<sup>7</sup>

CDHS further stated that "VOC exposures can result in adverse health effects at concentrations typically measured in non-industrial environments (Franck, 1986; Kjærgaard et al., 1990; Mølhave, 1990). These effects are typically concurrent with the exposure and may include: (a) sensory detection, often by odor, of the air contaminants; (b) physiological irritation or inflammation of exposed skin, eyes, and mucous membranes; and (c) stress reactions to the perceived chemical (Mølhave, 1990). Tearing of the eyes; runny nose; stinging, itching, or tingling feelings in exposed tissues; changes in skin temperature; headache; and drowsiness are some common symptoms seen

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<sup>6</sup> DEIR, IV.B-25.

<sup>7</sup> CDHS. 1996. Reducing Occupant Exposure To Volatile Organic Compounds (VOCs) from Office Building Construction Materials: Non-binding Guidelines.

with exposure to VOCs in nonindustrial environments. Some health effects, such as nose and throat irritation, may occur with the first exposure to indoor VOCs, whereas other health effects, such as systemic and carcinogenic effects, may be delayed for years. Health effects more serious and long-term than immediate irritation have been suggested to occur with repeated exposure to indoor VOCs. These include a wide range of systemic effects such as asthma and other chronic respiratory illnesses, reproductive effects, and cancer.”<sup>8</sup>

VOC exposure at low levels has been associated with an increase in the risk of asthma. Because there are so many VOCs in the air, measuring total VOC concentrations in the indoor environment may not represent the exposure of individual compounds.<sup>9,10</sup> Exposure to VOCs is associated with an increase in the IL-4 producing Th2 cells and a reduction in IFN- $\gamma$  producing Th1 cells. Thus, the mechanism of action of VOC exposure may be allergic sensitization mediated by a Th2 cell phenotype<sup>11</sup>. Different individual variations in discomfort, from no response to excessive response, were seen in one of the studies. These variations may be due to the development of tolerance during exposure<sup>12</sup>. The author concluded that some VOCs may cause inflammatory reactions in the airways and may be the reason for asthmatic symptoms.<sup>13, 14</sup>

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<sup>8</sup> CDHS. 1996. Reducing Occupant Exposure To Volatile Organic Compounds (VOCs) from Office Building Construction Materials: Non-binding Guidelines.

<sup>9</sup> Rumchev K, Spickett J, Bulsara M, et al. (April 2004). "Association of domestic exposure to volatile organic compounds with asthma in young children." *british medical journal* **59** (9): 746–751

<sup>10</sup> Jeong-Hee Kim,1 Ja-Kyoung Kim,1 Byong-Kwan Son, (April 2005). "Effects of Air Pollutants on Childhood Asthma". *Yonsei Med J.* **46** (2): 239–244

<sup>11</sup> Lehmann I, Rehwagen M, Diez U, (2001). "Enhanced in vivo IgE production and T cell polarization toward the type 2 phenotype in association with indoor exposure to VOC: results of the LARS study". *International Journal of Hygiene and Environmental Health* **204** (4): 211–221.

<sup>12</sup> Harving H, Dahl R, Mølhave L. (October 1991). "Lung function and bronchial reactivity in asthmatics during exposure to volatile organic compounds." *Am Rev Respir Dis.* **143** (4): 751–4.

<sup>13</sup> Wieslander G, Norbäck D, Björnsson E, et al. (1997). "Asthma and the indoor environment: the significance of emission of formaldehyde and volatile organic compounds from newly painted indoor surfaces." *Int Arch Occup Environ Health* **69** (2): 115–24.

<sup>14</sup> Wieslander G, Norbäck D, Edling C, (1996). "Airway Symptoms Among House Painters In Relation To Exposure To Volatile Organic Compounds (VOCS)—A Longitudinal Study". *The Annals of Occupational Hygiene* **41** (2): 155–166.

There is substantial evidence in the literature that demonstrates that residential natural gas use has health risk impacts on residents.<sup>15</sup> In a 1992 meta-analysis of studies on this topic, scientists at the U.S. EPA and Duke University found that nitrogen dioxide exposure that is comparable to that from a gas stove increases the odds of children developing a respiratory illness by about 20 percent.<sup>16</sup> Since then, numerous other studies have documented the effects of gas stove exposure on respiratory health. A 2013 meta-analysis of 41 studies found that gas cooking increases the risk of asthma in children and that NO<sub>2</sub> exposure is linked with currently having a wheeze.<sup>17</sup> Most recently, a study published last December found that 12.7 percent of childhood asthma cases in the U.S. can be attributed to gas stove use.<sup>18</sup>

The most recent study of the impact of residential sources using natural gas by researchers at the Harvard T.H. Chan School of Public Health, evaluated whether air pollutants were present in unburned natural gas. Between December 2019 and May 2021, researchers collected over 200 unburned natural gas samples from 69 unique kitchen stoves and building pipelines across Greater Boston. From these samples, researchers detected 296 unique chemical compounds, 21 of which are federally designated as hazardous air pollutants. They also measured the concentration of odorants in consumer-grade natural gas – the chemicals that give gas its characteristic smell – and found that leaks containing about 20 parts per million methane may not have enough odorant for people to detect them. Key findings of the study included:

1. Consumer-grade natural gas supplied to Massachusetts contains varying levels of at least 21 different hazardous air pollutants, as defined by the U.S. EPA, including benzene, toluene, ethylbenzene, xylene, and hexane. Benzene, toluene, ethylbenzene, and hexane are all listed by the State of California under Proposition 65 as carcinogens or reproductive toxins.

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<sup>15</sup> <https://www.washingtonpost.com/politics/2023/01/06/gas-stove-pollution-causes-127-childhood-asthma-study-finds/>; <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>;

<sup>16</sup> Hasselblad et al., Synthesis of Environmental Evidence: Nitrogen Dioxide Epidemiology Studies; Journal of the Air & Waste Management Association Volume 42, 1992 - Issue 5, available at <https://www.tandfonline.com/doi/abs/10.1080/10473289.1992.10467018>.

<sup>17</sup> Lin et al., Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children, International Journal of Epidemiology, Volume 42, Issue 6, December 2013, Pages 1724–1737 <https://academic.oup.com/ije/article/42/6/1724/737113?login=false>

<sup>18</sup> Gruenwald et al., Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States, Int. J. Environ. Res. Public Health 2023, 20(1), 75, available at <https://www.mdpi.com/1660-4601/20/1/75>

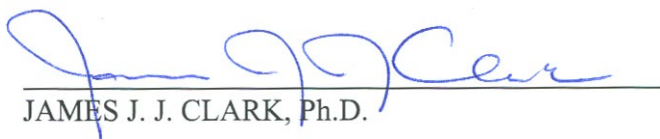
2. Concentrations of hazardous air pollutants in natural gas varied depending on location and time of year, with the highest concentrations found in the winter.
3. Based on odorant concentrations, small leaks can be undetectable by smell – leaks up to 10 times naturally occurring levels may be undetectable, equating to a methane concentration of about 20 parts per million.
4. When gas leaks occur, even small amounts of hazardous air pollutants could impact indoor air quality because natural gas is used by appliances in close proximity to people. Persistent outdoor gas leaks located throughout the distribution system may also degrade outdoor air quality as precursors to particulate matter and ozone.

The Project will expose residents to a source of contaminants that has not been fully assessed. The Project cannot be approved unless this potentially significant impact is accurately assessed and mitigated.

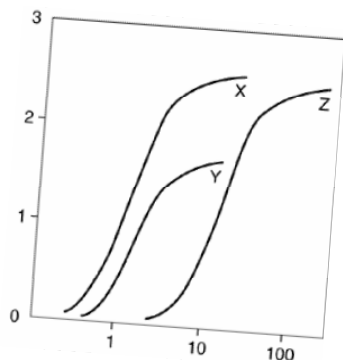
## **Conclusion**

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 final environmental impact report is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised environmental impact report.

Sincerely,



JAMES J. J. CLARK, Ph.D.



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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 20 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); 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.

Significant projects performed by Dr. Clark include the following:

**LITIGATION SUPPORT**

**Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009**

**Client: Environmental Litigation Group, Birmingham, Alabama**

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Summary judgment for defendants.**

**Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**



**Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344**

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

**Case Result: Settlement in favor of defendant.**

**Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247**

**Client: Richard G. Berger Attorney At Law, Buffalo, New York**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Judgement in favor of defendant.**

#### **SELECTED AIR MODELING RESEARCH/PROJECTS**

##### **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 will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will 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.

##### **Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California**

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client – City of Santa Monica, Santa Monica, California**

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client: Omnitrans, San Bernardino, California**

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

**Client: Confidential, San Francisco, California**

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

**Client: Confidential, Minneapolis, Minnesota**

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

**Client – United Kingdom Environmental Agency**

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

## **EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS**

### **Client: Ameren Services, St. Louis, Missouri**

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

### **Client: City of Santa Clarita, Santa Clarita, California**

Dr. Clark is managing 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 is assisting 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, Los Angeles, California**

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

**Client – Confidential, Los Angeles, California**

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

**PUBLIC HEALTH/TOXICOLOGY**

**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, San Francisco, California**

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

**Client: Confidential, San Francisco, California**

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

**Client: Confidential, San Francisco, California**

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

**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 – United Kingdom Environmental Agency**

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

**Client – Ministry of Environment, Lands & Parks, British Columbia**

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

**Client: Confidential, Los Angeles, California**

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**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**

**Client: Confidential, Atlanta, Georgia**

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.



**Client: Confidential, Escondido, California**

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

**Client: Confidential, San Francisco, California**

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

**Client: Confidential, Bogotá, Columbia**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**Client –Dominguez Energy, Carson, California**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

**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)

California Redevelopment Association (CRA)

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.

#### **Journal and Proceeding Articles**

- 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.
- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. Organohalogen Compounds, Volume 70 (2008) page 000527
- 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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# **ATTACHMENT B**





14 February 2023

Aidan Marshall, Esq.  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080

Subject: *8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
*Final Environmental Impact Report*  
Comments on Responses to DEIR Noise Analysis Comments

Dear Mr. Marshall,

In January 2022, we reviewed and provided comments on the information and noise impact analyses in the following document:

*8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
*Draft Environmental Impact Report ("DEIR")*  
*November 2021*

The City of Los Angeles responded to our comments in:

*8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
*Final Environmental Impact Report ("FEIR")*  
*Environ. Case: ENV-2017-506-EIR*  
*January 2023*

This letter contains our comments on the FEIR responses.

## Comments on Construction Noise Mitigation

In our comments on the DEIR, we concurred with the project sponsor's conclusion that construction noise impacts would be significant at upper floor residences in tall buildings surrounding the project site without mitigation, however, we disagreed that there was not feasible mitigation. We noted that options that were not considered include installing scaffolding outside the buildings from which to hang noise barrier blankets (Comment 3-39) and temporarily installing clear plexiglass or acrylic panels around balconies that face the project site (Comment 3-40).

In its response to Comment 3-39, the City takes the positions that:

1. The project Applicant does not own the affected buildings (the ones that require mitigation), and

2. That erecting the scaffolding would require the use of heavy equipment that would in and of itself would create a significant noise impact.

Starting with the second point, there are matters of degree. According to the DEIR, “construction of the Project is anticipated to take approximately 36 months”. [DEIR at p. IV.E-20] Erecting scaffolding, in contrast, takes a matter of days. I think it is reasonable to assert that people who would otherwise be subjected to 36 months of construction noise would not object to a few days of construction noise to provide mitigation for the longer term.

As to building ownership, this is not necessary to make the offer to provide noise mitigation. An example of a project offering to modify the homes of neighboring residents – homes not owned by the project developer – is provided by the *Modelo Project EIR*<sup>1</sup>:

**MM-NOI-4** The Project applicant shall offer to upgrade windows on the façades of homes facing Zindell Avenue. Increasing the sound attenuation of these windows would more than offset the increases in traffic noise from Project-generated trips along Zindell Avenue. [Modelo DEIR at p. 3.11-20]

The DEIR recognizes that because this offer may not be accepted by all homeowners, it was insufficient to render the noise impact less than significant:

However, because the City is not able to ensure acceptance/compliance of a window upgrade offer by property owners, Project-related traffic noise exposure level increases for residences along Zindell Avenue would remain significant and unavoidable. [Modelo DEIR at p. 3.11-18]

As stated in my comment letter on the DEIR for this project, I was personally involved with a project in San Francisco in which the project developer arranged to have scaffolding attached to a neighboring 8-story building and then fit with noise control blankets for the duration of project construction.

The City’s response to Comment 3-40 is very similar to that for Comment 3-39. In Comment 3-40, I suggest that individual balconies could be fit with clear plexiglass or acrylic panels for the duration of the construction. The City’s response state that the Applicant doesn’t own the buildings and that installing the temporary barriers would itself make noise. As such, my comments on these responses are the same as those regarding Response 3-39: It is not necessary to own the building to make an offer and suffering a few days of construction noise to mitigate 36 months of construction noise seems like a reasonable accommodation. I will add that of my two suggestions, this seems the more practical for two reasons. First, it enables individual residents to make decisions about receiving mitigation rather than requiring approval by the building community as a whole. Second, it would be far easier to implement. There would be no need to block off a street to erect scaffolding; the work could probably be done by accessing the balcony through the residence. Finally, it would not block light and views the way scaffolding and blankets would.

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<sup>1</sup> DRAFT *Modelo Project EIR*, City of Commerce, July 2020

## Comments on Relativistic Threshold of Significance

In Comments 3-41 and 3-42, I noted that the DEIR noise analysis indicates that the project will push the noise environment at some residences from the “conditionally acceptable” Noise Compatibility Land Use category into the “normally unacceptable” category and that this alone should constitute a significant noise impact. The reason is that sole use of a relative, “ambient plus increment” threshold of significance (as is used in the project DEIR) is inherently incapable of limiting noise exposure over the long term because the baseline is continually reset after each project is completed. I am not an expert in other contaminants such as water pollution or air pollution, but my understanding is that there are absolute amounts of impurities above which even one more molecule or part per million is considered significant. The California Department of Transportation (Caltrans) – which is very much an expert in the noise world given its need to continually construct noise barrier walls – recognizes that sole use of an “ambient plus” criterion is insufficient so also uses absolute Noise Abatement Criteria. [Caltrans *Traffic Noise Analysis Protocol*, April 2020, p. 3-2] If the implementation of a highway results in noise levels that approach or exceed the Noise Abatement Criteria (and other feasibility criteria are met), then the roadway will be constructed with noise barrier walls as substantial cost. The Federal Highway Administration uses similar absolute criteria.

Response 3-42 avoids the substance of the comment, as so many responders do, by citing the common notion that noise level increases less than 3 dBA are not perceptible. The response states,

The comment appears to suggest using a threshold of significance that is based on the change in the land use noise compatibility category only (e.g., a noise level change from “acceptable” to “unacceptable” without accounting for the incremental change). This approach would not be reasonable. [FEIR at p. II-86]

First, I want to confirm that using a threshold of significance based on the City’s own land use compatibility guidelines is precisely what I am suggesting. At some point, the City determined that noise exposure levels above 70 dBA CNEL is “normally unacceptable” for residences, and this project will be the straw that breaks that camel’s back. The City needs to recognize, just as Caltrans does, that absolute criteria are required to halt what will otherwise be an environment in which all residents are living in conditions that are fundamental unacceptable. This is not a cumulative noise impact issue as much as it is a malleable baseline issue. If every project is allowed to use only “ambient plus increment” threshold, there is theoretically no limit to the noise exposure. Only absolute thresholds can accomplish that, and the City has some at its ready disposal.

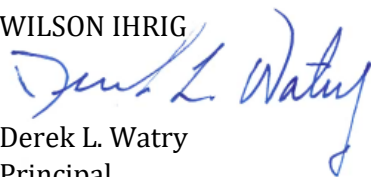


Please contact me if you have any questions about these comments on responses made to our prior comments on the 8<sup>th</sup>, *Grand and Hope Project DEIR* noise analysis.

Very truly yours,

WILSON IHRIG

Derek L. Watry  
Principal



2023-02-14 - 8th-grand-hope - feir noise - d watry.docx

## **DEREK L. WATRY**

*Principal*

Since joining Wilson Ihrig in 1992, Derek has gained experienced in many areas of practice including environmental, construction, forensic, architectural, and industrial. For all of these, he has conducted extensive field measurements, established acceptability criteria, and calculated future noise and vibration levels. In the many of these areas, he has prepared CEQA and NEPA noise technical studies and EIR/EIS sections. Derek has a thorough understanding of the technical, public relations, and political aspects of environmental noise and vibration compliance work. He has helped resolve complex community noise issues, and he has also served as an expert witness in numerous legal matters.

### **Education**

- M.S. Mechanical Engineering, University of California, Berkeley
- B.S. Mechanical Engineering, University of California, San Diego
- M.B.A. Saint Mary's College of California

### **Project Experience**

#### ***12<sup>th</sup> Street Reconstruction, Oakland, CA***

Responsible for construction noise control plan from pile driving after City received complaints from nearby neighbors. Attendance required at community meetings.

#### ***525 Golden Gate Avenue Demolition, San Francisco, CA***

Noise and vibration monitoring and consultation during demolition of a multi-story office building next to Federal, State, and Municipal Court buildings for the SFDPPW.

#### ***911 Emergency Communications Center, San Francisco, CA***

Technical assistance on issues relating to the demolition and construction work including vibration monitoring, developing specification and reviewing/recommending appropriate methods and equipment for demolition of Old Emergency Center for the SFDPPW.

#### ***Central Contra Costa Sanitary District, Grayson Creek Sewer, Pleasant Hill, CA***

Evaluation of vibration levels due to construction of new sewer line in hard soil.

#### ***City of Atascadero, Review of Walmart EIR Noise Analysis, Atascadero, CA***

Review and Critique of EIR Noise Analysis for the Del Rio Road Commercial Area Specific Plan.

#### ***City of Fremont, Ongoing Environmental Services On-Call Contract, Fremont, CA***

Work tasks primarily focus on noise insulation and vibration control design compliance for new residential projects and peer review other consultant's projects.

#### ***City of Fremont, Patterson Ranch EIR, Fremont, CA***

Conducted noise and vibration portion of the EIR.

#### ***City of King City, Silva Ranch Annexation EIR, King City, CA***

Conducted the noise portion of the EIR and assessed the suitability of the project areas for the intended development. Work included a reconnaissance of existing noise sources and receptors in and around the project areas, and long-term noise measurements at key locations.

***Conoco Phillips Community Study and Expert Witness, Rodeo, CA***

Investigated low frequency noise from exhaust stacks and provided expert witness services representing Conoco Phillips. Evaluated effectiveness of noise controls implemented by the refinery.

***Golden Gate Park Concourse Underground Garage, San Francisco, CA***

Noise and vibration testing during underground garage construction to monitor for residences and an old sandstone statue during pile driving for the City of San Francisco.

***Laguna Honda Hospital, Clarendon Hall Demolition, San Francisco, CA***

Project manager for performed vibration monitoring during demolition of an older wing of the Laguna Honda Hospital.

***Loch Lomond Marina EIR, San Rafael, CA***

Examined traffic noise impacts on existing residences for the City of San Rafael. Provided the project with acoustical analyses and reports to satisfy the requirements of Title 24.

***Mare Island Dredge and Material Disposal, Vallejo, CA***

EIR/EIS analysis of noise from planned dredged material off-loading operations for the City of Vallejo.

***Napa Creek Vibration Monitoring Review, CA***

Initially brought in to peer review construction vibration services provided by another firm, but eventually was tapped for its expertise to develop a vibration monitoring plan for construction activities near historic buildings and long-term construction vibration monitoring.

***San Francisco DPW, Environmental Services On-Call, CA***

Noise and vibration monitoring for such tasks as: Northshore Main Improvement project, and design noise mitigation for SOMA West Skate Park.

***San Francisco PUC, Islais Creek Clean Water Program, San Francisco, CA***

Community noise and vibration monitoring during construction, including several stages of pile driving. Coordination of noise and ground vibration measurements during pile driving and other construction activity to determine compliance with noise ordinance. Coordination with Department of Public Works to provide a vibration seminar for inspectors and interaction with Construction Management team and nearby businesses to resolve noise and vibration issues.

***San Francisco PUC, Richmond Transport Tunnel Clean Water Program, San Francisco, CA***

Environmental compliance monitoring of vibration during soft tunnel mining and boring, cut-and-cover trenching for sewer lines, hard rock tunnel blasting and site remediation. Work involved long-term monitoring of general construction activity, special investigations of groundborne vibration from pumps and bus generated ground vibration, and interaction with the public (homeowners).

***Santa Clara VTA, Capitol Expressway Light Rail (CELR) Bus Rapid Transit (BRT) Update EIS, CA***

Reviewed previous BRT analysis and provide memo to support EIS.

***Shell Oil Refinery, Martinez, CA***

Identified source of community noise complaints from tonal noise due to refinery equipment and operations. Developed noise control recommendations. Conducted round-the-clock noise measurements at nearby residence and near to the property line of the refinery and correlated results. Conducted an exhaustive noise survey of the noisier pieces of equipment throughout the refinery to identify and characterize the dominant noise sources that were located anywhere from a quarter to three-quarters of a mile away. Provided a list of actions to mitigate noise from the noisiest pieces of refinery equipment. Assisted the refinery in the selection of long-term noise monitoring equipment to be situated on the refinery grounds so that a record of the current noise environment will be documented, and future noise complaints can be addressed more efficiently.

***Tyco Electronics Corporation, Annual Noise Compliance Study, Menlo Park, CA***

Conducted annual noise compliance monitoring. Provided letter critiquing the regulatory requirements and recommending improvements.

***University of California, San Francisco Mission Bay Campus Vibration Study, CA***

Conducted measurements and analysis of ground vibration across site due to heavy traffic on Third Street. Analysis included assessment of pavement surface condition and propensity of local soil structure.

# **ATTACHMENT C**



# ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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January 5, 2021

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### **Re: Comments on the Draft Environmental Impact Report for the 8th, Grand and Hope Project (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR)**

Dear Ms. Majas:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments on the Draft Environmental Impact Report ("DEIR") for the 8th, Grand and Hope Project (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) ("Project"), proposed by Mitsui Fudosan America ("Applicant"), and prepared pursuant to the California Environmental Quality Act ("CEQA")<sup>1</sup> by the City of Los Angeles ("the City").

The Project proposes to construct a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would be located at 754 S. Hope Street and 609 and 625 W. 8th Street in the City of Los Angeles, California (Assessor's Parcel Numbers 5144-011-009 and 5144-011-016).

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

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<sup>1</sup> Public Resources Code § 21000 *et seq.*; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 *et seq.*  
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extent of the Project's potentially significant impacts on air quality, public health, noise, and greenhouse gas ("GHG") emissions. 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 codes or to adopt a statement of overriding considerations pursuant to CEQA.<sup>2</sup>

These comments were prepared with the assistance of environmental health, air quality, and GHG expert Dr. James Clark, Ph.D., and noise expert Derek Watry of Wilson Ihrig. Comments and curriculum vitae of Mr. Clark are attached to this letter as Attachment A.<sup>3</sup> Mr. Watry's comments and curriculum vitae are included as Attachment B.<sup>4</sup> 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.<sup>5</sup>

## 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 opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California

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

<sup>3</sup> **Attachment A:** Comments on 8th, Grand and Hope Project (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (Jan. 5, 2022) ("Clark Comments").

<sup>4</sup> **Attachment B:** 8th, Grand and Hope Project (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (Jan. 5, 2022), Comments on Noise Section by Wilson Ihrig ("Watry Comments").

<sup>5</sup> 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.

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, Gery 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 business and industry 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 medical office 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.<sup>6</sup> The EIR is a critical informational document, the "heart of CEQA."<sup>7</sup> "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the

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<sup>6</sup> Public Resources Code § 21100.

<sup>7</sup> *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 944 (citation omitted).  
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fullest possible protection to the environment within the reasonable scope of the statutory language.”<sup>8</sup>

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.<sup>9</sup> “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.’”<sup>10</sup> The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”<sup>11</sup> 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.”<sup>12</sup>

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.<sup>13</sup> 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.”<sup>14</sup> If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment” to

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

<sup>9</sup> 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.”).

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

<sup>11</sup> *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).

<sup>12</sup> 14 C.C.R. § 15003(b).

<sup>13</sup> 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.

<sup>14</sup> 14 C.C.R. § 15002(a)(2).

the greatest extent feasible and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”<sup>15</sup>

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.*”<sup>16</sup> 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.”<sup>17</sup> “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.’”<sup>18</sup>

### **III. THE EIR FAILS TO ADEQUATELY ANALYZE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS**

#### **A. The DEIR Fails to Disclose and Analyze the Health Risk Posed by the Project’s Air Emissions from Construction and Operation**

The DEIR fails to disclose and analyze health risks from construction emissions and lacks a quantified health risk analysis (“HRA”), in violation of CEQA.

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<sup>15</sup> 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.

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

<sup>17</sup> *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).

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

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."<sup>19</sup> 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."<sup>20</sup>

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 to human health.<sup>21</sup> 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."<sup>22</sup> 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.<sup>23</sup> 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."<sup>24</sup> CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.<sup>25</sup>

The failure to provide information required by CEQA makes meaningful assessment of potentially significant impacts impossible and is presumed to be prejudicial.<sup>26</sup> 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

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<sup>19</sup> *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.

<sup>20</sup> *Id.* at 518.

<sup>21</sup> *Id.* at 518–520; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

<sup>22</sup> *Id.* at 1220.

<sup>23</sup> *Sierra Club*, at 521.

<sup>24</sup> *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

<sup>25</sup> *Sierra Club*, 6 Cal.5th at 518–522.

<sup>26</sup> *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236–1237.

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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.<sup>27</sup> 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."<sup>28</sup>

The DEIR claims that emissions of toxic air contaminants ("TACs") will be less than significant without including a detailed or quantitative HRA to disclose the adverse health impacts that will be caused by exposure to TACs from the Project's construction and operational emissions. As a result, the DEIR fails to disclose the potentially significant health risk posed to nearby residents and children from TACs, and fails to mitigate it. Because the DEIR fails to include the necessary analysis disclosing the extent and severity of the Project's health risk, 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 diesel particulate matter ("DPM") emissions generated during Project construction and operation.

One of the primary emissions of concern regarding health effects for 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 that the Project's cancer risk from exposure to DPM would be less than significant based on the DEIR's conclusion that the Project's *criteria pollutant* emissions are less than significant.<sup>29</sup>

The DEIR's failure to quantify the health risk from DPM exposure is a failure to proceed in the manner required by law. CEQA expressly requires that an EIR discuss, *inter alia*, "health and safety problems caused by the physical changes" resulting from the project.<sup>30</sup> When a project results in exposure to toxic

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<sup>27</sup> *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

<sup>28</sup> *Id.* (internal quotations omitted).

<sup>29</sup> Clark Comments, pp. 4-5.; DEIR, p. IV.A-45.

<sup>30</sup> 14 C.C.R. § 15126.2(a).

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contaminants, this analysis requires a “human health risk assessment.”<sup>31</sup> OEHHA<sup>32</sup> guidance also sets a recommended threshold for preparing an HRA of a construction period of two months or more.<sup>33</sup> Construction of the instant Project will last at least 36 months, as the DEIR puts forth a timeline for construction of 2022 through 2025.<sup>34</sup> A detailed health risk analysis is necessary to determine how significant those impacts will be and if mitigation measures are sufficient to avoid risks to public health.

### **1. The DEIR Fails to Evaluate the Project’s TAC Emissions Against Applicable Significance Thresholds.**

The DEIR relies on the South Coast Air Quality Management District’s (“SCAQMD”) cancer risk significance thresholds for TACs to evaluate the Project’s health risk, which includes the following:

Maximum incremental cancer risk 10 in 1 million  
Cancer Burden >0.5 excess cancer cases (in areas  $\geq 1$  in 1 million)  
Chronic and acute hazard index 1.0 (project increment).<sup>35</sup>

SCAQMD Rule 1401 health risk thresholds apply to operational impacts from the Project’s diesel backup generator (“BUG”). Those thresholds provide that 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 (“T-BACT”), or a maximum incremental cancer risk greater than 10 in 1 million with the application of T-BACT, or if the cumulative cancer burden (i.e., increase in cancer cases in the population) from all

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<sup>31</sup> *Sierra Club*, 6 Cal.5th at 520; *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (“*Berkeley Jets*”) (2001) 91 Cal.App.4th 1344, 1369; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219–1220 (CEQA requires that there must be some analysis of the correlation between the project’s emissions and human health impacts).

<sup>32</sup> 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>.

<sup>33</sup> 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](http://oehha.ca.gov/air/hot_spots/hotspots2015.html) (“OEHHA Guidance”), p. 8-18.

<sup>34</sup> DEIR, p. IV.A-52

<sup>35</sup> See DEIR Table IV.A-3 (SCAQMD Air Quality Significance Thresholds).



TACs emitted from a single piece of equipment exceeds 0.5, or a health hazard index (chronic and acute) greater than 1.0.<sup>36</sup>

The DEIR concludes that Project construction “would not result in any substantial emissions of acute or chronic TACs during construction activities,”<sup>37</sup> and regarding Project operation, concludes that “the proposed project would not release substantial TACs.”<sup>38</sup> However, as discussed above, the DEIR failed to quantify the Project’s DPM emissions from construction or operation.<sup>39</sup> The City also failed to perform the necessary step of comparing the Project’s DPM emissions to the applicable significance thresholds to determine whether or not they exceed the thresholds, nor could it have because the DEIR lacks the emissions calculations with which to do so. The City, therefore, lacks any quantitative evidence demonstrating that the Project’s DPM emissions will not exceed thresholds.

The DEIR also fails to address that the Applicant would be required to work with the SCAQMD to obtain permits to operate for the BUG, and does not address any of SCAQMD’s future analysis to determine whether or not the BUG poses a significant health risk.<sup>40</sup> This approach is prohibited by CEQA. The lead agency may not completely defer analysis of potential environmental impacts to an outside regulatory scheme, as the City has done here.<sup>41</sup>

The DEIR must be revised and recirculated to accurately analyze the health risks from the Project, determine whether they exceed the applicable SCAQMD significance thresholds, and to incorporate binding mitigation to reduce potentially significant health risk impacts to less than significant levels.<sup>42</sup>

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<sup>36</sup> See DEIR Table IV.A-3 (SCAQMD Air Quality Significance Thresholds).

<sup>37</sup> DEIR, p. IV.A-57.

<sup>38</sup> DEIR, p. IV.A-61.

<sup>39</sup> The DEIR includes an assumption that the BUG will operate 12 hours/year for testing, but did not quantify any other operational use of the BUG, or any other operational emissions that may result in TAC emissions.

<sup>40</sup> DEIR IV.A.

<sup>41</sup> See *Californians for Alternatives to Toxics v. Dep’t of Food & Agric.* (2005) 38 Cal. Rptr. 3d 638, 648; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881–882 (court rejected assertion that noise level under proposed project would be insignificant simply by virtue of being consistent with general plan standards for zone in question).

<sup>42</sup> *Sierra Club*, 6 Cal.5th at 520.

## **2. The DEIR's Analysis of Emissions From the On-Site Back Up Generator Ignores Substantial Emissions that Are Reasonably Likely to Occur From Non-Testing Operational Periods**

The DEIR's analysis of the air quality impacts from the BUG makes two improper assumptions. First, it assumes the BUG will be maintained and tested for no more than 12 hours per year even though SCAQMD permits up to 200 hours of testing per year.<sup>43</sup> 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 Rule 1470."<sup>44</sup> The City has therefore failed to properly measure the potential impact of DPM emissions from the BUG on the receptors nearby, and from BUG emissions of NOx. Thus, the DEIR's conclusion that there will be less than significant impacts from the BUG is unsupported.

Secondly, 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 ("EHEs"). The recent rise of Extreme Heat Events in the State has increased the amount of PSPS events and thus increased the amount of time generators are being run.<sup>45</sup>

Dr. Clark explains that EHEs "are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit."<sup>46</sup> In 2021 alone, the Governor released one Executive Order regarding EHEs and one Proclamation for a State of Emergency with the intention to help avoid PSPS events.<sup>47</sup> CARB notes though that the number of Extreme Heat Events is likely to

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<sup>43</sup> SCAQMD Rule 1407.

<sup>44</sup> Clark Comments, p. 6.

<sup>45</sup> 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](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).

<sup>46</sup> Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021; Clark Comments, pp. 6-7.

<sup>47</sup> 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>.

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increase, and thereby PSPS events, with the continuing change in climate that the State is currently undergoing.<sup>48</sup>

According to the California Public Utilities Commission (“CPUC”) de-energization report<sup>49</sup> 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 outage in October 2019.<sup>50</sup> Dr. Clark notes that CARB concluded that PSPS events in October of 2019 alone generated 126 tons of NO<sub>x</sub>, 8.3 tons of particulate matter, and 8.3 tons of DPM.<sup>51</sup>

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 increased DPM that the DEIR did not analyze.

While the City is not required to analyze the worst case scenarios, there is substantial evidence demonstrating that PSPS events and EHE are reasonably foreseeable events which will require the use of the BUG beyond mere testing operations. A detailed analysis of the emissions and noise from these additional hours of BUG operation should be included in a revised EIR, including the extra time the BUG will need to run to account for EHEs and PSPS.

## **B. The DEIR Fails to Accurately Disclose and Mitigate Significant GHG Impacts**

CEQA requires the lead agency to use scientific data to evaluate GHG impacts directly and indirectly associated with a project.<sup>52</sup> The analysis must

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<sup>48</sup> CARB 2017 Scoping Plan, p. 6,

[https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf)

<sup>49</sup> <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.

<sup>50</sup> CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

<sup>51</sup> Clark Comments p. 7.

<sup>52</sup> 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

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“reasonably reflect evolving scientific knowledge and state regulatory schemes.”<sup>53</sup> In determining the significance of GHG emissions impacts, 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.”<sup>54</sup>

The DEIR claims that GHG emissions impacts will be less than significant because the Project is consistent with the LA Green New Deal, the 2008 Climate Change Scoping Plan, and the 2020-2045 RTP/SCS.<sup>55</sup> Specifically, Appendix R1: CAP Consistency Checklist states that the Project’s inclusion of bike parking, electric vehicle charging infrastructure, designated parking spaces, and a Transportation Demand Management Program satisfies CAP Strategy 3: Bicycling, Walking, Transit & Land Use.<sup>56</sup> However, as explained below, the Project is inconsistent with the CAP and Regional Transportation Plan in key ways and the DEIR’s GHG analysis is also deficient for its failure to consider and mitigate significant long-term GHG impacts.

**1. The City’s Greenhouse Gas (GHG) Analysis Fails To Account For The Significant Increase in GHG Emissions That Will Be Realized With The Operation Of The BUGS Beyond 12 Hours Of Test Per Year.**

The City’s GHG analysis calculates that BUGs at the Project Site will generate 1.3757 tons per year of CO<sub>2</sub> equivalent for each 12 hours of operation.

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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).

<sup>53</sup> 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”).

<sup>54</sup> 14 C.C.R. § 15064.4(b)(1), (3).

<sup>55</sup> DEIR, p. IV.C-48

<sup>56</sup> DEIR, Appendix R1: Climate Action Plan Consistency Checklist (“CAP Checklist”), pp. 7–10, Attachment D.

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Therefore, a revised DEIR 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 GHG analysis and then compare those results against the goals in the LA Green New Deal, the 2008 Climate Change Scoping Plan, and the 2020-2045 RTP/SCS.

## **2. 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, and the 2017 California Climate Change Scoping Plan. While the City claims compliance with AB 32 Cap-and-Trade, the Project is not subject to Cap-and-Trade. 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.<sup>57</sup> Furthermore, the City relies on "project design features" and credits when analyzing the Project's GHG impacts even though these measures are not legally enforceable like mitigation measures are.<sup>58</sup> The City must correct these assumptions regarding the GHG analysis in a revised EIR.

## **3. The DEIR Relies on Project Design Features to Reduce GHG Impacts and Fails to Adopt All Feasible Mitigation Measures to Reduce Significant GHG Impacts**

The Project includes Project Design Feature GHG-PDF-1 which includes many measures to help reduce the overall GHG impact of the Project. As a Project design feature though, there is no requirement that the Project follows through with these designs once the proper permitting has been approved. The only way to make these features legally enforceable is to make them mitigation measures under CEQA.<sup>59</sup> This, combined with the unaccounted for GHG emissions above, places the

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<sup>57</sup> DEIR. 2021. Appendix IV.C. pg IV.C-78; IV.C-45; *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467.

<sup>58</sup> DEIR, p. IV.C-46.

<sup>59</sup> PRC § 21081.6(b); 14 C.C.R. § 15126.4(a)(2); *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

burden on the City to explain specifically why the proposed mitigation is not feasible.<sup>60</sup> All feasible mitigation should be adopted in a revised DEIR.

### **C. The DEIR Fails to Accurately Disclose and Mitigate Significant Noise Impacts**

The CEQA Guidelines require an EIR 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 . . .”<sup>61</sup> The DEIR’s noise analysis fails to accurately disclose the Project’s noise impacts for several reasons.

#### **1. The DEIR Fails to Require All Feasible Mitigation Measures to Reduce Significant Impacts**

Mr. Watry concludes that the mitigation measures for construction noise offered by the DEIR may be insufficient. While Mr. Watry agrees that the temporary sound barriers would not reduce noise impacts to levels above the barrier,<sup>62</sup> Mr. Watry’s analysis identified additional feasible mitigation that would further reduce the Project’s construction noise impacts, which are not discussed in the DEIR. Mr. Watry recommends that the DEIR’s mitigation measure be revised to provide either plexiglass barriers or sound blankets attached to scaffolding for each story of adjacent buildings during Project construction in order to further reduce noise above the DEIR’s proposed noise barrier.<sup>63</sup>

The DEIR’s failure to implement all feasible mitigation measures to reduce construction noise impacts before declaring them significant and unavoidable is a separate CEQA violation. The DEIR concludes that construction noise impacts are significant and unavoidable. Therefore, the DEIR must adopt all feasible mitigation measures to reduce construction noise impacts to the greatest extent feasible, including but not limited to those recommended by Mr. Watry.<sup>64</sup>

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<sup>60</sup> See *Covington*, 43 Cal.App.5th at 879–883 (holding that revised EIR was required where respondent failed to explain why the petitioners’ proposed mitigation measure was not feasible).

<sup>61</sup> CEQA Guidelines, Appendix G, Sec. XII(d).

<sup>62</sup> Watry Comments, p. 2.

<sup>63</sup> Watry Comments, pp. 2-3.

<sup>64</sup> *Covington*, 43 Cal.App.5th at 883.

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#### **D. 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.<sup>65</sup> The analysis must be sufficiently detailed to correspond to the severity of the impact and the likelihood that it will occur.<sup>66</sup> 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.”<sup>67</sup>

The DEIR's cumulative impact analysis fails to comply with CEQA in at least two major ways. First, the DEIR fails to analyze the cumulative health risk of the Project with other nearby projects that are within 1000 feet of the Project site and may undergo concurrent construction, including the Arts Club Project and 9034 Sunset, both of which have pending CEQA documents before the City.<sup>68</sup>

##### **1. The DEIR Fails to Evaluate Cumulative Air Quality Impacts**

CEQA requires analysis of cumulative impacts, defined as “two or more individual effects which, when considered together, are considerable.”<sup>69</sup> Such impacts may “result from individually minor but collectively significant projects taking place over a period of time.”<sup>70</sup> 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.”<sup>71</sup> CEQA Guidelines section 15130(b)(1)

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<sup>65</sup> 14 §§ C.C.R. 15130(a); 15065(a); 15355(b); *Cadiz Land Co., Inc. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, 109.

<sup>66</sup> 14 C.C.R. § 15130(b); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 729 (EIR inadequate for failure to include “some data” on cumulative groundwater impacts).

<sup>67</sup> PRC § 21083(b)(2); 14 C.C.R. §§ 15064(h)(1), 15065(a)(3); 14 C.C.R. § 15130(b).

<sup>68</sup> See City environmental docs list: <https://www.weho.org/city-government/city-departments/planning-and-development-services/current-and-historic-preservation-planning/environmental-documents>.

<sup>69</sup> 14 C.C.R. § 15355.

<sup>70</sup> 14 C.C.R. § 15355(b).

<sup>71</sup> 14 C.C.R. § 15064(h)(1).

provides two options for analyzing cumulative impacts: (A) list “past, present, and 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.”<sup>72</sup> “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.”<sup>73</sup>

The DEIR neglects 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 the severity of the Project’s cumulative impacts on air quality, GHGs, or noise. These omissions are particularly glaring given that the DEIR itself identified 74 other related cumulative projects near the Project site.<sup>74</sup>

The DEIR similarly fails to evaluate the Project’s cumulative impacts through its relationship with the LA Green New Deal or how compliance with the plan will ensure impacts are not cumulatively considerable. Thus, the DEIR fails to conduct the cumulative air quality, GHG, and noise impacts analysis as required by CEQA.

The law is clear that individually insignificant incremental contributions to air pollution are part of a cumulatively considerable impact requiring analysis in an EIR.<sup>75</sup> 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.<sup>76</sup> Notwithstanding the fact that the EIR found that the project region was out of attainment for PM<sub>10</sub> 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.”<sup>77</sup> The Court held that it was an error for the City to not take

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<sup>72</sup> 14 C.C.R. § 15130(b)(1).

<sup>73</sup> *Id.*; see *id.* § 15130(a) (stating that the lead agency shall describe its basis for concluding that an incremental effect is not cumulatively considerable).

<sup>74</sup> DEIR, p. III-7 to -13, Table III-1.

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

<sup>76</sup> *Id.* at 706.

<sup>77</sup> *Id.* at 719.



into account the nonattainment with air quality standards.<sup>78</sup> 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 should be considered significant in light of the serious nature of the ozone problems in this air basin.”<sup>79</sup> 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.”<sup>80</sup>

Here, the DEIR acknowledges that the SCAQMD is in nonattainment for state air quality standards for O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub>.<sup>81</sup> Given these background conditions, even marginal contributions of O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> 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 small and incremental contribution to air pollution in the SCAB must be understood in the context of poor air quality that currently exists.<sup>82</sup> Yet the DEIR does not even mention O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> in its discussion of Cumulative Impacts.<sup>83</sup> The DEIR must be revised to consider the circumstances of the O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> problem in the region in conjunction with the cumulatively considerable air quality effects from this source of O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> emissions.

The DEIR must be revised and recirculated to analyze all cumulative projects in the City of Los Angeles and Los Angeles County generally which may have relevant cumulative air quality, health risk, GHGs, and noise impacts when combined with the Project’s impacts.

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<sup>78</sup> *Id.* at 718–721.

<sup>79</sup> *Id.* at 718.

<sup>80</sup> *Id.* at 721.

<sup>81</sup> DEIR, p. IV.A-10.

<sup>82</sup> *Kings County*, 221 Cal.App.3d at 718–721.

<sup>83</sup> DEIR, p. IV.A-10.

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#### **IV. THE CITY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT'S LOCAL LAND USE PERMITS AND THE VESTING TENTATIVE MAP**

The Project requires a Specific Plan Adjustment.<sup>84</sup> This adjustment requires the City to make findings regarding land use consistencies and/or environmental factors. As discussed throughout this letter, the DEIR fails to disclose the Project's potentially significant, unmitigated impacts on air quality, health risk, and noise. These impacts create inconsistencies with the Specific Plan Project Permit adjustment and the VTTM which the DEIR fails to disclose and mitigate. As a result of these impacts, the City is unable to make the necessary findings under the City's municipal codes and State land use laws to approve the Project's local land use permits.

##### **A. The City Cannot Make the Required Findings for a Specific Plan Project Permit Adjustment**

In order to approve the Project's conditional use permits, the City's Municipal Code requires the City to make a finding that the permit sought will "incorporate mitigation measures, monitoring of measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible."<sup>85</sup>

As discussed herein, the Project has potentially significant, unmitigated impacts on air quality, health risk, and noise that are likely to harm public health and welfare if not fully mitigated. In particular, the DEIR's proposed finding that the Project will result in significant and unavoidable construction noise impacts<sup>86</sup> demonstrates that the Project's construction noise will constitute an ongoing menace to local sensitive receptors from noise throughout the Project's 3-year construction period. Furthermore, as Mr. Watry notes, existing ambient noise levels at two receptors near the Project will move from "conditionally acceptable" to "normally unacceptable" due to noise emanating from the Project. As such the City should not approve the Specific Plan Project Permit unless those noise levels can be mitigated to conditionally acceptable levels.<sup>87</sup>

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<sup>84</sup> DEIR, p. II-36.

<sup>85</sup> LAMC Section 12.22-A,30(e)

<sup>86</sup> DEIR, p. IV.E-42.

<sup>87</sup> Watry Comments, pp. 3-4.

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These unmitigated impacts render the Project inconsistent with the use permit standards set forth in the Municipal Code. The City therefore cannot make the necessary findings under the Code to approve the Project's Specific Plan Project Permit adjustment until these deficiencies in the DEIR are corrected, and until these impacts are fully mitigated.

**B. The City Cannot Make the Required Findings for a Vesting Tentative Map Due to the Substantial Environmental Damage Caused By the Project**

The Subdivision Map Act ("SMA") provides guidance as to the findings that the agency must make when approving a tentative map, and requires agencies to deny map approval if the project would result in significant environmental or public health impacts.

Government Code, section 66474, provides:

A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

(Emphasis added.)

Furthermore, where an EIR has been prepared, and demonstrates that there will be significant and unavoidable environmental impacts, a Vesting Tentative Map (“VTM”) can be certified only if the decision makers issue a statement of overriding considerations, per Government Code, section 66474.01:

Notwithstanding subdivision (e) of Section 66474, a local government may approve a tentative map, or a parcel map for which a tentative map was not required, if an environmental impact report was prepared with respect to the project and a finding was made pursuant to paragraph (3) of subdivision (a) of Section 21081 of the Public Resources Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.<sup>88</sup>

Government Code, section 66474, subsections (e) and (f) implicate CEQA, and prohibit decision makers from approving a tract map where the project is “likely to cause substantial environmental damage” or “cause serious public health problems.”<sup>89</sup> And the City is unable to make a statement of overriding considerations for the Project under CEQA because the City has not mitigated the Project’s construction noise impacts to the greatest extent feasible, and has not

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<sup>88</sup> Gov. Code, § 66474.01.

<sup>89</sup> Gov. Code, § 66474, subds. (e), (f).  
L5887-004acp


demonstrated that the Project's benefits outweigh its costs, including providing employment opportunities for highly trained workers.<sup>90</sup>

Here, approval of the project is likely to cause substantial impacts to air quality, public health, and noise. The City's decision makers therefore cannot make the necessary SMA findings based on the record before it. The City must correct the errors in the DEIR, adopt adequate mitigation measures to reduce impacts to less than significant levels, and must provide substantial evidence supporting the Project's proposed statement of overriding considerations to address the Project's outstanding, unmitigated significant impacts before the City can approve the VTTM.

## V. CONCLUSION

For the reasons discussed above, the DEIR for the Project remains wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and 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

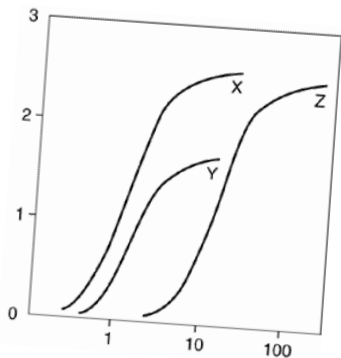
DKK:acp

Attachments

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<sup>90</sup> Pub. Res. Code § 21081(a)(3), (b).  
L5887-004acp

# **ATTACHMENT A**



## Clark & Associates

Environmental Consulting, Inc.

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January 5, 2022

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

**Attn: Mr. Darien Key**

**Subject: Comments On Draft Environmental Impact Report  
(DEIR) For 8<sup>th</sup>, Grand, and Hope Street Project (ENV-  
2017-506-EIRP)**

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Dear Mr. Key:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the 2021 City of Los Angeles Mitigated Draft Environmental Impact Report (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:**

The Project involves the construction of a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would provide 636 vehicle parking spaces within three subterranean levels and eight above-grade levels and four vehicle parking spaces on the ground floor. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. Upon completion, the total building floor area would be 554,927 square feet with a maximum height of 592 feet and a Floor Area Ratio (FAR) of approximately 9.25:1.

The Project is located at 754 South Hope Street and 609 and 625 West 8<sup>th</sup> street in the City of Los Angeles. The parcels that comprise the Project Site are rectangular in share and the site is comprised of two tax assessor parcels (APNs: 5144-011-009 and 5144-011-016), which encompass a total of approximately 34,679 square feet of lot area (0.83 acre). The Project Site is currently developed with a low-rise four-story parking structure and a surface parking lot that is entirely paved and devoid of landscaping. The currently existing commercial parking structure provides 324 parking spaces.

The maximum depth of the subterranean levels (parking) for the Project would be approximately 63 feet below ground level. The building would include levels 1 through 50 with a maximum height of 592 feet above grade to the top of the parapet. The ground floor of the new building would be occupied by a residential lobby on 8<sup>th</sup> Street, as well as commercial/retail/restaurant uses, which will be located on the corner of Hope Street and 8<sup>th</sup> Street and at the corner of Grand Avenue and 8<sup>th</sup> Street.

Construction of the Project would commence with site clearance and demolition of the existing parking structure and parking lot, resulting in approximately 15,000 cubic yards of demolition debris, followed by grading and excavation for the subterranean levels. Construction is anticipated to occur over a 36-month period and is anticipated to be completed in 2025. Approximately 89,750 cubic yards of soil would be exported and hauled away from the Project Site during the excavation phase.

According to the City's DEIR, the Project would result in significant and unavoidable impacts related to on-site noise during construction and on-site vibration during construction (pursuant to the threshold for human annoyance). Cumulative impacts with respect to off-site construction traffic noise would also be significant and unavoidable. All other potential impacts would be less than significant or mitigated to less-than-significant levels. The assessment from the City provided in the DEIR misses the significant impacts associated with air quality that have been ignored by the City.



**Table I-2  
Summary of Impacts Under the Project**

<b>Environmental Issue</b>	<b>Proposed Project Impact</b>
<b>A. AIR QUALITY</b>	
Construction	
<i>Regional Emissions</i>	Less Than Significant
<i>Localized Emissions</i>	Less Than Significant
<i>Toxic Air Contaminants</i>	Less Than Significant
Operation	
<i>Regional Emissions</i>	Less Than Significant
<i>Localized Emissions</i>	Less Than Significant
<i>Toxic Air Contaminants</i>	Less Than Significant
<b>B. ENERGY</b>	
Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources	
<i>Construction</i>	Less Than Significant
<i>Operation</i>	Less Than Significant
Conflict with Plans for Renewable Energy or Energy Efficiency	Less Than Significant
<b>C. GREENHOUSE GAS EMISSIONS</b>	Less Than Significant
<b>D. LAND USE</b>	
Physical Division of a Community	Less Than Significant
Conflict with Land Use Plans	Less Than Significant
<b>E. NOISE</b>	
Construction	
<i>On-Site Noise</i>	<b>Significant and Unavoidable<sup>4</sup></b>
<i>Off-Site Noise</i>	Less Than Significant <sup>5</sup>
<i>On-Site Vibration (Building Damage)</i>	Less Than Significant with Mitigation
<i>On-Site Vibration (Human Annoyance)</i>	<b>Significant and Unavoidable</b>
<i>Off-Site Vibration (Building Damage)</i>	Less Than Significant
<i>Off-Site Vibration (Human Annoyance)</i>	<b>Significant and Unavoidable<sup>6</sup></b>
Operation	
<i>On-Site Noise</i>	Less Than Significant
<i>Off-Site Noise</i>	Less Than Significant
<i>Vibration</i>	Less Than Significant

## 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 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.<sup>1</sup> 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. Instead, the determination of a significance threshold is based on a *quantitative risk analysis* that requires the City to perform a multistep, quantitative health risk analysis.

TACs, including diesel particulate matter (DPM)<sup>2</sup>, 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.

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<sup>1</sup> City of Los Angeles. 2021. DEIR of 8<sup>th</sup>, Grand, and Hope Project. Pg IV.A-58

<sup>2</sup> 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.

Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.<sup>3,4,5</sup> 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.<sup>6</sup> Exposure to DPM increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.<sup>7</sup> DPM is a TAC that is recognized by state and federal agencies as causing severe health risk because it contains toxic materials, unlike PM<sub>2.5</sub> and PM<sub>10</sub>.<sup>8</sup>

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.

There are several sensitive receptors in the direct vicinity of the Project site, including residences and businesses located near the Project site. The two closest residential/sensitive receptors to the Project Site are located at the Eighth and Grand development (a mid-rise residential complex with a ground floor market at 788 S. Grand Avenue) and the 8<sup>th</sup> and Hope Apartments (located at 801 South

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<sup>3</sup> 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>.

<sup>4</sup> U.S. EPA, Health Assessment Document for Diesel Engine Exhaust, Report EPA/600/8-90/057F, May 2002.

<sup>5</sup> 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](http://www.edf.org/documents/4941_cleanerdieselhandbook.pdf), accessed July 5, 2020.

<sup>6</sup> California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.

<sup>7</sup> Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting.

<sup>8</sup> 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.")

Hope Street). Both receptors are less than 200 feet (61 meters) from the Project Site location. The nearest commercial receptors are located across 8<sup>th</sup> Avenue (approximately 80 feet or 25 meters).

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 DEIR incorrectly states that it is not necessary to evaluate long-term cancer impacts from construction activities which occur over a relatively short duration.<sup>9</sup> 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. The Air Quality Analysis For The Project Fails To Include The Impacts From The Emergency Generator That Will Be Installed Onsite.**

In Appendix B to City's DEIR of Project, the air quality analysis assumes that the back up generator (BUG) on site will only be operated for 12 hours a year (testing and maintenance). 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 City must revise its air quality analysis to include the use of BUGs onsite in a 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.<sup>10</sup> From January, 2019 through December, 2019, Southern California Edison reported 158 of their circuits underwent a PSP event<sup>11</sup>. 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 in Los Angeles 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

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<sup>9</sup> City of Los Angeles. 2021. DEIR of 8<sup>th</sup>, Grand, and Hope Project. Pg IV.A-57

<sup>10</sup> Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

<sup>11</sup> 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](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).

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).<sup>12</sup> Of particular concern are health effects related to emissions from diesel back-up engines. 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 people more susceptible to further injury.

According to the California Public Utilities Commission (CPUC) de-energization report<sup>13</sup> 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. CARB's data also indicated that on average each of these customers had about 43 hours of power outage in October 2019.<sup>14</sup> 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 were declared. For the June 17, 2021 EHE, stationary generator owners were allowed to use their BUGs for 48 hours. For the July 9, 2021 EHE, the stationary generator owners were allowed to use their BUGs for 72 hours. These two events would have increased 10 fold the calculated DPM emissions from the Project if only the 12 hours of testing claimed in the DEIR were to be true. An 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.

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<sup>12</sup> CARB. 2019. Use of Back-up Engines For Electricity Generation During Public Safety Power Shutoff Events. October 25, 2019.

<sup>13</sup> <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..

<sup>14</sup> CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

3. Using the South Coast Air Quality Management District's Rule 1401 the City's emissions estimates for criteria pollutants do not substitute for a health risk analysis of the cancer risk posed by exposure to TACs, in particular DPM, released during Project construction and operation. This broad-brushed, non-quantitative approach ignores the substantial health impacts from criteria pollutants and TACs that will be emitted from the Project's BUG. **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 DEIR<sup>15</sup>, 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 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 DEIR, the proposed emergency generator would be operated for a limited time (12 hours or less per year for testing and maintenance) and would be required to meet the required emissions rates for DPM at the time of installation, and must be demonstrated to meet the requirements of all applicable rules before the SCAQMD can issue the permits to operate stationary source equipment.

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<sup>15</sup> City of Los Angeles. 2021. DEIR of 8<sup>th</sup>, Grand, and Hope Project. Pg IV.A-58

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 12 hours per year or less, the model calculates emissions of DPM of approximately 1.07 lbs per year. This value is the same as the amount reported in the DEIR for the operational analysis of the site.

Assuming the generator's emissions will be vented at the ground level, the vent to the generator would be approximately 14 feet above grade level. For the Risk Tool inputs, the stack height (exit point of the generator) was set to 14 feet above grade.

Based on the emission of 1.07 lbs per year of DPM, the SCAQMD Risk Tool calculates a risk of 3.08 in 1,000,000 for residents living within 180 feet (60.96 meters) of the Project Site. Commercial workers located within 80 feet (25 meters) of the site face a potential health risk of 6.26 in 1,000,000. The model was set to assume T-BACT controls were in place for the generator.

Assuming the system is maintained and operated for 200 hours per year or less, the model calculates emissions of DPM of approximately 17.8 lbs per year.

Based on the emission of 17.8 lbs per year of DPM, the SCAQMD Risk Tool calculates a risk of 51.4 in 1,000,000 for residents living within 180 feet (60.96 meters) of the Project Site. Commercial workers located within 80 feet (25 meters) of the site face a potential health risk of 104 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.

**4. The City's Greenhouse Gas (GHG) Analysis Fails To Account For The Significant Increase in GHG Emissions That Will Be Realized With The Operation Of The BUGS Beyond 12 Hours Of Test Per Year.**

The City's GHG analysis calculates that BUGs at the Project Site will generate 1.3757 tons per year of CO<sub>2</sub> equivalent for each 12 hours of operation. As is demonstrated in Comment 3, operation of the BUGs is likely to exceed 17 times the number assumed in the DEIR (12 hours). Therefore a revised DEIR 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 GHG analysis.

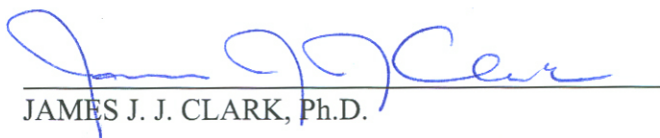
## **5. The City's Greenhouse Gas Analysis Relies On An Unsupported Threshold**

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, and the 2017 California Climate Change Scoping Plan. While the City claims compliance with AB 32 Cap-and-Trade, the Project is not subject to Cap-and-Trade. 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.<sup>16</sup> 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 draft environmental impact report is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised environmental impact report.

Sincerely,



JAMES J. J. CLARK, Ph.D.

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<sup>16</sup> DEIR. 2021. Appendix IV.C. pg IV.C-78.



Fac Name: 8th Hope and Grand

A/N: 0

[illegible]

TIER 1 SCREENING RISK ASSESSMENT REPORT  
(Procedure Version 8.1 & Package N, September 1, 2017)

Application deemed complete date: 10/1/2017

A/N , 8th Hope and Grand

Equipment Type	Other	No 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
3.69E+02 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	1.78E+01	8.92E-02	4.83E-02		3.69E+02	
TOTAL (APPLICATION SCREENING INDEX)					3.69E+02	

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: 8th Hope and Grand \_\_\_\_\_ Application deemed complete date: 10/1/2017 \_\_\_\_\_

1. Stack Data

Equipment Type

Generator

Combustion Eff

0.0

No T-BACT

Operation Schedule

2 hrs/day

2 days/week

50 weeks/year

Stack Height

14 ft

Distance to Residential

60.96 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 (µg/m³)/(tons/yr)	X/Qmax (µg/m³)/(lbs/hr)
Residential	7.73	234.66
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

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 3. Rule 1401 Compound Data

[illegible]

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

## 4. Emission Calculations

[illegible]

## TIER 2 RESULTS

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 5a. MICR

$$\text{MICR Resident} = \text{CP (mg/(kg-day))}^{-1} * \text{Q (ton/yr)} * (\text{X/Q})_{\text{Resident}} * \text{CEF Resident} * \text{MP Resident} * 1\text{e-6} * \text{MWAf}$$
$$\text{MICR Worker} = \text{CP (mg/(kg-day))}^{-1} * \text{Q (ton/yr)} * (\text{X/Q}) \text{ Worker} * \text{CEF Worker} * \text{MP Worker} * \text{WAF Worker} * 1\text{e-6} * \text{M WAF}$$

Compound	Residential	Commercial
Particulate Emissions from Diesel-Fueled Engines	5.14E-05	1.04E-04
Total	5.14E-05	1.04E-04
	FAIL	FAIL

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

**YES**

New X/Q at which MICR<sub>70yr</sub> is one-in-a-million [(μg/m<sup>3</sup>)/(tons/yr)]:

4.34E-01

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

227.31

Zone Impact Area (km<sup>2</sup>):

1.62E-01

Zone of Impact Population (7000 person/km<sup>2</sup>):

1.14E+03

### Cancer Burden:

**1.19E-01**

**Cancer Burden is less than or equal to 0.5**

**PASS**

6. Hazard Index Summary

A/N: \_\_\_\_\_

Application deemed complete date: 10/01/17

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

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

HIC 8-hr= [Q(ton/yr) \* (X/Q) \* WAF \* MWAF] / 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		8.09E-02	N/A	Pass	Pass	Pass
Skin			N/A	Pass	Pass	Pass

**A/N:** \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6a. Hazard Index Acute - Resident

$$\text{HIA} = [\text{Q(lb/hr)} * (\text{X/Q})_{\text{max resident}} * \text{MWAf}] / \text{Acute REL}$$
[illegible]



### 6a. Hazard Index Acute - Worker

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

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

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6b. Hazard Index Chronic - Resident

$$\text{HIC} = [\text{Q}(\text{ton/yr}) * (\text{X/Q}) \text{ Resident} * \text{MP Chronic Resident} * \text{MWAF}] / \text{Chronic REL}$$
[illegible]

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6b. Hazard Index Chronic - Worker

$$\text{HIC} = [\text{Q}(\text{ton/yr}) * (\text{X/Q}) * \text{MP Chronic Worker} * \text{MWAf}] / \text{Chronic REL}$$
[illegible]

### 6c. 8-hour Hazard Index Chronic - Resident

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

$$\text{HIC 8-hr} = [\text{Q(ton/yr)} * (\text{X/Q}) \text{ Resident} * \text{WAF Resident} * \text{MWAF}] / \text{8-hr Chronic REL}$$
[illegible]

**DIESEL ENGINE DATA**

A/N , 8th Hope and G

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

Engine Horse Power	300	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	9.91E-02	0.1	8.92E-02

(\*) 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:

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

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6c. 8-hour Hazard Index Chronic - Worker

$$\text{HIC 8-hr} = [\text{Q(ton/yr)} * (\text{X/Q}) \text{ Worker} * \text{WAF Worker} * \text{MWAF}] / \text{8-hr Chronic REL}$$
[illegible]

Fac Name: 8th Hope and Grand

A/N: 0

[illegible]

TIER 1 SCREENING RISK ASSESSMENT REPORT  
(Procedure Version 8.1 & Package N, September 1, 2017)

Application deemed complete date: 10/1/2017

A/N , 8th Hope and Grand

Equipment Type	Other	No 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
2.22E+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	1.07E+00	8.92E-02	4.83E-02		2.22E+01	
TOTAL (APPLICATION SCREENING INDEX)					2.22E+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: 8th Hope and Grand \_\_\_\_\_ Application deemed complete date: 10/1/2017 \_\_\_\_\_

1. Stack Data

Equipment Type

Generator

Combustion Eff

0.0

No T-BACT

Operation Schedule

1

hrs/day

1

days/week

12

weeks/year

Stack Height

14

ft

Distance to Residential

60.96

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 (µg/m³)/(tons/yr)	X/Qmax (µg/m³)/(lbs/hr)
Residential	7.73	234.66
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

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 3. Rule 1401 Compound Data

[illegible]

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

## 4. Emission Calculations

[illegible]

## TIER 2 RESULTS

**A/N:** \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 5a. MICR

$$\text{MICR Resident} = \text{CP (mg/(kg-day))}^{-1} * \text{Q (ton/yr)} * (\text{X/Q})_{\text{Resident}} * \text{CEF Resident} * \text{MP Resident} * 1\text{e-6} * \text{MwAF}$$
$$\text{MICR Worker} = \text{CP (mg/(kg-day))}^{-1} * \text{Q (ton/yr)} * (\text{X/Q}) \text{ Worker} * \text{CEF Worker} * \text{MP Worker} * \text{WAF Worker} * 1\text{e-6} * \text{MWF}$$

Compound	Residential	Commercial
Particulate Emissions from Diesel-Fueled Engines	3.08E-06	6.26E-06
Total	3.08E-06	6.26E-06
	FAIL	FAIL

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

**YES**

New X/Q at which MICR<sub>70yr</sub> is one-in-a-million [(μg/m<sup>3</sup>)/(tons/yr)]:

7.24E+00

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

63.46

Zone Impact Area (km<sup>2</sup>):

1.27E-02

Zone of Impact Population (7000 person/km<sup>2</sup>):

8.86E+01

### Cancer Burden:

**5.55E-04**

**Cancer Burden is less than or equal to 0.5**

**PASS**

6. Hazard Index Summary

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

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

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

A/N: \_\_\_\_\_

Application deemed complete date: 10/01/17

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		4.85E-03	N/A	Pass	Pass	Pass
Skin			N/A	Pass	Pass	Pass

**A/N:** \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6a. Hazard Index Acute - Resident

$$\text{HIA} = [\text{Q(lb/hr)} * (\text{X/Q})_{\text{max resident}} * \text{MWAFL}] / \text{Acute REL}$$
[illegible]

### 6a. Hazard Index Acute - Worker

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

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

**A/N:** \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6b. Hazard Index Chronic - Resident

$$\text{HIC} = [\text{Q}(\text{ton/yr}) * (\text{X/Q}) \text{ Resident} * \text{MP Chronic Resident} * \text{MWAF}] / \text{Chronic REL}$$
[illegible]



A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6b. Hazard Index Chronic - Worker

$$\text{HIC} = [\text{Q}(\text{ton/yr}) * (\text{X/Q}) * \text{MP Chronic Worker} * \text{MWAf}] / \text{Chronic REL}$$
[illegible]

### 6c. 8-hour Hazard Index Chronic - Resident

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

$$\text{HIC 8-hr} = [\text{Q(ton/yr)} * (\text{X/Q}) \text{ Resident} * \text{WAF Resident} * \text{MWAF}] / \text{8-hr Chronic REL}$$
[illegible]

A/N: \_\_\_\_\_

**Application deemed complete date:** 10/01/17

### 6c. 8-hour Hazard Index Chronic - Worker

$$\text{HIC 8-hr} = [\text{Q(ton/yr)} * (\text{X/Q}) \text{ Worker} * \text{WAF Worker} * \text{MWAF}] / \text{8-hr Chronic REL}$$
[illegible]

**DIESEL ENGINE DATA**

A/N , 8th Hope and G

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

Engine Horse Power	300	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

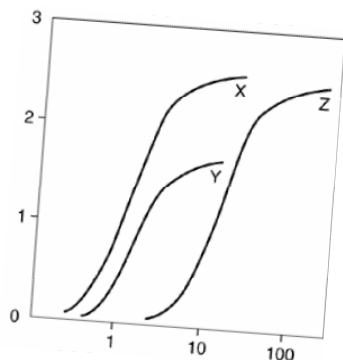
Compound	R1 (Uncontrolled) (lbs/hr) (***)	Efficiency	R2 (Controlled) (lbs/hr)
Particulate Emissions from Diesel-Fueled Engines	9.91E-02	0.1	8.92E-02

(\*) 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:

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



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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 20 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); 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.

Significant projects performed by Dr. Clark include the following:

**LITIGATION SUPPORT**

**Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009**

**Client: Environmental Litigation Group, Birmingham, Alabama**

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Summary judgment for defendants.**

**Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.**



**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344**

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

**Case Result: Settlement in favor of defendant.**

**Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247**

**Client: Richard G. Berger Attorney At Law, Buffalo, New York**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Judgement in favor of defendant.**

#### **SELECTED AIR MODELING RESEARCH/PROJECTS**

##### **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 will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will 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.

##### **Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California**

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client – City of Santa Monica, Santa Monica, California**

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client: Omnitrans, San Bernardino, California**

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

**Client: Confidential, San Francisco, California**

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

**Client: Confidential, Minneapolis, Minnesota**

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

**Client – United Kingdom Environmental Agency**

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

## **EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS**

### **Client: Ameren Services, St. Louis, Missouri**

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

### **Client: City of Santa Clarita, Santa Clarita, California**

Dr. Clark is managing 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 is assisting 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, Los Angeles, California**

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

**Client – Confidential, Los Angeles, California**

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

**PUBLIC HEALTH/TOXICOLOGY**

**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, San Francisco, California**

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

**Client: Confidential, San Francisco, California**

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

**Client: Confidential, San Francisco, California**

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

**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 – United Kingdom Environmental Agency**

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

**Client – Ministry of Environment, Lands & Parks, British Columbia**

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

**Client: Confidential, Los Angeles, California**

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**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**

**Client: Confidential, Atlanta, Georgia**

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

**Client: Confidential, Escondido, California**

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

**Client: Confidential, San Francisco, California**

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

**Client: Confidential, Bogotá, Columbia**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner



that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**Client –Dominguez Energy, Carson, California**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

**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)

California Redevelopment Association (CRA)

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.

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**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.

#### **Journal and Proceeding Articles**

- 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.
- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. Organohalogen Compounds, Volume 70 (2008) page 000527
- 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 13<sup>th</sup> 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., Rodriguez, R. 1998. The Public Health Implications of MtBE and Perchlorate in Water: Risk Management Decisions for Water Purveyors. Proceedings of the National Ground Water Association, Anaheim, CA, June 3-4, 1998.
- 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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Ozone Exposures in Residents of Los Angeles County. American Review of Respiratory Disease. 141(4):A70.

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.

# **ATTACHMENT B**



4 January 2022

Darien K. Keys, Esq.  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080

Subject: *8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
*Draft Environmental Impact Report*  
*Review and Comment on Noise Analysis*

Dear Mr. Keys,

As requested, we have reviewed the information and noise impact analyses in the following document:

*8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
*Draft Environmental Impact Report ("DEIR")*  
*November 2021*

This letter reports our comments on the noise analysis in the subject document.

Wilson, Ihrig & Associates, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 56 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Environmental Noise Model (ENM), Traffic Noise Model (TNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

### Adverse Effects of Noise<sup>1</sup>

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

**Noise-Induced Hearing Loss.** If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high

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<sup>1</sup> More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)



levels of industrial noise.

***Speech Interference.*** Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result. The problems and irritation that are associated with speech disturbance have become more pronounced during the COVID-19 pandemic because many people find themselves and the people they live with trying to work and learn simultaneously in spaces that were not designed for speech privacy.

***Sleep Disturbance.*** Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

***Cardiovascular and Physiological Effects.*** Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

***Impaired Cognitive Performance.*** Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments. While sheltering-in-place during the COVID-19 pandemic, many people are finding working and learning more difficult because their home environment is not as quiet as their office or school was.

## Comments on Construction Noise Mitigation

The construction noise analysis in the DEIR is thorough, transparent, and reasonable. The DEIR correctly includes that, *sans* mitigation, the on-site construction noise impacts would be significant under CEQA at five nearby noise-sensitive receptors. [DEIR at p. IV.E-30] In Mitigation Measure NOI-MM-1, the DEIR commits to erecting a number of sound barriers around the site to reduce construction noise to levels less than the threshold of significance at ground-level receptors. However, the DEIR preparers recognize that these walls will not provide any noise relief to residents on the upper floors of neighboring buildings:

However, the temporary sound barriers would not be effective in reducing the construction-related noise levels for the upper levels of these residential buildings, including the 7-story apartment building at receptor location R1, the 33-story apartment building at receptor location R2, the 9-story apartment building at receptor location R4, the 24-story apartment building at receptor location R5, and the 22-story apartment building at receptor location R6. [DEIR at p. IV.E-42]

The DEIR states that it is infeasible to build sound barriers at the edge of the Project site that are tall enough to block the construction noise at the higher elevations, and that it is also infeasible to use “movable noise barriers”. I concur with the infeasibility of both of these noise control methods, however, there are two other options not discussed in the DEIR which may be feasible.

The first is to erect scaffolding to support construction noise control blankets at the façades of impacted receptors (R1, R2, R4, R5, and R6). R1, R5, and R6 are literally across the street from the Project site. Because scaffolding attaches directly to the buildings for lateral support, it is reasonably economical to erect tall “sound barrier” walls. The light and aesthetic issues may be somewhat ameliorated by using clear vinyl for at least some of the “panels”. This was done (using standard construction noise control blankets) in San Francisco some years ago to shield the headquarters of a major financial company from noise during construction of a large project nearby. The financial building is 8-stories high. R1 is 9-stories high, which is similar, and it may not be necessary for the scaffolding to extend the full height of the R5 (24-story) or R6 (22-story) buildings.

A second option which may be feasible would be to install heavy Plexiglass or other clear panels around the edges of balconies that face the Project site to act as sound barriers without much affecting the light or view. As the photographs in Figure 1 below show, the balconies at R1 and R6 already have glass in the parapets, so it would simply be a matter of fitting Plexiglass on the upper portions. Because noise would reflect off the bottom of the balcony above, the panels would likely need to extend from the existing parapet to the balcony floor above with only a small opening for ventilation. The panels would need to be able to withstand wind loads, and there may be other code requirements. Determining the exact number of balconies that would require treatment would require a detailed noise analysis.

### Comments on Relativistic Threshold of Significance

Beginning on page IV.E-38, the DEIR presents the “composite” noise level impact analysis from Project operations. This analysis, all too often not done, considers the summation of noise from all of the individual operational noises that had previously been analyzed: traffic, mechanical, parking, loading, trash compacting, and outdoor spaces. The results of the analysis are presented in Table IV.E-20 of the DEIR [p. IV.E-40]. A footnote in the table explains that

Significance criteria are equivalent to the existing ambient plus 3 dBA if the estimated noise levels (ambient plus Project) fall with the “normally unacceptable” or “clearly unacceptable” land use categories or ambient plus 5 dBA if the estimated noise levels fall with the “normally acceptable”

or “conditionally acceptable” land use categories, per the City of Los Angeles Noise Element. [DEIR at p. IV.E-40, Table IV.E-20]

The obvious problem with this relativistic approach is that there is effectively no limit to noise exposure. For example, this approach would allow three successive projects that each add 2.9 dBA (the baseline resetting to the new post-project noise level after each), resulting in a total increase of 9.7 dBA which is clearly unacceptable. This illustrates how the relativistic threshold of significance utilized in the DEIR is incapable of preventing the continual degradation of the noise environment because it is always relative to the then-existing environment.

The obvious solution to this problem is to also incorporate absolute thresholds, and the City of Los Angeles Guidelines for Noise Compatible Land Use are ideal for this use. [The Guidelines are presented in Table IV.E-2 of the DEIR at p. IV.E-7]. Currently, the existing ambient noise levels in the Project area are “conditionally acceptable” ( $60 \leq \text{CNEL} < 70$ ) at five of the receptors analyzed and “normally unacceptable” ( $70 \leq \text{CNEL} < 75$ ) at the other four as seen in the excerpt from DEIR Table IV.E-20 below (Figure 2).<sup>2</sup> Also seen in Figure 2, the composite noise from the Project will cause two of the receptors (R5 and R9) to crossover from the “conditionally acceptable” category (yellow) to the “normally unacceptable” category (red). The very fact that these receptors have been pushed from a category that is fundamentally “acceptable” to one that is fundamentally “unacceptable” should in and of itself be a threshold of significance. Incorporating an absolute threshold of significance is the only way to identify the indefinite degradation of the noise environment in Los Angeles.

## Conclusion

The DEIR correctly identifies that Project construction will cause a significant noise impact to residents in the area, but claims that there is no feasible mitigation. I suggest that either scaffolding-supported noise control blankets/panels or temporary Plexiglass barriers on individual balconies may be feasible options. Either of these would certainly work from a technical standpoint.

The DEIR follows the Los Angeles CEQA Threshold Guidelines which, for composite operational noise, is a relativistic standard based on the existing ambient. The repeated use of a relativistic standard means, effectively, there is no limit to how loud an area can become. Meanwhile, the Los Angeles General Plan Noise Element has absolute guidelines for land use compatibility given the noise exposure, and the Project noise would cause the noise environments at one residential building and one hotel to degrade from an “acceptable” category to an “unacceptable” category. Despite the fact that the relative increases fail to exceed the adopted relative threshold of significance, this absolute degradation should be a separate and distinct threshold. As such, the Project noise should be identified as significant.



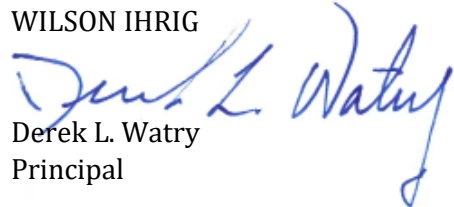
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<sup>2</sup> These are the values for “Residential – Multi-Family” buildings. “Conditionally acceptable” levels are highlighted in yellow; “normally unacceptable” levels are highlighted in red.

Please contact me if you have any question about this review of the noise analysis in the 8<sup>th</sup>, *Grand and Hope Project DEIR*.

Very truly yours,

WILSON IHRIG



Derek L. Watry  
Principal

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FIGURE 1 BALCONIES AT RESIDENTIAL RECEPTORS R1 AND R6

Receptor Location	Existing Ambient Noise Levels (CNEL (dBA)) (A)	Calculated Project-Related Noise Sources (CNEL (dBA))					Project Composite Noise Levels (CNEL (dBA)) (G=B+C+D+E+F) <sup>b</sup>	Ambient Plus Project Composite Noise Levels (CNEL (dBA)) (H=A+G) <sup>b</sup>	Increase in Noise Levels due to Project (CNEL (dBA)) (H-A)
		Traffic (B)	Mechanical (C)	Parking (D)	Loading & Trash Compactor (E)	Outdoor Spaces <sup>c</sup> (F)			
R1	70.7	57.4	49.0	43.3	51.8	55.4	60.6	71.1	0.4
R2	70.2	44.1	52.8	40.7	25.8	52.6	56.1	70.4	0.2
R3	68.4	54.8	44.2	32.3	24.7	45.7	55.6	68.6	0.2
R4	69.5	54.8	45.1	45.5	44.6	51.9	57.4	69.8	0.3
R5	69.4	<del>45.2</del>	<del>49.9</del>	<del>48.3</del>	<del>28.6</del>	<del>68.4</del>	<del>68.5</del>	72.0	2.6
R6	71.5	45.7	52.2	46.8	23.1	67.3	67.5	73.0	1.5
R7	72.4	47.7	47.4	51.1	19.6	63.4	63.9	73.0	0.6
R8	67.8	53.0	51.3	46.1	27.4	52.0	57.3	68.2	0.4
R9	69.4	<del>44.1</del>	<del>50.7</del>	<del>44.6</del>	<del>40.7</del>	<del>61.3</del>	<del>61.9</del>	70.1	0.7

FIGURE 2 EXCERPT OF DEIR TABLE IV.E-20: COMPOSITE NOISE IMPACTS



## **DEREK L. WATRY**

*Principal*

Since joining Wilson Ihrig in 1992, Derek has gained experienced in many areas of practice including environmental, construction, forensic, architectural, and industrial. For all of these, he has conducted extensive field measurements, established acceptability criteria, and calculated future noise and vibration levels. In the many of these areas, he has prepared CEQA and NEPA noise technical studies and EIR/EIS sections. Derek has a thorough understanding of the technical, public relations, and political aspects of environmental noise and vibration compliance work. He has helped resolve complex community noise issues, and he has also served as an expert witness in numerous legal matters.

### **Education**

- M.S. Mechanical Engineering, University of California, Berkeley
- B.S. Mechanical Engineering, University of California, San Diego
- M.B.A. Saint Mary's College of California

### **Project Experience**

#### ***12<sup>th</sup> Street Reconstruction, Oakland, CA***

Responsible for construction noise control plan from pile driving after City received complaints from nearby neighbors. Attendance required at community meetings.

#### ***525 Golden Gate Avenue Demolition, San Francisco, CA***

Noise and vibration monitoring and consultation during demolition of a multi-story office building next to Federal, State, and Municipal Court buildings for the SFDPPW.

#### ***911 Emergency Communications Center, San Francisco, CA***

Technical assistance on issues relating to the demolition and construction work including vibration monitoring, developing specification and reviewing/recommending appropriate methods and equipment for demolition of Old Emergency Center for the SFDPPW.

#### ***Central Contra Costa Sanitary District, Grayson Creek Sewer, Pleasant Hill, CA***

Evaluation of vibration levels due to construction of new sewer line in hard soil.

#### ***City of Atascadero, Review of Walmart EIR Noise Analysis, Atascadero, CA***

Review and Critique of EIR Noise Analysis for the Del Rio Road Commercial Area Specific Plan.

#### ***City of Fremont, Ongoing Environmental Services On-Call Contract, Fremont, CA***

Work tasks primarily focus on noise insulation and vibration control design compliance for new residential projects and peer review other consultant's projects.

#### ***City of Fremont, Patterson Ranch EIR, Fremont, CA***

Conducted noise and vibration portion of the EIR.

#### ***City of King City, Silva Ranch Annexation EIR, King City, CA***

Conducted the noise portion of the EIR and assessed the suitability of the project areas for the intended development. Work included a reconnaissance of existing noise sources and receptors in and around the project areas, and long-term noise measurements at key locations.

***Conoco Phillips Community Study and Expert Witness, Rodeo, CA***

Investigated low frequency noise from exhaust stacks and provided expert witness services representing Conoco Phillips. Evaluated effectiveness of noise controls implemented by the refinery.

***Golden Gate Park Concourse Underground Garage, San Francisco, CA***

Noise and vibration testing during underground garage construction to monitor for residences and an old sandstone statue during pile driving for the City of San Francisco.

***Laguna Honda Hospital, Clarendon Hall Demolition, San Francisco, CA***

Project manager for performed vibration monitoring during demolition of an older wing of the Laguna Honda Hospital.

***Loch Lomond Marina EIR, San Rafael, CA***

Examined traffic noise impacts on existing residences for the City of San Rafael. Provided the project with acoustical analyses and reports to satisfy the requirements of Title 24.

***Mare Island Dredge and Material Disposal, Vallejo, CA***

EIR/EIS analysis of noise from planned dredged material off-loading operations for the City of Vallejo.

***Napa Creek Vibration Monitoring Review, CA***

Initially brought in to peer review construction vibration services provided by another firm, but eventually was tapped for its expertise to develop a vibration monitoring plan for construction activities near historic buildings and long-term construction vibration monitoring.

***San Francisco DPW, Environmental Services On-Call, CA***

Noise and vibration monitoring for such tasks as: Northshore Main Improvement project, and design noise mitigation for SOMA West Skate Park.

***San Francisco PUC, Islais Creek Clean Water Program, San Francisco, CA***

Community noise and vibration monitoring during construction, including several stages of pile driving. Coordination of noise and ground vibration measurements during pile driving and other construction activity to determine compliance with noise ordinance. Coordination with Department of Public Works to provide a vibration seminar for inspectors and interaction with Construction Management team and nearby businesses to resolve noise and vibration issues.

***San Francisco PUC, Richmond Transport Tunnel Clean Water Program, San Francisco, CA***

Environmental compliance monitoring of vibration during soft tunnel mining and boring, cut-and-cover trenching for sewer lines, hard rock tunnel blasting and site remediation. Work involved long-term monitoring of general construction activity, special investigations of groundborne vibration from pumps and bus generated ground vibration, and interaction with the public (homeowners).

***Santa Clara VTA, Capitol Expressway Light Rail (CELR) Bus Rapid Transit (BRT) Update EIS, CA***

Reviewed previous BRT analysis and provide memo to support EIS.

***Shell Oil Refinery, Martinez, CA***

Identified source of community noise complaints from tonal noise due to refinery equipment and operations. Developed noise control recommendations. Conducted round-the-clock noise measurements at nearby residence and near to the property line of the refinery and correlated results. Conducted an exhaustive noise survey of the noisier pieces of equipment throughout the refinery to identify and characterize the dominant noise sources that were located anywhere from a quarter to three-quarters of a mile away. Provided a list of actions to mitigate noise from the noisiest pieces of refinery equipment. Assisted the refinery in the selection of long-term noise monitoring equipment to be situated on the refinery grounds so that a record of the current noise environment will be documented, and future noise complaints can be addressed more efficiently.

***Tyco Electronics Corporation, Annual Noise Compliance Study, Menlo Park, CA***

Conducted annual noise compliance monitoring. Provided letter critiquing the regulatory requirements and recommending improvements.

***University of California, San Francisco Mission Bay Campus Vibration Study, CA***

Conducted measurements and analysis of ground vibration across site due to heavy traffic on Third Street. Analysis included assessment of pavement surface condition and propensity of local soil structure.



# **ATTACHMENT B**

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June 2, 2023

**VIA ONLINE SUBMISSION**

City of Los Angeles Appeal Board

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**Re: Appeal of Advisory Agency Approval of the 8th, Grand and Hope Project (Case Nos. ENV-2017-506-EIR; ZA-2021-7053-ZAI; VTT-74876-CN).**

Dear Appeal Board Members and Ms. Majas:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit this appeal of the City of Los Angeles ("City") Advisory Agency's approval of the 8th, Grand and Hope Project (SCH No. 2019050010, Case Nos. ENV-2017-506-EIR; ZA-2021-7053-ZAI; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN) ("Project"), proposed by Mitsui Fudosan America ("Applicant"). The scope of the Advisory Agency's approval includes:

- Approval of Vesting Tentative Tract Map No. 74876-CN, pursuant to Section 17.15 of the Los Angeles Municipal Code ("LAMC");
- Certification of the 8th, Grand and Hope Project Environmental Impact Report ("EIR") pursuant to the California Environmental Quality Act ("CEQA");<sup>1</sup>
- Adoption of Environmental Findings, Statement of Overriding Considerations; and Mitigation Monitoring Program ("MMRP").

<sup>1</sup> Cal. Pub. Res. Code §§ 21000 et seq.; 14 Cal. Code Regs. §§ 15000 et seq.

CREED LA submitted comments on the Project's Draft EIR ("DEIR") on January 5, 2022 during the public review period required by Section 15087 of the CEQA Guidelines. CREED LA's comments on the DEIR demonstrated that the DEIR fails to comply with CEQA by failing to accurately disclose potentially significant impacts, failing to support its significance findings with substantial evidence, and failing to mitigate the Project's significant impacts to the greatest extent feasible, in violation of CEQA. The City included responses to comments in the Final EIR ("FEIR") pursuant to Section 15088 of the CEQA Guidelines. CREED LA submitted comments explaining that the DEIR's flaws were not remedied in the City's FEIR. Subsequently, a public hearing for the Project was held by the Deputy Advisory Agency and Hearing Officer on behalf of the City Planning Commission on February 15, 2023. The Advisory Agency's Letter of Determination ("LOD") was mailed on May 26, 2023.

CREED LA hereby appeals all actions taken by the Advisory Agency with regard to the Project as described in the May 26, 2023 LOD. This appeal is timely filed in compliance with the LAMC. The reasons for this appeal are set forth herein and in the attachments, which include CREED LA's comments on the DEIR and FEIR.<sup>2</sup> We incorporate by reference the attached comments and exhibits, which are in the City's record of proceedings for the Project.<sup>3</sup>

As explained herein and in the attached comments, the Advisory Agency abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.<sup>4</sup>

## I. STANDING TO APPEAL

Section 17.06 of the LAMC, "Tentative Map and Appeals," provides that [t]he subdivider, the Mayor, any member of the City Council, or **any other**

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<sup>2</sup> **Attachment A:** Letter from Adams Broadwell Joseph & Cardozo to City re: Comments on 8th, Grand and Hope FEIR (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (February 15, 2023); Comments on 8th, Grand and Hope DEIR (SCH No. 2019050010, Environmental Case No. ENV-2017-506-EIR) (Jan. 5, 2022).

<sup>3</sup> We reserve the right to supplement these comments at later hearings and proceedings on the Project. Gov. Code § 65009(b); PRC § 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,

<sup>4</sup> Code Civ. Proc. § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

**interested person** adversely affected by the proposed subdivision may appeal any action of the Advisory Agency with respect to the tentative map or the kind, nature or extent of the improvement required to the Appeal Board” [emphasis added]. CREED LA and its members are interested persons who would be adversely affected by the Vesting Tentative Tract Map approved by the Advisory Agency. Therefore, CREED LA has standing to appeal the Advisory Agency’s decision.

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 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, Gery 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.

## **II. REASONS FOR APPEAL**

### **A. The Advisory Agency’s Approval of a Vesting Tentative Tract Map Was Contrary to Law and Unsupported by the Record**

The Subdivision Map Act (“SMA”) provides guidance as to the findings that the agency must make when approving a tentative map, and requires agencies to deny map approval if the project would result in significant environmental or public health impacts. Government Code, section 66474, provides:

A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

LAMC Section 17.15(c)(2), “Vesting Tentative Maps,” provides that “a permit, approval, extension or entitlement may be conditioned or denied if the Advisory Agency, or the City Planning Commission or the City Council on appeal determines:

(a) A failure to do so would place the occupants of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

(b) The condition or denial is required in order to comply with state or federal law.

Here, approval of the vesting tentative tract map would place the community in a condition dangerous to its health and safety.

First, CREED LA's comments on the EIR explained that the EIR failed to adequately disclose and analyze significant health impacts on the community from exposure to Diesel Particulate Matter ("DPM") generated by construction activities or Project operations. Specifically, the EIR failed to analyze impacts on all sensitive receptors, including children. Analysis of impacts on children is essential due to the increased sensitivity of children to Toxic Air Contaminants like DPM. As discussed in CREED LA's comments on the FEIR, Dr. James Clark corrected the City's analysis to address impacts on children, and found that the Project's operational and construction impacts exceed the 10 in 1 million cancer risk significance threshold. Dr. Clark's analysis found that for a resident living near the Project site, the risk for a child born and living during the first two years of life will exceed 60 in 1,000,000, which exceeds the 10 in 1 million threshold. Thus, the Vesting Tentative Tract Map must be denied pursuant to LAMC Section 17.15(c)(2) and Government Code Section 66474.

Second, the Project's operations would involve residential use of natural gas.<sup>5</sup> The Project's operations would consume a total of 4,859,882 cf of natural gas each year.<sup>6</sup> Although the Project will not use natural gas fireplaces, the Project's EIR does not preclude use of other gas appliances like stoves.<sup>7</sup> CREED LA's comments on the FEIR present substantial evidence demonstrating that residential natural gas use has potentially significant health risks on residents – a risk which was not analyzed in the EIR. The City cannot approve the Project pursuant to LAMC Section 17.15(c)(2) and Government Code Section 66474 unless this impact is analyzed and mitigated.

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<sup>5</sup> DEIR, IV.B-15.

<sup>6</sup> DEIR, IV.B-25.

<sup>7</sup> FEIR, IV-3.

Third, the Project would have significant construction noise impacts. As explained in CREED LA's comments, excessive noise or significant increases in noise can impact public health. The City must adopt all feasible mitigation measures to reduce these noise impacts before the Project can be approved. CREED LA's expert identified mitigation measures which would reduce the magnitude of these impacts. The City cannot approve the Project pursuant to LAMC Section 17.15(c)(2) and the SMA unless this impact is mitigated to the fullest extent feasible.<sup>8</sup>

For these reasons, and others discussed in CREED LA's comments, approval of the Project is likely to cause significant impacts to air quality, public health, and noise. The Advisory Agency therefore lacks substantial evidence to make the necessary findings. The City must correct the errors in the EIR, adopt adequate mitigation measures to reduce impacts to less than significant levels, and must provide substantial evidence supporting the Project's proposed statement of overriding considerations to address the Project's outstanding, unmitigated significant impacts before the City can approve the VTTM.

## **B. The Project's Environmental Review Fails to Comply with CEQA**

CREED LA's comments on the EIR demonstrated that the EIR fails to comply with CEQA. As explained more fully in CREED LA's comments on the DEIR and FEIR, the EIR failed to accurately disclose the extent of the Project's potentially significant impacts on air quality, public health, noise, and greenhouse gas emissions. The EIR failed to support its significance findings with substantial evidence, and failed 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 adopt a statement of overriding considerations pursuant to CEQA.<sup>9</sup>

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<sup>8</sup> Government Code, section 66474.01.

<sup>9</sup> Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

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Page 7

### III. CONCLUSION

CREED LA respectfully requests that the City set a hearing on this appeal, and that the Appeal Board uphold this appeal and vacate the Advisory Agency's approval of the Project.

Sincerely,



Aidan P. Marshall

APM:acp



# **ATTACHMENT C**

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**Re: Agenda Item 8 and 10 – 8th, Grand and Hope Project (Case Nos. ENV-2017-506-EIR; CPC-2017-505-TDR-ZV-SPPA-DD-SPR; VTT-74876-CN; ZA-2021-7053-ZAI).**

Dear Commission President Millman, Commission Members, and Ms. Majas:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to provide comments on City Planning Commission (“CPC”) Agenda Item #8 in support of our appeal of the City of Los Angeles (“City”) Advisory Agency’s approval of the 8th, Grand and Hope Project (SCH No. 2019050010, Case Nos. ENV-2017-506-EIR; ZA-2021-7053-ZAI; VTT-74876-CN) (“Project”), proposed by Mitsui Fudosan America (“Applicant”). The scope of the Advisory Agency’s approval includes approval of a Vesting Tentative Tract Map; certification of an Environmental Impact Report (“EIR”); and adoption of Environmental Findings, Statement of Overriding Considerations; and Mitigation Monitoring Program (“MMRP”). We also provide comments on Agenda Item #10, under which the CPC will consider approval of a Transfer of Floor Area Rights (“TFAR”), Zone Variances, a Specific Plan Project Adjustments, a Director’s Decision regarding the amount of trees to be planted on-site, and a Site Plan Review (CPC-2017-505-TDR-ZV-SPPA-DD-SPR).

CREED LA filed an appeal of the Advisory Agency’s decision on June 2, 2023, attaching CREED LA’s comments on the Project’s Draft EIR (“DEIR”), submitted on January 5, 2022, and on the Final EIR (“FEIR”), submitted on February 15, 2023. CREED LA’s appeal and EIR comments demonstrated that the Advisory Agency abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.<sup>1</sup> The Staff Report prepared for the July 13<sup>th</sup> hearing includes responses to CREED LA’s comments on the FEIR. This letter addresses the responses to CREED LA’s comments contained in the Staff Report, attaching analysis from air quality and hazards expert James Clark, Ph.D and noise expert Derek Watry. This letter demonstrates that the Staff Report does not contain substantial evidence to support denial of our appeal. Further, this letter demonstrates that the CPC lacks substantial evidence to make the requisite findings to approve the Project’s Transfer of Floor Area Rights (“TFAR”), Zone Variances, a

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<sup>1</sup> Code Civ. Proc. § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.  
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Specific Plan Project Adjustments, a Director's Decision regarding the amount of trees to be planted on-site, and Site Plan Review.

## **I. The City is Required to Analyze Health Risk Impacts**

CREED LA's comments on the DEIR explained that the City was required to prepare a quantified HRA for the Project because CEQA requires that 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."<sup>2</sup> In response, the City prepared an HRA for the Project's construction and operations and included it in the FEIR.<sup>3</sup> But the Staff Report reiterates that the HRA was only conducted for informational purposes, and continues to assert that a HRA is not required by CEQA.<sup>4</sup> The Staff Report, in Response to Comment No. CREED-2, reasons that construction emissions of Diesel Particulate Matter ("DPM") need not be analyzed in an HRA because they occur over a shorter time period than 70 years. This reasoning is flawed, as individual cancer risk is not just affected by the duration of exposure to Toxic Air Contaminants ("TACs"), but also the concentration of the individual's unique exposure scenario and the toxicity of the chemical. Accordingly, OEHHA<sup>5</sup> guidance sets a recommended threshold for preparing an HRA of a construction period of two months or more.<sup>6</sup>

## **II. The FEIR Still Fails to Disclose and Mitigate Significant Health Impacts on Sensitive Populations**

CREED LA's comments on the FEIR explained that the Project's HRA failed to analyze impacts on all sensitive receptors. Health risk impacts on children are measured using Age Sensitivity Factors ("ASFs").<sup>7</sup> ASFs "account for increased sensitivity of early-life exposure to carcinogens."<sup>8</sup> ASFs account for increased sensitivity of children by weighting the impacts of their exposure to a project's estimated emissions of TACs. In the Project's HRA, the City failed to make early-life exposure adjustments to analyze impacts on children, thus failing to disclose the severity of the Project's health risk impacts on this group of sensitive receptors.

The FEIR contended that use of ASFs is not required for measuring DPM health impacts, relying on U.S. EPA guidance<sup>9</sup> related to early life exposure adjustment factors whereby the adjustment factors are only considered when carcinogens act "through the mutagenic mode of

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<sup>2</sup> *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518.

<sup>3</sup> Appendix FEIR-2.

<sup>4</sup> FEIR, pg. II-33; Appendix FEIR-2, pg. 2.

<sup>5</sup> 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>.

<sup>6</sup> 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](http://oehha.ca.gov/air/hot_spots/hotspots2015.html) ("OEHHA Guidance"), p. 8-18.

<sup>7</sup> Appendix FEIR-2, pg. 4.

<sup>8</sup> Appendix FEIR-2, pg. 4; *see also* City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10.

<sup>9</sup> U.S. EPA. 2006. Memorandum – Implementation of the Cancer Guidelines and Accompanying Supplemental Guidance – Science Policy Council Cancer Guidelines Implementation Workgroup Communication II: Performing Risk Assessments That Include Carcinogens Described in the Supplemental Guidance as having a Mutagenic Mode of Action.

action.”<sup>10</sup> The FEIR reasoned that DPM is not mutagenic because only a small portion of its constituent particles are mutagenic. The FEIR failed to cite to scientific authority in support of the claim that DPM is not a mutagenic carcinogen. And the FEIR failed to cite to scientific authority suggesting that all of the constituent compounds of a pollutant must be mutagenic for it to be considered mutagenic.

CREED LA’s comments on the FEIR presented substantial evidence that DPM is well-known to operate through the mutagenic mode of action. For instance, the U.S. EPA – on whose guidance the City claims to be relying – plainly states that DPM is mutagenic:

[D]iesel exhaust (DE) is likely to be carcinogenic to humans by inhalation from environmental exposures. The basis for this conclusion includes the following lines of evidence: [...] **extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE** and its organic constituents, and knowledge of the known mutagenic and/or carcinogenic activity of a number of individual organic compounds that adhere to the particles and are present in the DE gases.<sup>11</sup> [emphasis added]

The Staff Report is nonresponsive to this substantial evidence, instead reiterating the erroneous claim that DPM is not mutagenic because not all of its constituent compounds are. Again, the Staff Report fails to identify scientific support for this claim. Therefore, the City’s failure to apply ASFs still lacks the support of substantial evidence. Courts have held that a clearly inadequate or unsupported study is entitled to no judicial deference.”<sup>12</sup>

Dr. Clark corrected the City’s analysis to include ASFs, and found that the Project’s operational and construction impacts exceed the maximum incremental cancer risk threshold of 10 in one million. Dr. Clark’s analysis found that for a resident living near the Project site, the risk for a child born and living during the 1st two years of life will exceed 60 in 1,000,000, which exceeds the 10 in 1 million threshold. Thus, the Project would have a significant health risk impact unanalyzed in the EIR that requires mitigation.

In response to CREED LA’s comments, the City adopted a Condition of Approval providing that the applicant shall “make a good faith effort” to ensure that all offroad diesel-powered equipment greater than 50 hp used during Project construction activities meet USEPA Tier 4 Final emissions standards. While use of Tier 4 equipment would reduce emissions, the COA’s purported mandate to “make a good faith effort” is vague, unenforceable and ineffective. The COA should be revised to remove this non-binding language, as follows:

Construction Equipment. The applicant shall ~~make a good faith effort to~~ ensure that all offroad diesel-powered equipment greater than 50 hp used during Project construction activities meet USEPA Tier 4 Final emissions standards. A copy of each such unit’s certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided on-site at the time of mobilization of each applicable unit of equipment to allow the

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<sup>10</sup> Appendix FEIR-2, pg. 6.

<sup>11</sup> U.S. Environmental Protection Agency, Integrated Risk Information System (IRIS) Chemical Assessment Summary: Diesel engine exhaust; CASRN N.A., pg. 11, available at [https://iris.epa.gov/static/pdfs/0642\\_summary.pdf](https://iris.epa.gov/static/pdfs/0642_summary.pdf).

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

Construction Monitor to compare the on-site equipment with the inventory and certified Tier specification and operating permit.

### **III. The FEIR Still Fails to Require All Feasible Mitigation Measures to Reduce Significant Noise Impacts**

The EIR acknowledges that the Project would have significant construction noise impacts. CREED LA's comments on the DEIR and FEIR identify additional feasible mitigation measures that would reduce the Project's significant construction noise impacts, including provision of either plexiglass barriers or sound blankets attached to scaffolding for each story of adjacent buildings during Project construction. Mr. Watry's attached comments provide further support for the feasibility of these measures.

### **IV. The Project Does Not Provide Affordable Housing, In Conflict With Local Land Use Goals, Objectives, And Policies**

CREED LA previously commented that while the Project proposes to construct 580 residential units, it fails to provide any of the residential units at a below-market rate. The Project's lack of affordable housing conflicts with applicable local goals, objectives, and policies promoting affordable housing in the 2021-2029 Housing Element. To begin with, the Project would not contribute to meeting the City's RHNA for below-market rate housing, and is thus inconsistent with the Housing Element. Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA. The Staff Report responds that the Project would be consistent with the Housing element because an 86% annual increase in production of Above Moderate housing is required to meet the City's RHNA target for 2021-2029. The Staff Report ignores that the City must achieve a 1347% increase in Very Low Income housing, a 1514% increase in Low Income, and a 7739% increase in Moderate Income housing.<sup>13</sup> Indeed, production of Above Moderate housing is the least necessary housing category for the City to meet its RHNA targets, as "[t]he City is therefore projected to fall short at the affordable (below 120% AMI) income ranges, but may meet the above moderate (market-rate) production levels."<sup>14</sup> The Housing Element states that in the previous cycle, 2014-2021, the City has met its overall RHNA target of 82,002 units; but did not produce enough housing in the lower and moderate income categories.<sup>15</sup> In fact, the City overproduced Above Moderate housing – the RHNA Goal for Above Moderate housing was 35,412, and 105,522 such units were built in 2014-2020. Thus, this Project is inconsistent with the Housing Element by failing to provide affordable housing necessary to help the City meet its RHNA for below-market units.

The Staff Report further states that the Project will be conditioned to comply with the City's Transfer of Floor Area (TFAR) ordinance, by contributing approximately \$10 million to the City's affordable housing trust fund. The Housing Element's evaluation of this program in its "Evaluation of 2013-2021 Goals, Policies, Objectives and Programs" states that "[w]hile this program brought in funding for an array of public benefits downtown, the program has not met objectives with regard to funding and the creation of new affordable housing units downtown...The program is being revised with the update to the Downtown Community Plan, with the aim to prioritize the production of

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<sup>13</sup> Housing Element, pg. 99, Table 1.28.

<sup>14</sup> Housing Element, pg. 19.

<sup>15</sup> Housing Element, pg. 227.

onsite affordable units directly in new construction.”<sup>16</sup> Thus, simply paying the TFAR Public Benefit fee is no substitute for provision of onsite affordable units.

CREED LA’s FEIR comments explained that the Project was inconsistent with Objective 1.2 (facilitate the production of housing, especially projects that include Affordable Housing), Objective 2.5 (target affordable housing in Transit Oriented Districts and designated Centers), and Objective 3.2 (promoting locating affordable and mixed-income housing near high quality transit). The Staff Report is nonresponsive to those comments.

As a result of these inconsistencies, the Project fails to comply with the Housing Element of the General Plan.

#### **V. The Advisory Agency’s Approval of a Vesting Tentative Tract Map Was Contrary to Law and Unsupported by the Record**

As explained in CREED LA’s appeal, LAMC Section 17.15(c)(2), “Vesting Tentative Maps,” provides that “a permit, approval, extension or entitlement may be conditioned or denied if the Advisory Agency, or the City Planning Commission or the City Council on appeal determines... (a) A failure to do so would place the occupants of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.” And Government Code, section 66474 requires agencies to deny map approval if the project would result in significant environmental or public health impacts. Here, the Project’s operational and construction health risk impacts exceed the 10 in 1 million cancer risk significance threshold due to emissions of DPM. Dr. Clark’s analysis found that for a resident living near the Project site, the risk for a child born and living during the first two years of life will exceed 60 in 1,000,000. Further, the Project has significant noise impacts. Thus, the Vesting Tentative Tract Map must be denied pursuant to LAMC Section 17.15(c)(2) and Government Code Section 66474.

#### **VI. The CPC Cannot Make the Requisite Findings to Approve the Project’s Entitlements**

In addition to the Vesting Tentative Map already approved by the Advisory Agency, the CPC will consider approval of the Project’s Transfer of Floor Area Rights (“TFAR”), Zone Variances, a Specific Plan Project Adjustments, a Director’s Decision regarding the amount of trees to be planted on-site, and Site Plan Review. To approve the Project’s TFAR, the CPC must find that the Project serves the public interest.<sup>17</sup> But without mitigation of the Project’s construction noise impacts to the greatest extent feasible, or demonstrating that the Project’s benefits outweigh its costs, including providing employment opportunities for highly trained workers,<sup>18</sup> the CPC cannot find that the Project is truly aligned with the public interest. Further, the Project fails to provide onsite affordable housing, which is inconsistent with policies in the Housing Element.

To approve the Project’s Zone Variance Findings, the CPC must find that the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.<sup>19</sup> And to approve the Project’s Project Permit Adjustments, the decisionmaker must have considered and found no

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<sup>16</sup> Housing Element, Appendix 5.1 - Evaluation of Programs, row 17.

<sup>17</sup> Staff Report, pg. F-2.

<sup>18</sup> Pub. Res. Code § 21081(a)(3), (b).

<sup>19</sup> Staff Report, pg. F-6.

detrimental effects of the proposed project on surrounding properties and public rights-of-way. But as discussed in CREED LA's comments on the FEIR, the Project's operational and construction health risk impacts exceed the 10 in 1 million cancer risk significance threshold due to emissions of Diesel Particulate Matter ("DPM"). For a resident living near the Project site, the risk for a child born and living during the first two years of life will exceed 60 in 1,000,000, which exceeds the 10 in 1 million significance threshold. Further, the City has not mitigated the Project's significant construction noise impacts to the greatest extent feasible.

To approve the Project's Site Plan Review, the CPC must find that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.<sup>20</sup> And to approve the Project's Zone Variance Findings, the CPC must find that the granting of the variance will not adversely affect any element of the General Plan.<sup>21</sup> However, CREED LA's comments on the FEIR explain that the Project fails to provide affordable housing in conformity with Housing Element Policies.

## VII. CONCLUSION

CREED LA respectfully requests that the CPC uphold the appeal and vacate the Advisory Agency's approval of the Project, and urges the CPC not to approve the Project's entitlements until the flaws in the Project's environmental review are remedied, and the Project is brought into conformity with all local policies.

Sincerely,

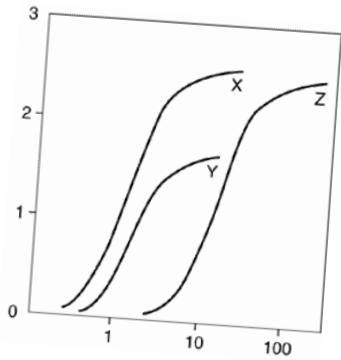


Aidan P. Marshall

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<sup>20</sup> Staff Report, pg. F-12.

<sup>21</sup> Staff Report, pg. F-7.



**Clark & Associates**  
Environmental Consulting, Inc.

**OFFICE**  
12405 Venice Blvd  
Suite 331  
Los Angeles, CA 90066

**PHONE**  
310-907-6165

**FAX**  
310-398-7626

**EMAIL**  
jclark.assoc@gmail.com

July 10, 2023

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

**Attn: Mr. Aidan Marshall**

**Subject: Response To Eyestone Environmetnal Memorandum Regarding Response to Letters Received On Febryart 15, 2023 and Appeal Comments For Final Environmental Impact Report (FEIR) For 8<sup>th</sup>, Grand, and Hope Street Project (ENV-2017-506-EIR) State Clearinghouse No. 2019050010**

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Dear Mr. Marshall,

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the January 2023 City of Los Angeles Final Environmental Impact Report (FEIR) of the above referenced project.

**Response To Comment No. CREED-2, 3, 4, 5, & 11 – Lack of Construction and Operational HRA, Use of ASFs, Short Duration of Exposure**

Eyestone contends that the City as the Lead Agency has discretion to select the appropriate levels of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. Since the City resides in the South Coast Air Basin it is subject to rules from the South Coast Air Quality Management District (SCAQMD). Based on the City of Los Angeles' own L.A. CEQA Threshold Guide (page B-1 of the 2006 Guide) it is clear that the City defers to the SCAQMD's Air Quality Handbook and threshold levels. The answer from Eyestone regarding thresholds is clearly contradicted by the SCAQMD Air Quality Significance Thresholds, which defines the thresholds for TACS to be the maximum



incremental cancer risk greater than or equal to 10 in 1,000,000, a cancer burden greater than 0.5 cancer cases in areas with greater than 1 in 1,000,000 cancer risk, or a chronic and acute hazard index greater than or equal to 1. The only way to assess the cancer risk, cancer burden or hazard index from TACs against the SCAQMD's Air Quality Significance Thresholds is to perform a health risk analysis. The L.A. CEQA Threshold Guide further states that there is no specific concentration of carcinogenic air contaminants that can be considered completely safe. Thus, the amount of increased risk a person has of getting cancer from exposure to carcinogenic air toxics is used as an indicator of potential significant health risks (pg B.3-2 of 2006 LA CEQA Threshold Guide).

The City further states in the 2006 LA CEQA Threshold Guide that the impacts from toxic air contaminants can occur during either the construction or operational phases of a project. Eyestone's response regarding the short-term use of DPM-generating equipment and the potential health risks that may develop after exposure to the TACs is not in alignment with the guidance from OEHHHA, the State's toxicology program, DTSC, U.S. EPA, ATSDR, and other authoritative bodies; and ignores the concept of increasing risk with the duration of exposure. The potency of the chemical is the primary driver of the potential to develop cancer. The duration of the exposure is a secondary consideration.

According to the City of Los Angeles's Air Quality And Health Effects guidance,<sup>1</sup> exposure to DPM may be a health hazard, particularly to *children* (emphasis added) whose lungs are still developing and the elderly who may have other serious health problems. This statement from the City's guidance clearly indicates that the City is aware that age of exposure to DPM has a significant impact on the potential health outcomes.

## **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 FEIR is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised final environmental impact report.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. J. Corra". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

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<sup>1</sup> City of Los Angeles, Department of City Planning. 2019. Air Quality And Health Effects. Pg 10



9 July 2023

Aidan Marshall, Esq.  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080

Subject: *8<sup>th</sup>, Grand and Hope Project, Los Angeles, California*  
Comments on Responses to FEIR Noise Comments

Dear Mr. Marshall,

In January 2022, we reviewed and provided comments on the DEIR for this project, and February 14<sup>th</sup> of this year we provided comments on the City's FEIR responses to our original comments. Our comments on the FEIR document have now been responded to by Eyestone Environmental in a memorandum to the City of Los Angeles Planning Department:

*8<sup>th</sup>, Grand and Hope Project*  
*Response to Letters Received on February 15, 2023 and Appeal Comments ("Appeal Responses")*  
*Eyestone Environmental, June 22, 2023*

This letter provides comments on the Appeal Responses.

### **Additional Comments on Construction Noise Mitigation**

In our previous comments, we noted that the project did not consider adding noise barriers at the elevated receptor locations, and we suggested this might be done by either attaching scaffolding to the receptor buildings and hanging noise blocking material – possibly clear, thick vinyl – from the scaffolding or adding Plexiglas or other clear-material panels to the balconies that overlook the project site. The Appeal Response states that my previous commentary “does not provide substantial evidence that such a measure would in fact reduce the Project’s significant and unavoidable construction noise impacts, and the comment does not demonstrate that such mitigation measures would be feasible.” [Appeal Response at p. 54]

Assessing economic feasibility is outside my area of expertise, but I do believe it is within my purview to note that a previous project Wilson Ihrig worked on did erect scaffolding outside a neighboring building to support noise control blankets (with that building management’s cooperation, of course), and the developer of another project we reviewed agreed to replace old, plate-glass windows in an adjacent building with new, double-paned windows to mitigate construction noise. So, it is not unprecedented for project developers to implement construction noise control on properties they do not own.

With respect to efficacy of the suggested noise control measures, the DEIR indicates that the three receptors most affected by construction noise will be R1, R5, and R6 at which construction noise will exceed the significance criteria by, respectively, 10.7, 10.7, and 5.2 dBA. ½-pound-per-square foot transparent PVC barrier material has a Sound Transmission Class (STC) rating of 20 which will reduce construction noise at least 10 dB.<sup>1</sup> A ¼-inch-thick sheet of Plexiglas has an even higher rating, STC 29.<sup>2</sup> So, transparent materials that would reduce the construction noise to less-than-significant levels are readily available.

The Appeal Responses correctly notes that small gaps in noise barriers can cause a reduction in performance, but there is no fundamental reason why the noise barriers couldn't be well designed and properly installed. For the scaffolding approach, it is common for adjoining blankets to overlap somewhat to seal the gap. For the buildings with balconies (R1 and R6), the Plexiglas options are slightly different. The balconies at R1 are only open on the side facing construction (Fig. 1), so Plexiglas would be installed deck-to-ceiling. Yes, this would temporarily make the balcony an "interior" space, but it would still be usable. Building R6 is kitty-corner to the project site, so only two sides would have to be sealed from deck-to ceiling (Fig. 2). In the same way a highway noise barrier blocks traffic noise, this arrangement would block construction noise because the remaining open side would face in the opposite direction.

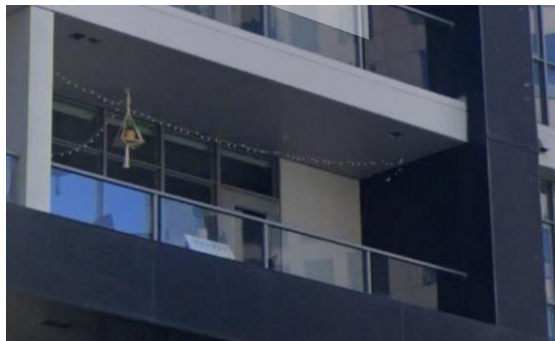


Figure 1 Balcony at R1

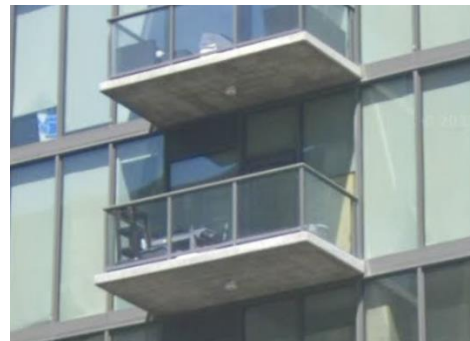
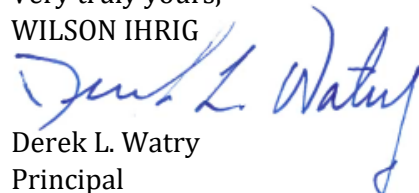


Figure 2 Balcony at R6

As I noted in previous comments, treating the balconies is an option that individual occupants could make according to their own sensibilities. Having worked at Wilson Ihrig for 31 years, I can attest to the fact that there are many people who loath construction noise.

Very truly yours,  
WILSON IHRIG



Derek L. Watry  
Principal

2023-02-14 - 8th-grand-hope - feir noise - d watry.docx

<sup>1</sup> <https://www.soundseal.com/files/content/industrial/products/flexible-noise-barriers/B-5%20CV%20Data%20Sheet.pdf>

<sup>2</sup> <https://www.eplastics.com/blog/sound-transmission-plexiglass-sheets>



# LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300  
[www.planning.lacity.org](http://www.planning.lacity.org)

## LETTER OF DETERMINATION

MAILING DATE: SEP 26 2023

**Case No. VTT-74876-CN-1A**

Council District: 14 – de León

CEQA: ENV-2017-506-EIR (SCH. No. 2019050010)

Plan Area: Central City

Related Cases: CPC-2017-505-TDR-ZV-SPPA-DD-SPR;  
ZA-2021-7053-ZAI-1A

**Project Site:** 754 South Hope Street; 609 – 625 West 8th Street

**Applicant:** MFA 8th Grand and Hope LLC  
Representative: Edgar Khalatian, Mayer Brown LLP

**Appellants:** 1. Richard Becher, Digital Realty  
2. Supporters Alliance for Environmental Responsibility (SAFER)  
Representative: Amalia Bowley Fuentes, Lozeau Drury LLP  
3. CREED LA c/o Aidan P. Marshall  
Representative: Aidan P. Marshall, Adams, Broadwell, Joseph & Cardozo

At its meeting of **July 13, 2023**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Merger and re-subdivision of three lots into one ground lot and nine airspace lots for residential and commercial condominium purposes, and above and below grade parking. A haul route for the export of approximately 89,750 cubic yards of soil is included.

1. **Found**, pursuant to Section 21081.6 of the Public Resources Code (PRC), that the City Planning Commission reviewed and considered the information contained in the Environmental Impact Report prepared for this project, which includes the Draft EIR, ENV-2017-506-EIR (State Clearinghouse No. 2019050010), dated November 18, 2021, and the Final EIR dated January 2023 (8th, Grand and Hope Project EIR), as well as the whole of the administrative record;

**CERTIFIED** the following:

- a. The 8th, Grand and Hope Project EIR has been completed in compliance with the California Environmental Quality Act;
- b. The 8th, Grand and Hope Project EIR was presented to the City Planning Commission as a decision-making body of the lead agency, and
- c. The 8th, Grand and Hope Project EIR reflects the independent judgment and analysis of the lead agency.

**ADOPTED** the following:

- a. The related and prepared 8th, Grand and Hope Project EIR Environmental Findings;
  - b. The Statement of Overriding Considerations; and
  - c. The Mitigation Monitoring Program prepared for the 8th, Grand and Hope Project EIR;
2. **Denied** the **appeal** in part and **granted** the appeal in part, and **sustained** the decision of the Advisory Agency dated May 26, 2023;

3. **Approved**, pursuant to Sections 17.03 and 17.15 of the Los Angeles Municipal Code (LAMC), a Vesting Tentative Tract Map No. 74876-CN for the merger and re-subdivision of three lots into one ground lot and nine airspace lots for residential and commercial condominium purposes, and above and below grade parking, as shown on map stamp-dated February 14, 2022, and a Haul Route for the export of approximately 89,750 cubic yards of soil;
4. **Adopted** the attached Modified Conditions of Approval; and
5. **Adopted** the attached Amended Findings.

The vote proceeded as follows:

Moved: Millman  
Second: Choe  
Ayes: Cabildo, Lawshe, Mack, Noonan, Zamora  
Recuse: Gold  
Absent: Leung

**Vote: 7 – 0 – 1**

  
\_\_\_\_\_  
Cecilia Lamas, Commission Executive Assistant II  
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

**Effective Date/Appeals:** The decision of the Los Angeles City Planning Commission is further appealable to the Los Angeles City Council within 10 days after the mailing date of this determination letter. Any appeal not filed within the 10-day period shall not be considered by the Council and the decision of the City Planning Commission will become final and effective upon the close of the 10-day appeal period. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; or 6262 Van Nuys Boulevard, Suite 251, Van Nuys.

**FINAL APPEAL DATE:** OCT 06 2023

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, Amended Findings, Appeal Filing Procedures

c: Milena Zasadzien, Principal City Planner  
Alan Como, Senior City Planner  
Polonia Majas, City Planning Associate

## **CONDITIONS OF APPROVAL**

(As Modified by the City Planning Commission at its meeting on July 13, 2023)

The final map must be recorded within 36 months of this approval, unless the subdivider requests a time extension and it is granted before the end of such period, if applicable. Time Extensions may not always be granted.

### **BUREAU OF ENGINEERING - SPECIFIC CONDITIONS**

This project is located within the Downtown Design Guide Project Area. Per Ordinance 181,557, every project within this project area must comply with the Downtown Design Guide standards and guidelines. City Planning Department shall make the final determination on the proposed limited height easement, mergers and encroachments within the sidewalk easements for consistency with the Downtown Street Design Guide: Urban Design Standards and Guidelines.

1. Along 8th Street adjoining the subdivision, a 5-foot-wide sidewalk easement will be provided. Above easement shall be limited to a depth of 3 feet below finished sidewalk grade and unlimited height above finished sidewalk surface. This easement shall be shown on the final map.
2. Along Hope Street adjoining the subdivision, a 3-foot-wide strip of land will be dedicated to complete a 43-foot wide half right-of-way in accordance with the Modified 2-Way Avenue II of the Downtown Street Standards and a 20-foot radius property line return or a 15-foot by 15-foot corner cut be dedicated at the intersection with 8th Street beginning at 3 feet below finished sidewalk grade and 25 feet above finished sidewalk surface.
3. Along Hope Street adjoining the subdivision, an additional 3-foot-wide average width sidewalk easement will be provided in accordance with the Modified 2-way Avenue II of the Downtown Street Standards and an additional 20-foot radius easement line return or a 15-foot by 15-foot corner cut easement be provided at the intersection with 8th Street. Above easement shall be limited to a depth of 3 feet below finished sidewalk grade and 25 feet above finished sidewalk surface. This easement shall be shown on the final map.
4. At the intersection of Grand Avenue and 8th Street adjoining the subdivision, a 20-foot radius property line return or 15-foot by 15-foot corner cut will be dedicated and shall be limited to a depth of 2 feet below finished sidewalk grade and 25 feet above finished sidewalk surface.
5. Along Grand Avenue adjoining the subdivision, a 7-foot wide average width sidewalk easement will be provided in accordance with the Modified 1-Way Avenue II of the Downtown Street Standards and 20-foot radius easement line return or 15-foot by 15-foot corner cut easement be provided at the intersection with 8th Street. Above easement shall be limited to a depth of 2 feet below finished sidewalk grade and 25 feet above finished sidewalk surface. This easement shall be shown on the final map.
6. LADOT, in a letter to the City Engineer, shall determine that the proposed merger area of 8th Street between Hope Street and Grand Avenue as shown on the Revised Map is not necessary for current and future Public Street use.

7. The Department of City Planning, in a letter to the City Engineer prior to the recordation of the final map, will also determine that the proposed merger area of 8th Street between Hope Street and Grand Avenue as shown on the Revised Map is consistent with all applicable General Plan Elements of Highway and Circulation Elements for LA Mobility Plan and the Downtown Design Guide: Urban Design Standards and Guidelines.
8. If LADOT and Department of City Planning have no objections, the portion of 8th Street between Hope Street and Grand Avenue, as shown on the Revised Map and excluding the required dedication for the property line return or corner cut at the intersection with Hope Street and Grand Avenue, will be permitted to be merged with the remainder of the tract map pursuant to Section 66499.20.2 of the State Government Code, and in addition, the following conditions be executed by the applicant and administered by the City Engineer:
  - a. That consents to the area being merged and waivers of any damages that may accrue as a result of such merger be obtained from all property owners who might have certain rights in the area being merged.
  - b. That satisfactory arrangements be made with all utility agencies, cable companies and franchises maintaining existing facilities within the area being merged.

Note: The Advisory Agency hereby finds that the proposed areas to be merged are unnecessary for present or prospective public purposes and all owners of the interest in the real property within the subdivision have or will have consented to the merger prior to the recordation of the final map.

9. If the merger of the portion of 8th Street between Hope Street and Grand Avenue, as shown on the Revised Map is not approved, the applicant shall submit a revised map not showing the proposed merger satisfactory to the Department of City Planning and the City Engineer.
10. A revised map be submitted satisfactory to the City Planning Department and the City Engineer prior to the submittal of the final map delineating all right-of-way dimensions, approved dedications or easements, and property line and easement line returns adjoining the subdivision. This map will be used for final map checking purposes.
11. All the proposed tract map boundary lines will be properly established in accordance with Section 17.07.D of the Los Angeles Municipal code prior to the recordation of the final map satisfactory to the City Engineer (Survey Division).
12. The subdivider will make a request to BOE Central District to determine the capacity of existing sewers in this area.
13. Satisfactory arrangements will be made with the Los Angeles County Department of Public Works prior to recordation of the final map for realignment, replacement and or relocation of the existing Los Angeles County drainage system within the 8th Street merger area including any necessary new drainage easements to be shown on the final map.
14. Satisfactory arrangements will be made with the Los Angeles County Department of Public Works prior to recordation of the final map for any necessary permits with respect to discharge into and reconstruction of their existing storm drain catch basin.

15. A set of drawings for airspace lots will be submitted to the City engineer showing the following:
  - a. Plan view at different elevations.
  - b. Isometric views.
  - c. Elevation views.
  - d. Section cuts at all locations where air space lot boundaries change.
16. The owners of the property will record an agreement satisfactory to the City Engineer stating that they will grant the necessary private easements for ingress and egress purposes to serve proposed airspace lots to use upon the sale of the respective lots and they will maintain the private easements free and clear of obstructions and in safe conditions for use at all times.
17. A Covenant and Agreement will be recorded satisfactory to the City Engineer binding the subdivider and all successors to the following:
  - a. That the owners shall be required to maintain all elements of the structure below the limited easement areas in a safe and usable condition to the satisfaction of the City Engineer. The City shall be given reasonable access to the structure within and adjacent to the below easement areas for any necessary inspection, upon request during normal business hours. The City may request the owners to repair or replace damaged, defective, or unsafe structural elements or to correct unacceptable conditions at the owner's expense if owner elects not to do so. Owner shall grant reasonable access to City's contractors to make said repairs.
  - b. The owner shall be required to limit use and occupancy of the structures below the limited easement areas for vehicular parking use only. No combustible material shall be stored in the merger area.
  - c. The owners shall obtain a B-permit from the City Engineer for any substantial structural modification below the limited easement areas and for any structural modification areas and for any structural element outside said areas which provides lateral or vertical support to structures within said areas.
18. The subdivider will execute and record an agreement satisfactory to the City Engineer to waive any right to make or prosecute any claims or demands against the City for any damage that may occur to the proposed structure underneath the sidewalk areas in connection with the use and maintenance operations within said easements.
19. Any surcharge fee in conjunction with the street merger requests will be paid.

Note: See also Condition S-3 for Street Improvement conditions.

Any questions regarding this report should be directed to Quyen Phan of the Permit Case Management Division Section, via [quyen.phan@lacity.org](mailto:quyen.phan@lacity.org).

#### **DEPARTMENT OF BUILDING AND SAFETY, GRADING DIVISION**

20. Per Sec. 17.56 of the Los Angeles Municipal Code, each approved Tract Map recorded with the County Recorder shall contain the following statement: "The approval of this Tract



Map shall not be construed as having been based upon geological investigation such as will authorize the issuance of building permits on the subject property. Such permits will be issued only at such time as the Department of Building and Safety has received such topographic maps and geological reports as it deems necessary to justify the issuance of such building permits.”

21. The applicant shall comply with any requirements with the Department of Building and Safety, Grading Division for recordation of the final map and issuance of any permit.

#### **DEPARTMENT OF BUILDING AND SAFETY, ZONING DIVISION**

22. The Department of Building and Safety Zoning Section has reviewed the above Subdivision Map, date stamped on February 14, 2022, by the Department of City Planning. The site is designated as being in a **C2-4D Zone**. A clearance letter will be issued stating that no Building or Zoning Code violations exist relating to the subdivision on the subject site once the following items have been satisfied.
  - a. Obtain permits for the demolition or removal of all existing structures on the site. Accessory structures and uses are not permitted to remain on lots without a main structure or use. Provide copies of the demolition permits and signed inspection cards to show completion of the demolition work.
  - b. Provide a copy of affidavit PKG-4743, PKG-5248, PKG-5261, AFF-10509, AFF-11147, and AFF-18103. Show compliance with all the conditions/requirements of the above affidavit(s) as applicable. Termination of above affidavit(s) may be required after the Map has been recorded. Obtain approval from the Department, on the termination form, prior to recording.
  - c. Provide a copy of ZA case ZA-2021-7053-ZAI. Show compliance with all the conditions/requirements of the ZA case as applicable.
  - d. Provide a copy of CPC case CPC-2017-505-TDR-SPR. Show compliance with all the conditions/requirements of the CPC case(s) as applicable.
  - e. Obtain Bureau of Engineering approval for the proposed street merger.
  - f. Show all street dedication(s) as required by Bureau of Engineering and provide net lot area after all dedication. “Area” requirements shall be re-checked as per net lot area after street dedication. Front and side yard requirements shall be required to comply with current code as measured from new property lines after dedication(s).
  - g. Record a Covenant and Agreement to treat the buildings and structures located in an Air Space Subdivision as if they were within a single lot.

#### **Notes:**

The submitted Map may not comply with the number of guest parking spaces required by the Advisory Agency.

The proposed building plans have not been checked for and shall comply with Building and Zoning Code requirements. With the exception of revised health or safety standards,

the subdivider shall have a vested right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect at the time the subdivision application was deemed complete. Plan check will be required before any construction, occupancy or change of use.

If the proposed development does not comply with the current Zoning Code, all zoning violations shall be indicated on the Map.

An appointment is required for the issuance of a clearance letter from the Department of Building and Safety. The applicant is asked to contact Laura Duong at (213) 482-0434 to schedule an appointment.

## **DEPARTMENT OF TRANSPORTATION**

23. A minimum of 20-foot reservoir space will be provided between any security gate(s) and the property line when a driveway is serving less than 100 parking spaces. Reservoir space will increase to 40 feet and 60 feet when the driveway is serving more than 100 and 300 parking spaces, respectively, or as shall be determined to the satisfaction of the Department of Transportation.
24. Parking stalls shall be designed so that a vehicle is not required to back into or out of any public street or sidewalk, LAMC 12.21 A.
25. Los Angeles Department of Transportation (LADOT) recommends approval of the 36-foot-wide driveway on Hope Street. Final driveway width shall be determined by the Department of Public Works.
26. There should be 20 feet of full-curb-height between the service driveway and residential driveway. All vehicles may enter any 2-way driveway and once beyond the queuing area vehicular ingress may split to serve the service vehicles and residential vehicles. Project shall also meet the code requirement for Section 12.21 A-5(j) Internal Circulation. All portions of a public parking area or public garage shall be accessible to all other portions thereof without requiring the use of any public street, unless the Department of Transportation determines that such use is not detrimental to the flow of traffic.
27. A parking area and driveway plan will be submitted to the Citywide Planning Coordination Section of the Department of Transportation for approval prior to submittal of building permit plans for plan check by the Department of Building and Safety. Transportation approvals are conducted at 201 N. Figueroa Street Room 550. For an appointment, contact LADOT's One Stop email at: [ladot.onestop@lacity.org](mailto:ladot.onestop@lacity.org)
28. A fee in the amount of \$205 will be paid for the Department of Transportation as required per Ordinance No. 180542 and LAMC Section 19.15 prior to recordation of the final map. Note: the applicant may be required to comply with any other applicable fees per this new ordinance.

Please contact this section at [ladot.onestop@lacity.org](mailto:ladot.onestop@lacity.org) for any questions regarding the above.

## **FIRE DEPARTMENT**

29. Prior to the recordation of the final map, a suitable arrangement shall be made satisfactory to the Fire Department, binding the subdivider and all successors to the following:
- a. Access for Fire Department apparatus and personnel to and into all structures shall be required.
  - b. Address identification. New and existing buildings shall have approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property.
  - c. One or more Knox Boxes will be required to be installed for LAFD access to project. Location and number to be determined by LAFD Field Inspector. (Refer to FPB Req # 75).
  - d. The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
  - e. Fire Lane Requirements:
    1. Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.
    2. The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.
    3. Fire lanes, where required and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.
    4. Submit plot plans indicating access road and turning area for Fire Department approval.
    5. All parking restrictions for fire lanes shall be posted and/or painted prior to any Temporary Certificate of Occupancy being issued.
    6. Plans showing areas to be posted and/or painted, "FIRE LANE NO PARKING" shall be submitted and approved by the Fire Department prior to building permit application sign-off.
    7. Electric Gates approved by the Fire Department shall be tested by the Fire Department prior to Building and Safety granting a Certificate of Occupancy.
    8. All public street and fire lane cul-de-sacs shall have the curbs painted red and/or be posted "No Parking at Any Time" prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any structures adjacent to the cul-de-sac.
    9. No framing shall be allowed until the roadway is installed to the satisfaction of

the Fire Department.

- f. Construction of public or private roadway in the proposed development shall not exceed 10 percent in grade.
- g. Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units.
- h. No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
- i. The Fire Department may require additional vehicular access where buildings exceed 28 feet in height.
- j. The entrance to a Residential lobby must be within 50 feet of the desired street address curb face.
- k. The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.
- l. 2014 CITY OF LOS ANGELES FIRE CODE, SECTION 503.1.4 (EXCEPTION)
  - (i) When this exception is applied to a fully fire sprinklered residential building equipped with a wet standpipe outlet inside an exit stairway with at least a 2 hour rating the distance from the wet standpipe outlet in the stairway to the entry door of any dwelling unit or guest room shall not exceed 150 feet of horizontal travel AND the distance from the edge of the roadway of an improved street or approved fire lane to the door into the same exit stairway directly from outside the building shall not exceed 150 feet of horizontal travel.
  - (ii) It is the intent of this policy that in no case will the maximum travel distance exceed 150 feet inside the structure and 150 feet outside the structure. The term "horizontal travel" refers to the actual path of travel to be taken by a person responding to an emergency in the building.
  - (iii) This policy does not apply to single-family dwellings or to non-residential buildings.
- m. Site plans shall include all overhead utility lines adjacent to the site.

- n. Where access for a given development requires accommodation of Fire Department apparatus, overhead clearance shall not be less than 14 feet.
- o. No proposed development utilizing cluster, group, or condominium design of one- or two-family dwellings shall be more than 150 feet from the edge of the roadway of an improved street, access road, or designated fire lane.
- p. On small lot subdivisions, any lots used for access purposes shall be recorded on the final map as a "Fire Lane".
- q. Construction of public or private roadway in the proposed development shall not exceed 10 percent in grade.
- r. Private development shall conform to the standard street dimensions shown on Department of Public Works Standard Plan S-470-0.
- s. Standard cut-corners will be used on all turns.
- t. The Fire Department may require additional roof access via parapet access roof ladders where buildings exceed 28 feet in height, and when overhead wires or other obstructions block aerial ladder access.
- u. The proposed project shall comply with all applicable State and local codes and ordinances, and the guidelines found in the Safety Plan, which is an element of the General Plan of the City of Los Angeles.
- v. Recently, the Los Angeles Fire Department (LAFD) modified Fire Prevention Bureau (FPB) Requirement 10. Helicopter landing facilities are still required on all High-Rise buildings in the City. However, FPB's Requirement 10 has been revised to provide two new alternatives to a full FAA-approved helicopter landing facilities.
- w. Each standpipe in a new high-rise building shall be provided with two remotely located FDC's for each zone in compliance with NFPA 14-2013, Section 7.12.2.
- x. During demolition, the Fire Department access will remain clear and unobstructed. The Fire Department has no objection to the Airspace Vacation.
- y. FPB #105 5101.1 Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.
- z. That in order to provide assurance that the proposed common fire lane and fire protection facilities, for the project, not maintained by the City, are properly and adequately maintained, the sub-divider shall record with the County Recorder, prior to the recordation of the final map, a covenant and agreement (Planning Department General Form CP-6770) to assure the following:

- (i) The establishment of a property owners association, which shall cause a yearly inspection, to be made by a registered civil engineer, of all common fire lanes and fire protection facilities. The association will undertake any necessary maintenance and corrective measures. Each future property owner shall automatically become a member of the association or organization required above and is automatically subject to a proportionate share of the cost.
  - (ii) The future owners of affected lots with common fire lanes and fire protection facilities shall be informed of their responsibility for the maintenance of the devices on their lots. The future owner and all successors will be presented with a copy of the maintenance program for their lot. Any amendment or modification that would defeat the obligation of said association as the Advisory Agency must approve required hereinabove in writing after consultation with the Fire Department.
  - (iii) In the event that the property owner's association fails to maintain the common property and easements as required by the CC and R's, the individual property owners shall be responsible for their proportional share of the maintenance.
  - (iv) Prior to any building permits being issued, the applicant shall improve, to the satisfaction of the Fire Department, all common fire lanes and install all private fire hydrants to be required.
  - (v) That the Common Fire Lanes and Fire Protection facilities be shown on the Final Map.
- aa. The plot plans shall be approved by the Fire Department showing fire hydrants and access for each phase of the project prior to the recording of the final map for that phase. Each phase shall comply independently with code requirements.
  - bb. Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.
  - cc. Provide Fire Department pathway front to rear with access to each roof deck via gate or pony wall less than 36 inches.
  - dd. Building designs for multi-storied residential buildings shall incorporate at least one access stairwell off the main lobby of the building; But, in no case greater than 150ft horizontal travel distance from the edge of the public street, Private Street or Fire Lane. This stairwell shall extend onto the roof.
  - ee. Entrance to the main lobby shall be located off the address side of the building.
  - ff. Any required Fire Annunciator panel or Fire Control Room shall be located within 20ft visual line of site of the main entrance stairwell or to the satisfaction of the Fire Department.
  - gg. Where rescue window access is required, provide conditions and improvements necessary to meet accessibility standards as determined by the Los Angeles Fire Department.

- hh. Adequate off-site public and on-site private fire hydrants may be required. Their number and location to be determined after the Fire Department's review of the plot plan.
- ii. Any required fire hydrants to be installed shall be fully operational and accepted by the Fire Department prior to any building construction.

The applicant is further advised that all subsequent contact regarding these conditions must be with the Hydrant and Access Unit. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting please call **(213) 482-6543**. You should advise any consultant representing you of this requirement as well.

### **BUREAU OF STREET LIGHTING**

- 30. Prior to the recordation of the final map or issuance of the Certificate of Occupancy (C of O), street lighting improvement plans shall be submitted for review and the owner shall provide a good faith effort via a ballot process for the formation or annexation of the property within the boundary of the development into a Street Lighting Maintenance Assessment District.

#### **NOTES:**

The quantity of street lights identified may be modified slightly during the plan check process based on illumination calculations and equipment selection.

Conditions set: 1) in compliance with a Specific Plan, 2) by LADOT, or 3) by other legal instrument excluding the Bureau of Engineering conditions, requiring an improvement that will change the geometrics of the public roadway or driveway apron may require additional or the reconstruction of street lighting improvements as part of that condition.

Note: See also Condition S-3(c) for Street Lighting Improvement conditions.

### **DEPARTMENT OF RECREATION AND PARKS**

- 31. That the Park Fee paid to the Department of Recreation and Parks be calculated as a Subdivision (Quimby in-lieu) fee.

### **DEPARTMENT OF WATER AND POWER**

- 32. Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Water System Rules and requirements. Upon compliance with these conditions and requirements, LADWP's Water Services Organization will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1(c).).

### **BUREAU OF SANITATION**

33. The Clean Water Conveyance Divisions of the Bureau of Sanitation has inspected the sewer/storm drain lines serving the subject tract and found no potential problems to their structure or potential maintenance problem, as stated in the memo dated June 22, 2021, 2021. Upon compliance with its conditions and requirements, the Bureau of Sanitation, Clean Water Conveyance Divisions will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the City Engineer clears Condition No. S-1. (d).)

#### **INFORMATION TECHNOLOGY**

34. To assure that cable television facilities will be installed in the same manner as other required improvements, please email [cabletv.ita@lacity.org](mailto:cabletv.ita@lacity.org) that provides an automated response with the instructions on how to obtain the Cable TV clearance. The automated response also provides the email address of 3 people in case the applicant/owner has any additional questions.

#### **URBAN FORESTRY DIVISION AND THE DEPARTMENT OF CITY PLANNING**

35. Project shall preserve all healthy mature street trees whenever possible. All feasible alternatives in project design should be considered and implemented to retain healthy mature street trees. A permit is required for the removal of any street tree and shall be replaced 2:1 or as approved by the Board of Public Works and Urban Forestry Division.
36. Plant street trees at all feasible planting locations within dedicated streets as directed and required by the Bureau of Street Services, Urban Forestry Division. All tree plantings shall be installed to current tree planting standards when the City has previously been paid for tree plantings. The sub divider or contractor shall notify the Urban Forestry Division at: (213) 847- 3077 upon completion of construction for tree planting direction and instructions.

##### Notes:

Removal of street trees requires approval from the Board of Public Works. All projects must have environmental (CEQA) documents that appropriately address any removal and replacement of street trees. Contact Urban Forestry Division at: (213) 847-3077 for tree removal permit information.

#### **DEPARTMENT OF CITY PLANNING-SITE SPECIFIC CONDITIONS**

37. Prior to the recordation of the final map, the subdivider shall prepare and execute a Covenant and Agreement (Planning Department General Form CP-6770) in a manner satisfactory to the Planning Department, binding the subdivider and all successors to the following:
- a. Limit the proposed development to one master ground lot and 9 airspace lots for condominium purposes.
  - b. That a solar access report shall be submitted to the satisfaction of the Advisory Agency prior to obtaining a grading permit.



38. Prior to the issuance of the building permit or the recordation of the final map, a copy of CPC-2017-505-TDR-ZV-SPPA-DD-SPR and ZA-2021-7053-ZAI shall be submitted to the satisfaction of the Advisory Agency. In the event CPC-2017-505-TDR-ZV-SPPA-DD-SPR and ZA-2021-7053-ZAI are not approved, the subdivider may be required to submit a tract modification.
39. Tribal Cultural Resource Inadvertent Discovery. In the event that objects or artifacts that may be tribal cultural resources are encountered during the course of any ground disturbance activities (excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, auguring, backfilling, blasting, stripping topsoil or a similar activity), all such activities shall temporarily cease on the project site until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:
- Upon a discovery of a potential tribal cultural resource, the Applicant shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning.
  - If the City determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be tribal cultural resource, the City shall provide any affected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Applicant and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.
  - The Applicant shall implement the tribe's recommendations if a qualified archaeologist and a culturally affiliated tribal monitor, both retained by the City and paid for by the Applicant, reasonably conclude that the tribe's recommendations are reasonable and feasible.
  - The Applicant shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any affected tribes that have been reviewed and determined by the qualified archaeologist and by a culturally affiliated tribal monitor to be reasonable and feasible. The Applicant shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.
  - If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or by a culturally affiliated tribal monitor, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation.
  - The Applicant may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified

archaeologist and by a culturally affiliated tribal monitor and determined to be reasonable and appropriate.

- Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton.
- Notwithstanding the above, any information determined to be confidential in nature, by the City Attorney's office, shall be excluded from submission to the SCCIC or the general public under the applicable provisions of the California Public Records Act, California Public Resources Code, and shall comply with the City's AB 52 Confidentiality Protocols.

40. Haul Route Conditions:

- a. Loaded Trucks: Exit job site on 8th St (Westbound); Right turn onto N/B Harbor Fwy (CA-110) on-ramp.
- b. Empty Trucks: N/B Harbor Fwy (CA-110); Exit towards James M. Wood Bl/9th St. (Eastbound); Left turn on Olive St. (Northbound); Left turn onto 8th St (Westbound) to jobsite.
- c. Days and Hours of Hauling Operation: Hauling should be from 9:00 AM to 3:30 PM weekdays, and 8:00 AM to 6:00 PM on Saturdays. No hauling should be performed on Sundays.
- d. Staging Area: Trucks shall be staged on job site only. No staging of trucks on city streets at any time.

NOTE: NO INTERFERENCE TO TRAFFIC, ACCESS TO DRIVEWAYS MUST BE MAINTAINED AT ALL TIMES.

- e. The contractor shall contact LADOT at (213) 485-2298 at least four business days prior to hauling to post "Temporary Tow-Away No Stopping" signs along 8th Street, adjacent to the job site for hauling if needed.
- f. Flagger control shall be provided during the hauling operations to assist with ingress and egress of truck traffic on 8th Street.

If you have any questions, please call Syunik Zohrabyan at (213) 972-4943.

41. Construction Equipment. The applicant shall make a good faith effort to ensure that all off-road diesel-powered equipment greater than 50 hp used during Project construction activities meet USEPA Tier 4 Final emissions standards. A copy of each such unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided on-site at the time of mobilization of each applicable unit of equipment to allow the Construction Monitor to compare the on-site equipment with the inventory and certified Tier specification and operating permit.

**42. Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

“City” shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.

#### **DEPARTMENT OF CITY PLANNING-ENVIRONMENTAL MITIGATION MEASURES.**

43. The project shall be in substantial conformance with the project design features (PDFs) mitigation measures (MMs) in the MMP from the Project’s Final Environmental Impact Report and attached to the subject case file (Exhibit B). The implementing and enforcing agencies may determine substantial conformance with the PDFs and mitigation measures in the MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, a PDF or MM may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project related approval finds that the modification or deletion complies with CEQA, including CEQA Guidelines Sections 15162 and 15164, which could include the preparation of an addendum or subsequent environmental clearance, if necessary, to analyze the impacts from the modifications to or deletion of the PDFs or MMs. Any addendum or subsequent CEQA clearance shall explain why the PDF or MM is no longer needed, not feasible, or the other basis for modifying or deleting the PDF or MM, and that the modification will not result in a new significant impact consistent with the requirements of CEQA. Under this process, the modification or deletion of a PDF or MM shall not, in and of itself, require a modification to any Project discretionary approval unless the Director of Planning also finds that the change to the PDF or MM results in a substantial change to the Project or the non-environmental conditions of approval.
43. Implementation. The Mitigation Monitoring Program (MMP), that is part of the case file and attached as Exhibit B, shall be enforced throughout all phases of the Project. The Applicant shall be responsible for implementing each Mitigation Measure (MM) and Project Design Feature (PDF) and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each MM and PDF has been implemented. The Applicant shall maintain records demonstrating compliance with each MM and PDF. Such records shall be made available to the City upon request.
44. Construction Monitor. During the construction phase and prior to the issuance of the first demolition or building permits, the Applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of MMs and PDFs during construction activities consistent with the monitoring phase and frequency set forth in this MMP.

45. The Construction Monitor shall also prepare documentation of the Applicant's compliance with the MM during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the Applicant and Construction Monitor and be included as part of the Applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the MMs within two businesses days if the Applicant does not correct the non-compliance within a reasonable time of notification to the Applicant by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

#### **DEPARTMENT OF CITY PLANNING - STANDARD CONDOMINIUM CONDITIONS**

- C-1. That approval of this tract constitutes approval of model home uses, including a sales office and off-street parking. Where the existing zoning is (T) or (Q) for multiple residential use, no construction or use shall be permitted until the final map has recorded or the proper zone has been effectuated. If models are constructed under this tract approval, the following conditions shall apply:

1. Prior to recordation of the final map, the subdivider shall submit a plot plan for approval by the Department of City Planning showing the location of the model dwellings, sales office and off-street parking. The sales office must be within one of the model buildings.
2. All other conditions applying to Model Dwellings under Section 12.22 A.10 and 11 and Section 17.05-O of the LAMC shall be fully complied with satisfactory to the Department of Building and Safety.

- C-2. Prior to the recordation of the final map, the subdivider shall pay or guarantee the payment of a park and recreation fee based on the latest fee rate schedule applicable. The amount of said fee to be established by the Advisory Agency in accordance with LAMC Section 17.12 and is to be paid and deposited in the trust accounts of the Park and Recreation Fund.

- C-3. Prior to obtaining any grading or building permits before the recordation of the final map, a landscape plan, prepared by a licensed landscape architect, shall be submitted to and approved by the Advisory Agency in accordance with CP-6730.

In the event the subdivider decides not to request a permit before the recordation of the final map, a covenant and agreement satisfactory to the Advisory Agency guaranteeing the submission of such plan before obtaining any permit shall be recorded.

- C-4. In order to expedite the development, the applicant may apply for a building permit for an apartment building. However, prior to issuance of a building permit for apartments, the registered civil engineer, architect or licensed land surveyor shall certify in a letter to the Advisory Agency that all applicable tract conditions affecting the physical design of the building and/or site, have been included into the building plans. Such letter is sufficient to clear this condition. In addition, all of the applicable tract conditions shall be stated in full on the building plans and a copy of the plans shall be reviewed and approved by the Advisory Agency prior to submittal to the Department of Building and Safety for a building permit.

OR

If a building permit for apartments will not be requested, the project civil engineer, architect or licensed land surveyor must certify in a letter to the Advisory Agency that the applicant will not request a permit for apartments and intends to acquire a building permit for a condominium building(s). Such letter is sufficient to clear this condition.

#### **BUREAU OF ENGINEERING - STANDARD CONDITIONS**

- S-1. (a) That the sewerage facilities charge be deposited prior to recordation of the final map over all of the tract in conformance with Section 64.11.2 of the LAMC.
- (b) That survey boundary monuments be established in the field in a manner satisfactory to the City Engineer and located within the California Coordinate System prior to recordation of the final map. Any alternative measure approved by the City Engineer would require prior submission of complete field notes in support of the boundary survey.
- (c) That satisfactory arrangements be made with both the Water System and the Power System of the Department of Water and Power with respect to water mains, fire hydrants, service connections and public utility easements.
- (d) That any necessary sewer, street, drainage and street lighting easements be dedicated. In the event it is necessary to obtain off-site easements by separate instruments, records of the Bureau of Right-of-Way and Land shall verify that such easements have been obtained. The above requirements do not apply to easements of off-site sewers to be provided by the City.
- (e) That drainage matters be taken care of satisfactory to the City Engineer.
- (f) That satisfactory street, sewer and drainage plans and profiles as required, together with a lot grading plan of the tract and any necessary topography of adjoining areas be submitted to the City Engineer.
- (g) That any required slope easements be dedicated by the final map.
- (h) That each lot in the tract complies with the width and area requirements of the Zoning Ordinance.
- (i) That 1-foot future streets and/or alleys be shown along the outside of incomplete public dedications and across the termini of all dedications abutting unsubdivided property. The 1-foot dedications on the map shall include a restriction against their use for access purposes until such time as they are accepted for public use.
- (j) That any 1-foot future street and/or alley adjoining the tract be dedicated for public use by the tract, or that a suitable resolution of acceptance be transmitted to the City Council with the final map.
- (k) That no public street grade exceeds 15%.

- (l) That any necessary additional street dedications be provided to comply with the Americans with Disabilities Act (ADA) of 1990.
- S-2. That the following provisions be accomplished in conformity with the improvements constructed herein:
- (a) Survey monuments shall be placed and permanently referenced to the satisfaction of the City Engineer. A set of approved field notes shall be furnished, or such work shall be suitably guaranteed, except where the setting of boundary monuments requires that other procedures be followed.
  - (b) Make satisfactory arrangements with the Department of Transportation with respect to street name, warning, regulatory and guide signs.
  - (c) All grading done on private property outside the tract boundaries in connection with public improvements shall be performed within dedicated slope easements or by grants of satisfactory rights of entry by the affected property owners.
  - (d) All improvements within public streets, private street, alleys and easements shall be constructed under permit in conformity with plans and specifications approved by the Bureau of Engineering.
  - (e) Any required bonded sewer fees shall be paid prior to recordation of the final map.
- S-3. That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:
- (a) Construct any necessary mainline sewer satisfactory to the B-Permit Engineering Office.
  - (b) Construct any necessary drainage facilities.
  - (c) Install street lighting facilities to serve the tract as required by the Bureau of Street Lighting as required below:

IMPROVEMENT CONDITION: Construct new pedestrian lights: two (2) on Hope St., four (4) on 8th St., and two (2) on Grand Avenue. If street widening per BOE improvement conditions, relocate and upgrade street lights; two (2) on Hope St., four (4) on 8th St., and two (2) on Grand Avenue.

Install street lighting facilities to serve the tract as required by the Bureau of Street Lighting.

Conditions set: 1) in compliance with Specific Plan, 2) by LADOT, or 3) by other legal instrument excluding the Bureau of Engineering conditions, requiring an improvement that will change the geometrics of the public roadway or driveway apron may require additional or the reconstruction of street lighting improvements as part of that condition.
  - (d) Plant street trees and remove any existing trees within dedicated streets or proposed dedicated streets as required by the Street Tree Division of the Bureau

of Street Maintenance. All street tree plantings shall be brought up to current standards. When the City has previously been paid for tree planting, the subdivider or contractor shall notify the Street Tree Division (213-485-5675) upon completion of construction to expedite tree planting.

- (e) Repair or replace any off-grade or broken curb, gutter and sidewalk satisfactory to the City Engineer.
- (f) Construct access ramps for the handicapped as required by the City Engineer.
- (g) Close any unused driveways satisfactory to the City Engineer.
- (h) Construct any necessary additional street improvements to comply with the Americans with Disabilities Act (ADA) of 1990.
- (i) Improve 8th Street adjoining the subdivision by the construction of new concrete curb, gutter and a 17-foot wide concrete sidewalk with tree wells. Repair and or replace any damaged, cracked or off-grade concrete bus pad and roadway pavement, including any necessary removal and reconstruction of the existing improvements all satisfactory to the City Engineer:
- (j) Improve Hope Street being dedicated and adjoining the subdivision by the construction of a new concrete curb, gutter, and an 18-foot wide concrete sidewalk with tree wells. Repair and or replace any damaged, cracked or off- grade roadway pavement, including any necessary removal and reconstruction of the existing improvements all satisfactory to the City Engineer.
- (k) Improve Grand Avenue adjoining the easement by the construction of a new concrete curb, gutter, and a 24-foot wide concrete sidewalk with tree wells. Repair and or replace any damaged, cracked or off-grade roadway pavement, including any necessary removal and reconstruction of the existing improvements all satisfactory to the City Engineer.
- (l) Improve all newly dedicated property line returns and corner cuts, easement line returns, and corner cut easements with concrete sidewalks and reconstruct all existing curb ramps per BOE's latest Standards and per Special Order 04-0222.
- (m) Construct any necessary on-site mainline and house connection sewers satisfactory to the City Engineer.
- (n) That Board of Public Works approval be obtained, prior to the recordation of the final map, for the removal of any tree in the existing or proposed right-of-way area associated with improvement requirements outlined herein. The Bureau of Street Services, Urban Forestry Division is the lead agency for obtaining Board of Public Works approval for removal of such trees.

#### NOTES:

The Advisory Agency approval is the maximum number of units permitted under the tract action. However, the existing or proposed zoning may not permit this number of units.



Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power, Power System, to pay for removal, relocation, replacement or adjustment of power facilities due to this development. The subdivider must make arrangements for the underground installation of all new utility lines in conformance with LAMC Section 17.05N.

The final map must record within 36 months of this approval, unless a time extension is granted before the end of such period.

The Advisory Agency hereby finds that this tract conforms to the California Water Code, as required by the Subdivision Map Act.

The subdivider should consult the Department of Water and Power to obtain energy saving design features which can be incorporated into the final building plans for the subject development. As part of the Total Energy Management Program of the Department of Water and Power, this no-cost consultation service will be provided to the subdivider upon his request.

## FINDINGS

(As Amended by the City Planning Commission at its meeting on July 13, 2023)

### **FINDINGS OF FACT (CEQA)**

#### **I. Introduction**

This Environmental Impact Report (EIR), consisting of the Draft EIR and the Final EIR, is intended to serve as an informational document for public agency decision-makers and the general public regarding the objectives and environmental impacts of the 8<sup>th</sup>, Grand and Hope Project (Project), located at 754 South Hope Street and 609 to 625 West 8<sup>th</sup> Street in the City of Los Angeles (Site or Project Site). The Project entails the development of a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would provide vehicle parking within three subterranean levels and eight above-grade levels, and on the ground floor. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. Upon completion, the total building floor area would be 554,927 square feet with a maximum height of 592 feet and a Floor Area Ratio (FAR) of approximately 9.25:1.

The City of Los Angeles (City), as Lead Agency, has evaluated the environmental impacts of implementation of the Project by preparing an environmental impact report (EIR) (Case Number ENV-2017-506-EIR/State Clearinghouse No. 2019050010). The EIR was prepared in compliance with the California Environmental Quality Act of 1970 (CEQA), Public Resources Code (PRC) Section 21000 et seq. and the California Code of Regulations Title 15, Chapter 6 (CEQA Guidelines). The findings discussed in this document are made relative to the conclusions of the EIR.

CEQA Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” CEQA Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in CEQA Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See CEQA Section 21081[a]; CEQA Guidelines Section 15091[a].) For each significant environmental impact identified in an EIR for a proposed project, the approving agency must issue a written finding, based on substantial evidence in light of the whole record, reaching one or more of the three possible findings, as follows:

- 1) Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant impacts as identified in the EIR.

- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been, or can or should be, adopted by that other agency.
- 3) Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

The findings reported in the following pages incorporate the facts and discussions of the environmental impacts that are found to be significant in the Final EIR for the project as fully set forth therein. Although Section 15091 of the CEQA Guidelines does not require findings to address environmental impacts that an EIR identifies as merely “potentially significant,” these findings nevertheless fully account for all such effects identified in the Final EIR for the purpose of better understanding the full environmental scope of the Project. For each environmental issue analyzed in the EIR, the following information is provided:

The findings provided below include the following:

- Description of Significant Effects – A description of the environmental effects identified in the EIR.
- Project Design Features – A list of the project design features or actions that are included as part of the Project.
- Mitigation Measures – A list of the mitigation measures that are required as part of the Project to reduce identified significant impacts.
- Finding – One or more of the three possible findings set forth above for each of the significant impacts.
- Rationale for Finding - A summary of the rationale for the finding(s).
- Reference - A reference of the specific section of the EIR which includes the evidence and discussion of the identified impact.

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or feasible environmentally superior alternatives, a public agency, after adopting proper findings based on substantial evidence, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's benefits rendered acceptable its unavoidable adverse environmental effects. (CEQA Guidelines §15093, 15043[b]; see also CEQA § 21081[b].)

## II. Environmental Review Process

For purposes of CEQA and these Findings, the Record of Proceedings for the Project includes (but is not limited to) the following documents:

**Initial Study.** The Project was reviewed by the Los Angeles Department of City Planning (serving as Lead Agency) in accordance with the requirements of the CEQA (PRC 21000 et seq.). The City prepared an Initial Study in accordance with Section 15063(a) of the State CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.).

**Notice of Preparation.** Pursuant to the provisions of Section 15082 of the CEQA Guidelines, the City then circulated a Notice of Preparation (NOP) to State, regional and

local agencies, and members of the public for a 30-day period commencing on May 10, 2019, and ending on June 11, 2019. The NOP also provided notice of a Public Scoping Meeting held on May 29, 2019. The purpose of the NOP and Public Scoping Meeting was to formally inform the public that the City was preparing a Draft EIR for the Project, and to solicit input regarding the scope and content of the environmental information to be included in the Draft EIR. Written comment letters responding to the NOP and the Scoping Meeting were submitted to the City by various public agencies, interested organizations and individuals. The NOP, Initial Study, and NOP comment letters are included in Appendix A of the Draft EIR.

**Draft EIR.** The Draft EIR evaluated in detail the potential effects of the Project. It also analyzed the effects of a reasonable range of alternatives to the Project, including a “No Project” alternative. The Draft EIR for the Project (State Clearinghouse No. 2019050010), incorporated herein by reference in full, was prepared pursuant to CEQA and State, Agency, and City adopted CEQA Guidelines (City of Los Angeles California Environmental Quality Act Guidelines). The Draft EIR was circulated for a 46-day public comment period beginning on November 18, 2021, and ending on January 5, 2022. A Notice of Availability (NOA) was distributed on November 18, 2021, to all property owners within 500 feet of the Project Site and interested parties, which informed them of where they could view the document and how to comment. The Draft EIR was available to the public at the City of Los Angeles, Department of City Planning, and the following local libraries: Los Angeles Central Library; Little Tokyo Branch Library; Pico Union Branch Library; Chinatown Branch Library; Echo Park Branch Library; and, Felipe de Neve Branch Library. A copy of the document was also posted online at <https://planning.lacity.org/development-services/eir/8th-grand-and-hope-project-0>. Notices were filed with the County Clerk on November 23, 2021.

**Notice of Completion.** A Notice of Completion was sent with the Draft EIR to the Governor’s Office of Planning and Research State Clearinghouse for distribution to State Agencies on November 18, 2021, and notice was provided in the Los Angeles Times newspaper.

**Final EIR.** The City released a Final EIR for the Project on January 20, 2023, which is hereby incorporated by reference in full. The Final EIR constitutes the second part of the EIR for the Project and is intended to be a companion to the Draft EIR. The Final EIR also incorporates the Draft EIR by reference. Pursuant to Section 15088 of the CEQA Guidelines, the City, as Lead Agency, reviewed all comments received during the review period for the Draft EIR and responded to each comment in Section II, Responses to Comments, of the Final EIR. On January 20, 2023, responses were sent to all public agencies that made comments on the Draft EIR at least 10 days prior to certification of the EIR pursuant to CEQA Guidelines Section 15088(b). Notices regarding availability of the Final EIR were also sent to property owners and occupants within a 500-foot radius of the Project Site, as well as anyone who commented on the Draft EIR, and interested parties.

**Public Hearing.** A noticed public hearing for the Project was held by the Deputy Advisory Agency and Hearing Officer on behalf of the City Planning Commission on February 15, 2023.

**City Planning Commission.** A meeting was held by the City Planning Commission on July 13, 2023 to consider the entitlements and appeals of the tract map and Zoning Administrator's Interpretation.

### III. Record of Proceedings.

For purposes of CEQA and these Findings, the Record of Proceedings for the Project includes (but is not limited to) the following documents and other materials that constitute the administrative record upon which the City approved the Project. The following information is incorporated by reference and made part of the record supporting these Findings of Fact:

- All Project plans and application materials including supportive technical reports;
- The Draft EIR and Appendices, and Final EIR and Appendices, and all documents relied upon or incorporated therein by reference;
- The Mitigation Monitoring Program (MMP) prepared for the Project;
- The City of Los Angeles General Plan and related EIR;
- The Southern California Association of Governments (SCAG)'s 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (2020-2045 RTP/SCS) and related EIR (SCH No. 2019011061);
- Municipal Code of the City of Los Angeles, including but not limited to the Zoning Ordinance and Subdivision Ordinance;
- All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, minutes of meetings, summaries, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project;
- Any documents expressly cited in these Findings of Fact, in addition to those cited above; and
- Any and all other materials required for the record of proceedings by PRC Section 21167.6(e).

Pursuant to CEQA Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City has based its decision are located in and may be obtained from the Department of City Planning, as the custodian of such documents and other materials that constitute the record of proceedings, located at the City of Los Angeles, Figueroa Plaza, 221 North Figueroa Street, Room 1350, Los Angeles, CA 90012.

In addition, copies of the Draft EIR and Final EIR are available on the Department of City Planning's website at <https://planning.lacity.org/development-services/eir> (to locate the documents, search for either the environmental case number or project title in the Search Box). The Draft and Final EIR are also available at the following six Library Branches:

- Los Angeles Central Library - 630 West Fifth Street, Los Angeles, CA 90071
- Little Tokyo Branch Library - 203 South Los Angeles Street, Los Angeles, CA 90012
- Pico Union Branch Library - 1030 South Alvarado Street, Los Angeles, CA 90006
- Chinatown Branch Library - 639 North Hill Street, Los Angeles, CA 90012
- Echo Park Branch Library - 1410 West Temple Street, Los Angeles, CA 90026
- Felipe de Neve Branch Library - 2820 West 6th Street, Los Angeles, CA 90057

#### **IV. Project Description**

The Project proposes to demolish the existing four-story parking structure and surface parking lot and develop a 50-story, mixed-use building consisting of 580 residential units, and up to 7,499 square feet of ground level commercial/retail/restaurant uses on a 0.83-acre site, resulting in a maximum of 554,927 square feet of floor area with a total FAR of 9.25:1. The proposed building would be comprised of four above-ground tiers with varying step-backs from Hope Street. Parking would be located in three subterranean levels and above grade on Levels 2 through 9, and four vehicle parking spaces would be located on the ground floor.

The maximum depth of the subterranean levels would be approximately 63 feet below ground level. The building's height would be 592 feet above grade to the top of the parapet and 568 feet above grade to the highest roof surface. Rooftop mechanical equipment would extend to a maximum height of 592 feet above grade and would be screened from public view by a parapet.

The ground floor would be occupied by a residential lobby on 8<sup>th</sup> Street, as well as commercial/retail/restaurant uses, which would be located at the corner of Hope Street and 8th Street and at the corner of Grand Avenue and 8th Street. These commercial/retail/restaurant uses would provide up to a total of 94 outdoor seats. In addition, a ground floor porte cochère/outdoor lobby and four parking spaces would be located internally on the ground floor.

The Project's residential units would be located on Levels 3 through 49. The Project would provide 640 vehicle parking spaces comprised of 602 parking stalls to accommodate the Project's residential parking component, 34 spaces for an adjacent building located at 611 West 6th Street as required by a current parking agreement, and four surplus parking spaces. The Project would also include 251 bicycle parking spaces.

In addition, indoor and outdoor residential amenities would be located on Levels 3, 10, 11, 21, 22, 35, and 36 which would include indoor and outdoor common open space areas with such amenities as pool, gym, spa, yoga and fitness areas; juice bar, barbeque, bar and dining areas; event lawn; board room; co-working spaces; kitchen; and, fire pit. In all, the Project would provide 65,193 square feet of total open space comprised of 13,140 square feet of indoor open space, 15,358 square feet of outdoor open space, and 8,596 square feet of outdoor covered open space. The Project would also provide a dog run and pet amenity area on Level 3 that would not be counted toward open space.

Project landscaping would include planting 79 trees on-site and 10 street trees, and paying an in-lieu fee for the 66 additional LAMC required trees and the 4 additional required street trees.

**V. No Impact or Less than Significant without Mitigation**

Impacts of the Project that were determined to have no impact or be less than significant in the EIR (including having a less than significant impact as a result of implementation of project design features and regulatory compliance measures) and that require no mitigation are identified below. The City has reviewed the record and agrees with the conclusion that the following environmental issues would not be significantly affected by the Project and therefore, no additional findings are needed. The following information does not repeat the full discussions of environmental impacts contained in the EIR. The City ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the EIR.

**Aesthetics:**

As discussed on pages 32 through 37 of the Initial Study included in Appendix A of the Draft EIR, and on page VI-16 in Chapter VI, Other CEQA Considerations, of the Draft EIR, pursuant to Senate Bill (SB) 743 and PRC Section 21099(d), a project's aesthetic and parking impacts shall not be considered a significant impact on the environment if it meets certain criteria. The Project meets those criteria since it would be a mixed-use residential project on an infill site within a transit priority area (TPA), as defined in the City's Zoning Information File No. 2452 and PRC Section 21099. Nonetheless, an analysis was provided in the Initial Study included in Appendix A of the Draft EIR for informational purposes only. As described in that analysis, the Project would not: have a substantial adverse effect on a scenic vista; substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway; conflict with applicable zoning and other regulations governing scenic quality; or create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. Therefore, pursuant to SB 743 and PRC Section 21099(d)(1), the Project's aesthetic impacts would be less than significant and would not create any project-level or cumulative impact to aesthetics.

**Agriculture and Forestry Resources:**

As discussed on pages 38 through 40 of the Initial Study included in Appendix A of the Draft EIR, and on pages VI-16 through VI-18 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is located within an urbanized area, zoned (C2-4D) for urban land uses, is surrounded by urban development, does not contain farmland or forest land, is not zoned for agricultural or forestry use, and is not subject to a Williamson Act contract. Thus, the Project would not: convert farmland to nonagricultural uses; conflict with existing zoning for agricultural use or a Williamson Act contract; conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production; result in the loss of forest land or conversion of forest land to non-forest use; or involve other changes in the existing environment which could result in the conversion of farmland to non-agricultural uses. Therefore, the Project would not create any Project-level or cumulative impact to agriculture and forestry resources.

**Air Quality**

As discussed on pages IV.A-43 through IV.A-52 and IV.A-62 in Section IV.A, Air Quality, of the Draft EIR, and the Air Quality and Greenhouse Gas Emissions Technical Analysis (Air Quality Analysis) contained in Appendix B of the Draft EIR, the Project is an infill development near transit within an existing urbanized area that would concentrate new residential and commercial uses within a Southern California Association of Governments (SCAG)-designated High Quality Transit Area (HQTa) thereby advancing regional goals

to reduce Vehicle Miles Traveled (VMT) and associated emissions through infill development near transit. Also, as shown on Table IV.A-4, *Estimate of Maximum Regional Project Daily Construction Emissions (pounds per day)*, on page IV.A-54 of the Draft EIR, the Project would not exceed any Southern California Air Quality Management District (SCAQMD) significance thresholds for air quality emissions. The Project would include Project Design Features which would have the effect of reducing emissions, including Project Design Feature AIR-PDF-1, which would reduce construction emissions, and GHG-PDF-1, which would reduce criteria pollutant emissions. Thus, the Project would not conflict with or obstruct implementation of the AQMP or conflict with City policies. Therefore, the Project-level and cumulative impacts regarding conflicting with or obstruction of such plans would be less than significant.

As discussed on pages IV.A-52 through IV.A-54 and IV.A-62 in Section IV.A, Air Quality, of the Draft EIR, and the Air Quality Analysis contained in Appendix B of the Draft EIR, and shown in Table IV.A-4 *Estimate of Maximum Regional Project Daily Construction Emissions (pounds per day)*, on page IV.A-54, and Table IV.A-5, *Estimate of Maximum Regional Project Daily Operational Emissions—At Project Buildout (2025)*, on page IV.A-55, of the Draft EIR, while Project construction activities and operation would generate air emissions, the Project would not exceed SCAQMD regional emissions thresholds for criteria pollutants during construction or operations. Thus, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in nonattainment under an applicable federal or State ambient air quality standard. Therefore, the Project-level and cumulative impacts associated with regional emissions would be less than significant.

As discussed on pages IV.A-54 through IV.A-56 and IV.A-62 in Section IV.A, Air Quality, of the Draft EIR, and the Air Quality Analysis contained in Appendix B of the Draft EIR, and shown in Table IV.A-6, *Estimate of Maximum Localized Daily Project Construction Emissions (pounds per day)*, on page IV.A-58 and Table IV.A-7, *Estimate of Maximum Localized Project Daily Operational Emissions—At Project Buildout (2025) (pounds per day)*, on page IV.A-59 of the Draft EIR, while Project construction activities and operation would generate air emissions, localized emissions associated with construction and operation of the Project would be less than the significance thresholds established by the SCAQMD. Therefore, Project and cumulative impacts associated with exposure of sensitive receptors to substantial pollutant concentrations would be less than significant.

As discussed on page 42 of the Initial Study included in Appendix A of the Draft EIR, pages IV.A-61 through IV.A-62 in Section IV.A, Air Quality of the Draft EIR, and page VI-17 in Chapter VI, Other CEQA Considerations, of the Draft EIR, no objectionable odors are anticipated as a result of either construction or operation of the Project since construction would involve the use of conventional building materials typical of construction projects of similar type and size and any odors that may be generated during construction would be localized and temporary in nature and would not be sufficient to affect a substantial number of people or result in a nuisance as defined by SCAQMD Rule 402. With respect to Project operation, the residential and commercial uses at the Project Site are not the type of land uses associated with odor complaints or objectionable odors. In addition, on-site trash receptacles would be contained, located, and maintained in a manner that promotes odor control. Therefore, Project-level and cumulative impacts related to odors would be less than significant.

### **Biological Resources:**



As stated on pages 42 through 45 of the Initial Study included in Appendix A of the Draft EIR, and on pages VI-17 through VI-18 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is a disturbed urban infill site and does not contain special-status plant or animal species, water bodies, wetlands, riparian habitat or other sensitive natural community. Moreover, the Project would comply with the Migratory Bird Treaty Act (MBTA), which regulates vegetation removal during the nesting season to ensure that significant impacts to migratory birds would not occur. Thus, the Project would not: have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or US Fish and Wildlife Service (USFWS); have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS; have a substantial adverse effect on State or federally protected wetlands through direct removal, filling, hydrological interruption, or other means; interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or conflict with the provisions of an adopted habitat conservation plan. Therefore, the Project-level and cumulative impacts related to biological resources would be less than significant.

**Cultural Resources: (Except Archeological Resources):**

As described on pages 46 through 48 of the Initial Study included in Appendix A of the Draft EIR, and on pages VI-18 through VI-19 in Chapter VI, Other CEQA Considerations, of the Draft EIR, there are no listed historical resources or human remains at the Project Site and, therefore, the Project would not cause a direct impact to such cultural resources. The Project would also not result in potentially significant indirect impacts to off-site historic resources located in the vicinity of the Project Site. With regard to human remains, if discovered during construction, such resources would be treated in accordance with state law, including Section 15064.5 of the CEQA Guidelines, PRC Section 5097.98 and Section 7050.5 of the California Health and Safety Code (HSC). Compliance with these regulatory standards would ensure appropriate treatment of any potential human remains unexpectedly encountered during grading and excavation activities. For these reasons, the Project would not: cause a substantial adverse change in the significance of a historical resource or disturb any human remains, including those interred outside of dedicated cemeteries; or result in a considerable contribution to cumulative impacts related to historical resources or human remains. Thus, the Project-level and cumulative impacts to historical resources and human remains would be less than significant.

(As to archeological resources, see discussion in Section VI, Less than Significant with Mitigation, below.)

**Energy Resources:**

As discussed on pages IV.B-21 through IV.B-44 in Section IV.B, Energy, of the Draft EIR, and the Energy Analysis calculations included as Appendix C of the Draft EIR, Project construction activities and operation would consume electricity, natural gas and transportation fuel. However, this consumption would occur in accordance with both applicable energy efficiency regulations and the Project's Transportation Demand Management (TDM) requirements, as well as Project Design Features GHG-PDF-1 (which requires the incorporation of the additional energy conservation features required to reach

LEED certification or equivalent green building standards) and WAT-PDF-1 (water conservation features which in turn reduce energy demand for water conveyance systems). Moreover, the Project would not conflict with the 2020-2045 RTP/SCS as it would develop a high-density mixed-use infill project within a SCAG-designated HQT and City-designated TPA in close proximity to transit, which would maximize transit and other alternative modes of transportation and minimize VMT and energy use. As such, the Project would not: result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources during Project construction or operation; or conflict with or obstruct a State or local plan for renewable energy or energy efficiency; or result in a considerable contribution to cumulative impacts related to energy resources. Therefore, the Project-level and cumulative impacts to energy resources would be less than significant.

**Geology and Soils (Except Paleontological Resources):**

As described on pages 49 through 54 of the Initial Study and the Geotechnical Report included as Appendix IS-4 of the Initial Study, both of which are included in Appendix A of the Draft EIR, and on pages VI-19 through VI-20 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is relatively flat with no geological or soils conditions which would be exacerbated by the Project, nor is the Project Site: located on known active or potentially active underlying fault or within an Alquist-Priolo Earthquake Fault Zone or City-designated Fault Rupture Study Area; contain active or potentially active faults with the potential for surface fault rupture directly beneath the Project; susceptible to liquefaction; in a landslide area; contain expansive soils (after excavation and removal of soils for subsurface parking); or contain unique geological features. As such, and with implementation of regulatory requirements, the Project would not: cause potential substantial adverse effects, caused in whole or in part by the Project's exacerbation of the existing environmental conditions, involving fault rupture, strong seismic ground shaking, seismic-related ground failure (including liquefaction), or landslides; result in substantial soil erosion or loss of topsoil; be located on a geologic unit that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse, caused in whole or in part by the Project's exacerbation of the existing environmental conditions; result in impacts associated with expansive soils, creating substantial direct or indirect risks to life or property; or result in a cumulatively considerable impact related to geology and soils. In addition, the Project would not include any septic systems. Therefore, the Project-level and cumulative impacts related to geology and soils would be less than significant.

(As to paleontological resources, see discussion in Section VI, Less than Significant with Mitigation, below.)

**Greenhouse Gas Emissions:**

As discussed on pages IV.C-40 through IV.C-80 in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR and in the Air Quality and Greenhouse Gas Emissions Technical Report included in Appendix B of the Draft EIR, the Project would generate greenhouse gas (GHG) emissions during construction and operation. However, the Project would be subject to applicable GHG emission reduction, energy conservation, and TDM requirements, would implement Project Design Features GHG-PDF-1 (which requires incorporation the additional energy conservation features required to attain LEED certification or equivalent green building standards), WAT-PDF-1 (which requires water conservation and waste reduction measures which in result in lower GHG emissions), and

AIR-PDF-2 (which reduces criteria air pollutants from fireplaces and thereby reduces GHG emissions), and would be developed on an urban infill site within an HQT and TPA in close proximity to transit, all of which would reduce the Project's energy consumption, VMT, and associated GHG emissions. Although a quantitative analysis of GHG emissions was provided in the Draft EIR (pages IV.C-70 through IV.C-80 and Appendix B), since there are no adopted thresholds of significance for GHG emissions, the Project was analyzed to determine if it would conflict with plans adopted to reduce GHG emissions. As discussed on pages IV.C-48 through IV.C-70 of the Draft EIR, the Project would not conflict with such plans for all the reasons set forth in Table IV.C-5, *Consistency Analysis—2008 Climate Change Scoping Plan and Subsequent Updates*, on pages IV.C-52 through IV.C-55, Table IV.C-6, *Consistency with Applicable GHG Emissions Goals and Actions of City's Green New Deal*, on pages IV.C-64 through IV.C-65, and Table IV.C-7, *Project Consistency with 2045 Carbon Neutrality Goals*, on page IV.C-69, of the Draft EIR.

Additionally, as discussed on pages IV.C-56 through IV.C-62 of the Draft EIR, the Project would not conflict with the 2020-2045 RTP/SCS GHG emissions reduction strategies as the Project represents the type of land use development that is encouraged by the 2020–2045 RTP/SCS to reduce VMT and expand multi-modal transportation options. Also, as discussed on page IV.C-80 of the Draft EIR, the Project's contribution to cumulative global GHG emissions would not be cumulatively considerable. As such, the Project would not: generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment; or conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHG. Therefore, the Project-level and cumulative impacts related to GHG emissions would be less than significant.

**Hazards and Hazardous Materials:**

As discussed on pages 56 through 60 of the Initial Study and Appendix IS-6, the Environmental Assessment Phase I and the Screening Subsurface Assessment Phase II (ESA Phase I and II) of the Initial Study, both included in Appendix A of the Draft EIR, and on pages VI-21 through VI-23 in Chapter VI, Other CEQA Considerations, of the Draft EIR: the current uses of the Project Site and adjoining properties are not ones that are indicative of the use, treatment, storage, disposal, or generation of significant quantities of hazardous substances or petroleum products; the Project would not use large quantities of hazardous materials; given the types of uses proposed by the Project (residential, commercial/retail/restaurant and associated parking uses), the Project would not include the routine transport, use or disposal of substantial amounts of hazardous materials, and would follow all applicable hazardous materials regulations and manufacturer specifications/instructions; the Project would comply with all applicable regulations regarding the handling, disposal and accidental spill or release of hazardous materials including methane, asbestos and lead-based paint; the Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of a school; the Project Site is not on the lists maintained pursuant to Government Code Section 65962.5 nor other hazards materials list. As discussed on page IV-22 to IV-23 of Chapter IV, Other CEQA Considerations, of the Draft EIR, the Project Site is not located within two miles of an airport or airport land use plan; Project Design Feature TR-PDF-1 incorporates the implementation of a construction traffic management plan to ensure that construction activities would not interfere with adopted emergency response/evacuation plans; the Project will comply with LAMC and Los Angeles Fire Department regulations regarding emergency access; the Project Site is not located in a City-designated Very High Fire Hazard Severity Zone of fire buffer zone; and, the Project's contribution to a cumulative impact related to hazards and hazardous

materials would not be cumulatively considerable. As such, the Project would not: create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving hazardous materials; emit hazardous emissions within one-quarter mile of a school; be located on listed hazardous materials sites and create a significant hazard caused from the Project's exacerbation of existing environmental conditions; result in a safety hazard; impair implementation of or physically interfere with an adopted emergency response or evacuation plan; expose people or structures to a significant risk involving wildland fires; or result in a considerable contribution to cumulative impacts related to hazards or hazardous materials. Therefore, the Project-level and cumulative impacts related to hazards and hazardous material would be less than significant.

**Hydrology and Water Quality:**

As discussed on pages 61 through 66 of the Initial Study and Appendix IS-7, the Hydrology and Water Quality Memo, of the Initial Study, both of which are included in Appendix A of the Draft EIR, and on pages VI-23 to VI-25 in Chapter VI, Other CEQA Considerations, of the Draft EIR, Project construction and operational activities would be subject to applicable water quality, drainage and erosion requirements (e.g., the Project would implement National Pollutant Discharge Elimination System (NPDES) Construction General Permit, and City regulations including grading requirements, Best Management Practices (BMPs), and Low Impact Development (LID) Ordinance requirements) that would avoid the violation of water quality standards and waste discharge requirements and avoid substantial erosion; the Project would not include groundwater withdrawals and would slightly reduce the imperviousness of the Project Site and improve infiltration through implementation of infiltration BMPs that comply with the LID Ordinance and, therefore, avoid decreases in groundwater supplies or recharge; and the Project would not conflict with or obstruct implementation of a water quality control plan or a sustainable groundwater management plan; the Project would not include land uses (industrial uses, landfills, etc.) or features (e.g., septic systems, fuel USTs, etc.) that could cause substantial surface or groundwater contamination; and, the Project would not impede or redirect flood flows nor is it located within a 100-year flood plain area, including the 100-year flood zone designated by the Federal Emergency Management Agency (FEMA), nor is it in a tsunami or seiche zone and is, therefore, not subject to inundation from 100-year floods, tsunamis or seiches. For all these reasons, the Project would not: violate water quality standards or waste discharge requirements or otherwise substantially degrade surface water quality; substantially decrease groundwater supplies or interfere substantially with groundwater recharge; result in substantial erosion/siltation; create runoff that exceeds stormwater drainage system capacity or create substantial polluted runoff; impede/redirect flood flows; risk release of pollutants due to inundation from 100-year floods, tsunamis or seiches; or result in a cumulatively significant contribution to cumulative impacts related to hydrology or water quality. As such, the Project-level and cumulative impacts related to hydrology and water quality would be less than significant.

**Land Use and Planning:**

As discussed on page 67 of the Initial Study included in Appendix A of the Draft EIR and on page VI-25 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would not physically divide an established community since the Project would be located on an urban infill site that is surrounded by properties with similar residential or commercial uses as proposed for the Project, would be constructed within the Project Site with some improvements to the adjoining sidewalks, and therefore does not propose any physical

features that would divide the community. As such, the Project would not contribute to a cumulative impact related to physically dividing an established community. Therefore, Project-level and cumulative impacts associated with the physical disruption of a community would be less than significant.

As discussed on pages IV.D-20 through IV.D-40 in Section IV.D, Land Use and Planning, of the Draft EIR, and the Land Use Tables contained in Appendix D of the Draft EIR, the Project would not conflict with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, including the 2020-2045 RTP/SCS, the AQMP, the City General Plan's Framework Element (including the Land Use, Housing, Urban Form and Neighborhood Design, Open Space and Conservation, Economic Development, and Infrastructure and Public Services Chapters), Housing Element, Conservation Element and Health and Wellness Element, the Mobility Plan 2035, the Central City Community Plan, the Citywide Design Guidelines, the Downtown Design Guidelines, and the LAMC. As explained in Section IV.D and the tables in Appendix D of the Draft EIR, the Project would not conflict with these plans, policies, regulations, objectives or strategies because, among other things, the Project would: create an urban in-fill development within an HQTa and TPA, and in close proximity to transit which would encourage alternative modes of transit and reduce VMT and air emissions; contribute to the needs of the City's existing and future residents, businesses, and visitors by replacing a parking structure and surface parking lot with a mixed-use high-rise development; be developed in accordance with the development standards set forth in the LAMC and the design standards of the Citywide and Downtown Design Guidelines; promote the construction of green buildings by incorporating sustainable design features, including energy conservation, water conservation, a pedestrian- and bicycle-friendly site design, and waste reduction measures; be consistent with City and SCAG RTP/SCS growth projections; increase housing and job opportunities in the Project area; contain bicycle parking and amenities as well as improve pedestrian walkability in the Project Site vicinity by the expansion and reconstruction of the existing sidewalk and inclusion of street trees; and, include stormwater treatment BMPs that would collect and treat rainwater and thereby assist in improving the quality of stormwater runoff.

Additionally, as discussed on pages IV.D-30 through IV.D-34 of the Draft EIR, with approval of the requested discretionary actions, including allowing a transfer of floor area (TFAR) from the Los Angeles Convention Center to the Project Site to permit a Project FAR of 9.25:1, the Project would be consistent with the LAMC. Also, for the reasons set forth on page IV.D-41 of the Draft EIR, the Project's contribution to cumulative impacts related to land use and planning would not be cumulatively considerable. Therefore, the Project-level and cumulative impacts associated with conflicts with land use plans, policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect would be less than significant.

**Mineral Resources:**

As discussed on page 68 of the Initial Study included in Appendix A of the Draft EIR, and on pages VI-25 through VI-26 in Chapter VI, Other CEQA Considerations, of the Draft EIR, no mineral extraction operations currently occur on the Project Site or in the Project Site area, and the Project Site is located within an urbanized area that has been previously disturbed by development. Furthermore, the Project Site is not located within a City-designated Mineral Resource Zone where significant mineral deposits are known to be present, or within a mineral producing area as classified by the California Geologic Survey or within a City-designated oil field or oil drilling area. Thus, the Project would not: result

in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. As such, the Project would not contribute to a cumulative impact related to mineral resources. Therefore, the Project would not create any Project-level or cumulative impacts to mineral resources.

**Noise (Off-Site Construction Noise; On-Site and Off-Site Operational Noise; Off-Site Construction Vibration – Building Damage; Operational Vibration):**

As discussed on pages IV.E-24 through IV.E-30 in Section IV.E, Noise, of the Draft EIR and shown on page IV.E-29, Table IV.E-12, *Off-Site Construction Truck Noise Levels*, and the noise calculation worksheets included in Appendix E of the Draft EIR, the off-site truck noise would not exceed the noise level significance criteria along the Project truck route (8th Street, James M. Wood Boulevard/9th Street and Olive Street). Therefore, off-site construction noise levels would be less than significant.

As discussed on pages IV.E-30 through IV.E-38 and tables shown therein, and pages IV.E-54 through IV.E-61 in Section IV.E, Noise, of the Draft EIR, Project operation and cumulative operation noise from: on-site stationary noise sources, outdoor spaces, parking facilities, and loading dock and trash collection areas; off-site mobile noise sources; composite noise levels; and cumulative operational noise levels, would not exceed the significance criteria of 3 dBA over ambient noise levels for sensitive receptors or 5 dBA over ambient noise levels for all other receptors. As such, Project operations would not result in the generation of a substantial permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the City's General Plan or noise ordinance, nor applicable standards of other agencies. Therefore, the Project-level and cumulative noise impacts from on- and off-site sources would be less than significant.

As discussed on pages IV.E-46 through IV.E-48 in Section IV.E, Noise, of the Draft EIR, vibration impacts associated with temporary and intermittent vibration from off-site construction activities would be less than significant with respect to building damage. In addition, vibration impacts resulting from Project operation would be less than significant.

As discussed on pages IV.E-57 through IV.E-61 in Section IV.E, Noise, of the Draft EIR, due to noise regulations and the distance from the Project Site to the Related Project sites, cumulative operation generated vibrations and construction vibrations resulting in building damage or human annoyance (other than off-site vibration resulting in human annoyance related to the Related Projects using the same haul routes), the Project would not result in cumulative vibration impacts. Therefore, the cumulative vibration impacts of the Project (other than human annoyance related to off-site construction truck traffic) would be less than significant.

As discussed on page 69 of the Initial Study included in Appendix A of the Draft EIR, and on page VI-26 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is not located within two miles of an airport, airstrip or within an area subject to an airport land use plan. As such, the Project would not expose people working in the Project area to excessive noise levels from airports or airstrips and the Project would not contribute to a cumulative impact. Therefore, the Project would not result in Project-level or cumulative impacts related to airport noise.

(As to all other noise and vibration impacts, see discussion in Section VII, Significant and Unavoidable, below.)

**Population and Housing:**

As discussed on pages 70 through 71 of the Initial Study included in Appendix A of the Draft EIR and on pages VI-26 through VI-28 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would generate construction jobs during the construction period, and residential and employee populations during operation which would be within SCAG's growth projections for the region. The majority of the Project's growth would be residential population, as the Project's 580 residential units would create a population of up to 1,398 persons. The Project's increment of the cumulative housing population growth would not be substantial since the Project's projected population would represent approximately 0.81 percent of the anticipated population growth between 2019 and 2025 (the Project's buildout year) and the housing units would represent approximately 0.66 percent of the housing growth forecasted between 2019 and 2025. As further discussed, Project operation would generate 30 new employees which would constitute approximately 0.05 percent of the employment growth forecasted between 2019 and 2025. Additionally, the temporary construction jobs would be expected to be filled by workers traveling to the Project Site who would not relocate their households for such short-term employment opportunities and some construction and operation employment opportunities would be filled by people already residing in the area. Regarding population and housing displacement, as discussed on pages 71 through 72 of the Initial Study included in Appendix A of the Draft EIR, the Project would have no impact because the Project would not displace an existing residential population since the Project Site currently consists of a parking structure and surface parking that contain no residential housing units. Also, as described in Chapter II, Project Description of the Draft EIR, the Project does not include the extension of roads or other infrastructure to currently unserved areas. As such, the Project would not: induce substantial unplanned population growth in an area, either directly or indirectly, or displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. Therefore, the Project would not result in significant Project-level and cumulative population and housing impacts.

**Public Services - Fire Protection:**

As discussed on pages IV.F.1-18 through IV.F.1-24 in Section IV.F.1, Public Services - Fire Protection, of the Draft EIR, the Project would implement a Project Design Feature TR-PDF-1 (Construction Management Plan and Worksite Traffic Control Plan) to ensure adequate emergency access during construction. As further indicated therein, with the implementation of this Project Design Feature, and with compliance with applicable fire regulatory requirements, including Los Angeles Fire Department's (LAFD) fire/life safety plan review and safety inspection for new construction projects, and fire flow requirements, the Project would ensure that adequate fire prevention features would be provided that would reduce the demand on LAFD facilities and equipment during Project construction and operation. As a result, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered fire department facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. Additionally, as discussed on pages IV.F.1-24 through IV.F.1-26 in Section IV.F.1, Public Services – Fire Protection, of the Draft EIR, the Project and the Related Projects would generate revenue to the City's General Fund that could be used

to fund additional fire protection facilities and staff to offset any cumulative impacts. Therefore, the Project would not result in significant impacts. Therefore, Project-level and cumulative impacts to fire facilities and services would be less than significant.

**Public Services - Police Protection:**

As discussed on pages IV.F.2-11 through IV.F.2-15 in Section IV.F.2, Public Services - Police Protection, of the Draft EIR, the Project would implement Project Design Features POL-PDF-1 (implementation of security measures during construction) and POL-PDF-2 through POL-PDF-7 (implementation of security measures during operation) to ensure safety and reduce the need for police services during construction and operation. As further indicated therein, with the implementation of these Project Design Features and City-required security measures, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered Los Angeles Police Department (LAPD) facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection. Additionally, as discussed on pages IV.F.2-15 through IV.F.2-24 in Section IV.F.2, Public Services – Police Protection, in the Draft EIR, the Project and the Related Projects would generate revenue to the City's General Fund that could be used to fund additional police protection facilities and staff to offset any cumulative impact. Therefore, Project-level and cumulative impacts to police facilities and services would be less than significant.

**Public Services - Schools:**

As discussed on pages 72 through 73 of the Initial Study included in Appendix A of the Draft EIR and on pages VI-28 through VI-29 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project includes the development of new residential land uses, which directly generate school-aged children and a demand for public educational services. However, the Project would pay fees pursuant to Section 65995 of the California Government Code addressing construction of school facilities which is deemed to be full mitigation of a project's development impacts. Thus, with the payment of these fees, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives for schools. The Related Projects would also be subject to the payment of these developers' fees. Therefore, with compliance with Government Code Section 65995, Project-level and cumulative impacts related to public school facilities and services would be less than significant.

**Public Services - Parks and Recreation:**

As discussed on pages 73 through 76 of the Initial Study included in Appendix A of the Draft EIR and on pages VI-29 through VI-30 in Chapter VI, Other CEQA Considerations, of the Draft EIR, there are over 30 parks and recreational facilities within a 2-mile radius of the Project Site which could be used by the Project's residents, visitors and employees. However, as indicated therein, this use would not be expected to be of such intensity that it would cause or accelerate substantial physical deterioration of the off-site public parks given the Project's provision of on-site open space and recreational amenities and compliance with the Quimby Act. As such, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered park facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives for parks. In addition, similar to the Project, Related Projects consisting of more than 50 residential



units would also be subject to a Quimby in-lieu fee, or dedication of land, or be required to provide a combination of land dedication and fee payment for the purpose of developing park and recreational facilities for new residents. Therefore, Project-level and cumulative impacts to park facilities and services would be less than significant.

**Public Services - Libraries:**

As discussed on pages IV.F.3-10 through IV.F-17 in Section IV.F.3, Libraries, of the Draft EIR, although the Project would generate a residential and employment population that could utilize the six public libraries, which includes the Central Library, within the Project service area, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered library facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for libraries. As indicated therein, construction workers and permanent employees that do not already live in the service area would more likely use libraries closer to their homes, and the Project's residential units would be equipped to receive individual internet service, which provides information and research capabilities that studies have shown to reduce demand at physical library locations. Furthermore, the Project and the Related Projects would generate revenue to the City's General Fund that could be used to fund Los Angeles Public Library (LAPL) expenditures to offset any cumulative impact. Additionally, as discussed on pages IV.F.3-17 through IV.F.3-25 in Section IV.F.3, Libraries, of the Draft EIR, although the LAPL has no plans to expand or build new libraries at this time, if the LAPL determines that new library facilities are necessary at some point in the future, such facilities: (1) would occur where allowed under the designated land use; (2) would be located on parcels that are infill opportunities on lots that are between 0.5 and 1 acre in size; and (3) could qualify for a Categorical Exemption under CEQA Guidelines Section 15301 or 15332, or a Mitigated Negative Declaration, and, therefore, would not be expected to result in significant impacts. Therefore, Project-level and cumulative impacts to libraries would be less than significant.

**Recreation:**

As discussed on pages 77 through 78 of the Initial Study included in Appendix A of the Draft EIR and on page VI-30 in Chapter VI, Other CEQA Considerations, of the Draft EIR, there are many public parks and recreational facilities located in the vicinity of the Project Site. However, while the population increase associated with the Project could generate additional demand for parks and recreational facilities in the vicinity of the Project Site, due to the amount, variety, and availability of the proposed open space to be provided within the Project Site, including a number of recreational amenities throughout the Project Site, it is anticipated that Project residents would often utilize on-site open space and recreational amenities to meet their recreational needs. As further discussed therein, while it is possible that some new employees may utilize local parks and recreational facilities, it is anticipated that the majority of Project employees would be more likely to use parks and recreational facilities near their homes during non-work hours and new employment opportunities that would be generated by the Project may be filled, in part, by employees already residing in the vicinity of the Project Site who already utilize existing parks and recreational facilities. As such, even with some use spread over the many park and recreational facilities in the Project area, the Project would not substantially increase the demand for off-site public parks and recreational facilities such that substantial physical deterioration of those facilities would occur or be accelerated. Therefore, Project-level and cumulative impacts related to recreational facilities would be less than significant.

**Transportation:**

As discussed on pages IV.G-23 through IV.G-47 in Section IV.G, Transportation, of the Draft EIR, and in the Transportation Assessment included in Appendix G of the Draft EIR, the Project would generate vehicular, bicycle and pedestrian traffic, would create a demand for public transit, and would include new driveways and other transportation-related improvements. However, as further discussed therein, the Project would: be developed on an urban infill site within a TPA in close proximity to transit (within 2 blocks of the 7th Street/Metro Center Rail station and in the area of multiple LADOT, Metro, Foothill Transit, Torrance, Santa Monica, and Orange County Transportation Authority bus lines); implement transportation-related Project Design Feature TR-PDF-1 (a Construction Management Plan and a Worksite Traffic Control Plan), to ensure emergency access during construction and to encourage a reduction in use of single occupancy vehicles; reduce VMT; provide bicycle parking and amenities on-site; would improve the pedestrian experience through the introduction of active street adjacent uses and street trees; and, not conflict with applicable transportation plans, create dangerous conditions, or result in inadequate emergency access. Therefore, the Project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities; conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b); substantially increase hazards due to a geometric design feature or incompatible uses; or result in inadequate emergency access. As such, the Project would not have a considerable contribution to a cumulative transportation related impact. Therefore, the Project-level and cumulative impacts related to transportation would be less than significant.

**Tribal Cultural Resources:**

As discussed on pages IV.H-14 through IV.H-18 in Section IV.H, Tribal Cultural Resources, of the Draft EIR, and in the Tribal Cultural Resources Report included as Appendix H, of the Draft EIR, the Project would include development, excavation and grading activities at the Project Site that could potentially impact tribal cultural resources. However, as further indicated therein, the Project Site soils have been previously disturbed, no tribal cultural resources have been previously recorded at the Project Site or Project vicinity, the tribal consultations required under Assembly Bill 52 did not identify the presence of known tribal cultural resources at the Project Site, and the Project would implement the City's standard condition of approval for the inadvertent discovery of tribal cultural resources during construction. Therefore, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource, as defined in PRC Section 21074 that is: listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources, or determined by the City in its discretion and supported by substantial evidence, to be significant. Additionally, as the Project would not have a significant impact on tribal cultural resources and the Related Projects would also be subject to applicable regulatory requirements, the City's standard condition of approval for the inadvertent discovery of tribal cultural resources during construction, and/or mitigation as deemed appropriate, the Project's contribution to a cumulative impact would not be considerable. Therefore, Project-level and cumulative impacts related to tribal resources would be less than significant.

**Utilities and Service Systems – Wastewater:**

As discussed on pages 81 through 83 of the Initial Study included in Appendix A of the Draft EIR and pages VI-31 through VI-34 in Chapter VI, Other CEQA Considerations, of the Draft EIR, and shown on Table VI-1, *Estimated Project Wastewater Generation*, on

page VI-32 of the Draft EIR, and the Wastewater Service Information Report included in Appendix K of the Draft EIR, the Project would generate a demand for wastewater conveyance and treatment infrastructure capacity. However, as further indicated therein: the Project would include connections to the existing off-site sewer mains in compliance with regulatory requirements; the Project would comply with applicable water conservation requirements and implement additional water conservation measures through Project Design Feature WAT-PDF-1 which would result in reduction in water flows; the existing sewer mains in the area have adequate capacity to serve the Project; and the Hyperion Water Reclamation Plant has adequate treatment capacity to serve the Project in addition to existing and projected future commitments. Thus, the Project would not generate wastewater in excess of available capacity or State or local standards. As such, the Project's contribution would not be cumulatively considerable. Hence, the Project would not require or result in the relocation or construction of new or expanded wastewater treatment facilities, the construction or relocation of which could cause significant environmental effects, and would result in a determination by the wastewater treatment provider, which serves or may serve the Project, that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments. Therefore, Project-level and cumulative impacts related to wastewater would be less than significant.

**Utilities and Service Systems – Stormwater Drainage:**

As discussed on pages 82 through 83 of the Initial Study included in Appendix A of the Draft EIR and page VI-34 in Chapter VI, Other CEQA Considerations, of the Draft EIR, stormwater flows from the Project Site would not increase with implementation of the Project. Additionally, the Project would comply with the City's LID Ordinance which would improve stormwater drainage over existing conditions, since BMPs would be implemented to collect, detain, treat, and discharge runoff on-site before discharging into the municipal storm drain system. With implementation of the LID requirements, the on-site stormwater system would be designed to provide an overflow discharge that would flow into existing Los Angeles County Flood Control District facilities that would have adequate capacity to accommodate the Project Site flows. Hence, the Project would not require the construction of new stormwater drainage facilities or expansion or relocation of existing facilities, the construction of which would cause significant environmental impacts. As such, the Project's contribution to cumulative impacts related to stormwater drainage would not be considerable. Thus, Project-level and cumulative impacts related to stormwater drainage would be less than significant.

**Utilities and Service Systems – Telecommunications:**

As discussed on page 83 of the Initial Study included in Appendix A of the Draft EIR and pages VI-34 through IV-35 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would require construction of new on-site telecommunications infrastructure to serve the new building and potential upgrades and/or relocation of existing telecommunications infrastructure. However, installation of new telecommunications infrastructure would be limited to on-site telecommunications distribution and minor off-site work associated with connections to the public system, no upgrades to off-site telecommunications systems are anticipated, and any work that may affect services to the existing telecommunications lines would be coordinated with service providers. As such, the Project would not require or result in the relocation or construction of new or expanded telecommunications facilities, the construction or relocation of which could cause significant environmental effects, nor would the Project's contribution to a cumulative impact to telecommunications infrastructure be considerable. Therefore, Project-level and

cumulative impacts related to telecommunication infrastructure would be less than significant.

**Utilities and Service Systems – Water Supply and Infrastructure:**

As discussed on pages IV.I.1-38 through IV.I.1-58 in Section IV.I.1, Utilities and Service Systems – Water Supply and Infrastructure, of the Draft EIR, and the Water Utilities Technical Report and Water Assessment Report included in Appendix I of the Draft EIR, the Project would generate a demand for water and water infrastructure capacity. However, as further indicated therein: the Project would implement an on-site water infrastructure system with connections to existing off-site water mains in compliance with regulatory requirements; the Project would comply with applicable water conservation requirements and would implement additional water conservation measures beyond State and local code requirements through implementation of Project Design Feature WAT-PDF-1 (water conservation features); the existing water mains in the area have adequate capacity to serve the Project; Los Angeles Department of Water and Power (LADWP) water supplies are available to serve the Project along with LADWP's existing and projected future commitments during normal, dry and multiple dry years for the foreseeable future; and, the Project's population would be consistent with the growth projections for the City from the 2020–2045 RTP/SCS. As such, the Project would not require or result in the relocation or construction of new or expanded water facilities, the construction or relocation of which could cause significant environmental effects and would have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years. Therefore, Project-level and cumulative impacts related to water supply and infrastructure would be less than significant.

**Utilities and Service Systems – Solid Waste:**

As discussed on pages 83 through 87 of the Initial Study included in Appendix A of the Draft EIR and pages VI-35 through VI-38 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would generate solid waste during construction and operation. However, as indicated therein, the Project would not generate solid waste in excess of available capacity or State or local standards since the Project would meet the mandated diversion rates and the Project's generation of construction and debris waste would represent approximately 0.008 percent of the Azusa Land Reclamation Landfill's remaining disposal capacity of 58.84 million tons, while the solid waste generated during Project operation would amount to approximately 0.001 percent of the remaining capacity for the County's Class III landfills open to the City of Los Angeles. As such, the Project's contribution to cumulative impacts related to solid waste would not be cumulatively considerable. Further, the Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. Therefore, Project-level and cumulative impacts related to solid waste would be less than significant.

**Utilities and Service Systems – Energy Infrastructure:**

As discussed on pages IV.I.2-7 through IV.I.2-13 in Section IV.I.2, Utilities and Service Systems - Energy Infrastructure, of the Draft EIR, and in the Energy Calculations included in Appendix C of the Draft EIR, the Project would generate a demand for energy (e.g., electricity and natural gas) infrastructure capacity. However, as further indicated therein: the Project would develop on-site energy infrastructure and connections to the existing

off-site electricity and natural gas lines in compliance with regulatory requirements. As such, the Project would not require or result in relocation or construction of new or expanded energy (electricity and natural gas) facilities, the construction or relocation of which could cause significant environmental effects. Therefore, Project-level and cumulative impacts related to energy infrastructure would be less than significant.

**Wildfires:**

As discussed on page 88 of the Initial Study included in Appendix A of the Draft EIR and on pages VI-38 through VI-39 in Chapter VI, Other CEQA Considerations, of the Draft EIR: the Project Site is located in an urbanized area, there are no wildlands in the vicinity, the Project Site is not located within a City-designated Very High Fire Hazard Severity Zone or fire buffer zone, and the Project Site is not located near State responsibility lands. As such, the Project would not contribute to a cumulative wildfire impact. Therefore, Project-level and cumulative impacts related to wildfire risks would not occur.

**VI. Less than Significant Impacts with Mitigation**

The EIR determined that the Project has potentially significant environmental impacts in the areas discussed below. The EIR identified feasible mitigation measures to avoid or substantially reduce the environmental impacts in these areas to a level of less than significant. Based on the information and analysis set forth in the EIR, the Project would not have any significant environmental impacts in these areas, as long as all identified feasible mitigation measures are incorporated into the Project. The City again ratifies, adopts, and incorporates the full analysis, explanation, findings, responses to comments, and conclusions of the EIR.

**A. Cultural Resources – Archeological Resources:**

**Impact Summary:** Although no archeological resources are known to exist on the Project Site or in the nearby vicinity, there is a potential for Project construction, which will include excavation to a depth of 63 feet below the existing ground surface, to encounter previously undisturbed archeological resources. As such, a mitigation measure is necessary to ensure that impacts to archeological resources encountered during construction, if any, would be less than significant.

**Project Design Features:** No specific Project Design Features are proposed with regard to archaeological resources.

**Mitigation Measures:** The City finds that Mitigation Measure CUL-MM-1, located on page 47 in the Initial Study included in Appendix A of the Draft EIR, and set forth below and incorporated into the Project would reduce the potentially significant archeological resource impacts to less than significant.

**Mitigation Measure CUL-MM-1:** Prior to the start of ground-disturbing activities, the Applicant shall retain a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (U.S. Department of the Interior 2008) to carry out the following measure. A qualified archaeologist shall be retained to perform periodic inspections of excavation and grading activities at the Project Site. The frequency of inspections shall be based on consultation with the archaeologist and the City of Los Angeles Department of City Planning and shall depend on the rate of excavation and grading activities and the

materials being excavated. If archaeological materials are encountered, the archaeologist shall temporarily divert or redirect grading and excavation activities in the area of the exposed material to facilitate evaluation and, if necessary, salvage. The archaeologist shall then assess the discovered material(s) and prepare a survey, study or report evaluating the impact. The Applicant shall then comply with the recommendations of the evaluating archaeologist, and a copy of the archaeological survey report shall be submitted to the Department of City Planning. Ground-disturbing activities may resume once the archaeologist's recommendations have been implemented to the satisfaction of the archaeologist.

**Finding:** Pursuant to PRC Section 21081(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the potential significant effects on the environment.

**Rationale for Finding:** As discussed on page 47 of the Initial Study included in Appendix A of the Draft EIR and on page VI-18 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is located in a highly urbanized area and has been subject to grading and development in the past. As further discussed in Appendix IS-3 of the Initial Study, a records search discovered no known archeological resources on the Project Site or within a 0.5 mile radius of the Project Site. However, Project construction will require excavation to a depth of approximately 63 feet below the existing ground surface and, therefore, there is a potential for discovery of archeological resources in previously undisturbed soils. In the event archaeological materials are encountered during construction, Mitigation Measure CUL-MM-1, would ensure that a qualified archaeologist be allowed to temporarily divert or redirect grading and excavation activities in the area of the exposed material to facilitate evaluation and, if necessary, salvage. As there are no known archeological resources on the Project Site or in the vicinity of the Project Site, with implementation of CUL-MM-1 for the inadvertent discovery of archeological resources, the Project's contribution to a cumulative impact would not be considerable. Therefore, with implementation of Mitigation Measure CUL-MM-1, Project-level impacts related to any previously undiscovered archaeological resources would be less than significant.

**Reference:** For a complete discussion of archeological resources impacts, please see Appendix A, Initial Study, of the Draft EIR and Appendix IS-3, South Central Coastal Information Center Records Search Results, included in the Initial Study, and Chapter VI, Other CEQA Considerations, of the Draft EIR.

## **B. Geology and Soils - Paleontological Resources:**

**Impact Summary:** Although a records search indicates that there are no fossil deposits within the Project Site boundaries, there have been discoveries made in sedimentary layers similar to the layers found at varying depths on the Project Site. Therefore, since Project construction will require excavation to approximately 63 feet below the existing ground surface, there is a potential for discovery of paleontological resources in previously undisturbed soils. As such, a mitigation measure is necessary to ensure that impacts to paleontological resources encountered during construction, if any, would be less than significant.

**Project Design Features:** No specific Project Design Features are proposed with regard to paleontological resources.

**Mitigation Measures:** The City finds that Mitigation Measure GEO-MM-1, located on page 55 in the Initial Study included in Appendix A of the Draft EIR, and set forth below and incorporated into the Project would reduce the potentially significant paleontological resource impacts to less than significant.

**Mitigation Measure GEO-MM-1:** A qualified paleontologist shall be retained to perform periodic inspections of excavation and grading activities at the Project Site. The frequency of inspections shall be based on consultation with the paleontologist and shall depend on the rate of excavation and grading activities, the materials being excavated, and if found, the abundance and type of fossils encountered. If paleontological materials are encountered, the paleontologist shall temporarily divert or redirect grading and excavation activities in the area of the exposed material to facilitate evaluation and, if necessary, salvage. The paleontologist shall then assess the discovered material(s) and prepare a survey, study or report evaluating the impact. The Project Applicant shall then comply with the recommendations of the evaluating paleontologist, and a copy of the paleontological survey report shall be submitted to the Los Angeles County Natural History Museum. Ground-disturbing activities may resume once the paleontologist's recommendations have been implemented to the satisfaction of the paleontologist.

**Finding:** Pursuant to PRC Section 21081(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project, which mitigate or avoid the potential significant effects on the environment.

**Rationale for Finding:** As discussed on pages 54 through 55 in the Initial Study included in Appendix A of the Draft EIR, and in Appendix IS-5 included in the Initial Study, and on page VI-20 of Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project Site is located in a highly urbanized area and has been subject to grading and development in the past; however, underlying older sedimentary deposits are found at various depths on the Project Site which may contain significant fossils. As further discussed in Appendix IS-5 of the Initial Study, a records search discovered no known paleontological resources on the Project Site but did discover fossils in sedimentary deposits similar to those found on the Project Site in the Project vicinity. Moreover, Project construction will require excavation to approximately 63 feet below the existing surface level which will result in reaching the sedimentary deposits that could contain paleontological resources. As such, in the event that paleontological materials are encountered, pursuant to Mitigation Measure GEO-MM-1, a qualified paleontologist would temporarily halt development activity to assess and evaluate the discovered material(s). The qualified paleontologist would provide recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource. As a result, with implementation of Mitigation Measure GEO-MM-1, the Project's contribution to a cumulative impact would not be considerable. Therefore, with implementation of Mitigation Measure GEO-MM-1, Project-level impacts related to any previously undiscovered paleontological resources would be less than significant.

**Reference:** For a complete discussion of paleontological resources, please see Appendix A, Initial Study, of the Draft EIR and Appendix IS-5, Paleontological Resources Records Search, included in the Initial Study and Chapter VI, Other CEQA Considerations of the Draft EIR.

**C. Noise - Construction Vibration (Building Damage):**

**Impact Summary:** Project vibration levels generated from on-site construction activities could result in significant impacts with respect to building damage at the adjacent parking structures. Although the Project would be subject to compliance with LAMC Section 91.3307 for protection of the adjoining property from damage during construction, and pursuant to Project Design Feature NOI-PDF-3, impact pile driving methods would not be used, in order to ensure that Project construction vibrations do not cause damage to the multi-story parking structures adjacent to the Project Site to the north, a mitigation measure is necessary to reduce construction-related vibration impacts associated with building damage to a less-than-significant level.

**Project Design Features:** The following PDF from page IV.E-24 in Section IV.E, Noise, of the Draft EIR, is incorporated into the Project.

**Project Design Feature NOI-PDF-3:** Project construction will not include the use of driven (impact) pile systems.

**Mitigation Measures:** The following mitigation measure from page IV.E-49 in Section IV.E, Noise, of the Draft EIR, is identified for the Project to reduce its potentially significant project-level on-site construction noise impacts.

**Mitigation Measure NOI-MM-2:** Prior to start of construction, the Applicant shall retain the services of a structural engineer or qualified professional to visit the multi-story parking structures adjacent to the Project Site to the north to inspect and document the apparent physical condition of the structures' readily-visible features. The inspection survey shall be made to the extent feasible from the public right of way and within the Project Site's property line.

The Applicant shall retain the services of a qualified acoustical engineer to review proposed construction equipment and develop and implement a vibration monitoring program capable of documenting the construction-related ground vibration levels at the property line of the parking structure adjacent to the Project Site to the north during demolition and grading/excavation phases. The vibration monitoring system shall continuously measure and store the peak particle velocity (PPV) in inch/second. The system shall also be programmed for two preset velocity levels: a warning level of 0.45 PPV and a regulatory level of 0.5 PPV. The system shall also provide real-time alert when the vibration levels exceed the two preset levels.

In the event the warning level (0.45 PPV) is triggered, the contractor shall identify the source of vibration generation and provide feasible steps to reduce the vibration level, including but not limited to halting/staggering concurrent activities and utilizing lower vibratory techniques.

In the event the regulatory level (0.5 PPV) is triggered, the contractor shall halt the construction activities in the vicinity of the parking structure and visually inspect the building for any damage. Results of the inspection must be logged, and repairs will be provided in the event any damage occurred. The contractor shall identify the source of vibration generation and provide feasible steps to reduce the vibration level. Construction activities may then restart once the vibration level is measured and below the warning level.



**Finding:** Pursuant to PRC Section 21081(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the potential significant effects on the environment.

**Rationale for Finding:** As discussed on pages IV.E-44 through IV.E-46 and IV.E-48 through IV.E-50 in Section IV.E, Noise, of the Draft EIR, the Project would generate ground-borne construction vibration during building demolition and site excavation and grading from heavy construction equipment. As shown on Table E-22, *Construction Vibration Impacts – Building Damage*, on page IV.E-45 of the Draft EIR, Project on-site construction vibrations would exceed the criteria of significance for the adjacent 4- and 8-story parking structures to the north of the Project Site. Even with compliance with the LAMC for protection of adjacent structures during construction and implementation of Project Design Feature NOI-PDF-3 which prohibits the use of impact pile driving methods, Project construction could result in estimated ground-borne vibration levels of up to 0.523 PPV which exceeds the significance criteria for building damage of 0.5 PPV. Mitigation Measure NOI-MM-2, which requires a structural engineer to survey the property, an acoustical engineer to document the monitoring of construction vibration levels, and sets limits and procedures for assuring that vibration levels at the adjacent parking structures do not exceed 0.5 PPV, would be implemented to ensure that the Project's on-site construction impacts would be reduced to a less-than-significant level. Also, as discussed on page IV.E-53 and IV.E-57 of the Draft EIR, the closest Related Project to the Project Site would be too far away to contribute to Project vibration impacts. Therefore, with implementation of Mitigation Measure NOI-MM-2, Project-level and cumulative impacts associated with building damage due to on-site construction activities would be less than significant.

**Reference:** For a complete discussion of noise impacts, including from on-site construction vibration impacts related to building damage, please see Section IV.E, Noise, and Appendix E, of the Draft EIR.

## VII. Significant and Unavoidable Impacts

The Final EIR determined that the environmental impacts set forth below are significant and unavoidable. In order to approve the project with significant unmitigated impacts, the City is required to adopt a Statement of Overriding Considerations, which is set forth in Section X below. No additional environmental impacts other than those identified below will have a significant effect or result in a substantial or potentially substantial adverse effect on the environment as a result of the construction or operation of the project. The City finds and determines that:

- a) All significant environmental impacts that can be feasibly avoided have been eliminated, or substantially lessened through implementation of the project design features and/or mitigation measures; and
- b) Based on the Final EIR, the Statement of Overriding Considerations set forth below, and other documents and information in the record with respect to the construction and operation of the project, all remaining unavoidable significant impacts, as set forth in these findings, are overridden by the benefits of the project as described in the Statement of Overriding Considerations for the construction and operation of the project and implementing actions.

## A. Noise (Construction Noise, Construction Vibration - Human Annoyance)

### 1) Impact Summary:

- (a) **On-Site Construction Noise:** Noise impacts from construction of the Project would occur due to use of on-site construction equipment and off-site construction traffic. The Project would incorporate Project Design Feature NOI-PDF-1 which requires that the construction equipment have proper noise muffling devices. However, conservatively assuming that all pieces of construction equipment would be operated simultaneously and would be located at the construction area nearest to the affected receptors, the noise levels would exceed the significance criteria for receptor locations R1, R2, R4, R5 and R6. Therefore, temporary noise impacts associated with the Project's on-site construction would be significant prior to implementation of mitigation measures. However, even with implementation of Mitigation Measure NOI-MM-1 which requires temporary sound barriers, there are no other feasible mitigation measures that would reduce the noise levels at the upper levels of nearby sensitive receptor locations, and the sound levels at receptor locations R1, R2, R4, R5 and R6 would remain significant and unavoidable.
- (b) **Vibration Impacts – Human Annoyance:** Vibration from construction activities for the Project would occur from both the use of on-site construction equipment and from the off-site construction traffic. The estimated ground-borne vibration levels from on-site construction equipment during the demolition and grading/excavation phases of Project construction at receptor location R5 would be 72.2 VdB which exceeds the 72 VdB significance criteria for human annoyance. In addition, the estimated vibration levels generated by off-site construction trucks traveling along the anticipated haul routes which are within 24 feet of residential and hotel uses could reach approximately 72.6 VdB which would exceed the 72 VdB significance criteria for human annoyance. As there are no feasible mitigation measures that could reduce the potential vibration human annoyance impacts, human annoyance vibration impacts from construction generated from on- and off-site construction of the Project would remain significant and unavoidable.
- (c) **Cumulative Impacts:** Should Project construction overlap with construction of Related Project No. 10, located approximately 650 feet west of the Project Site, and Related Project No. 30, located approximately 530 feet southeast of the Project Site, the combined construction noise would create potential cumulative noise impacts at nearby sensitive uses located in proximity to the Project Site. While, similar to the Project, the Related Projects would be expected to incorporate all feasible mitigation measures, there are no feasible mitigation measures that could reduce the noise levels to below the significance threshold. As such, cumulative noise impacts from on-site construction activities from the Project and Related Project Nos. 10

and 30 would be significant and unavoidable. With respect to off-site construction noise, off-site construction trucks would have a potential to result in a cumulative impact if the trucks from the Related Projects used the same truck route as the Project and the number of combined truck trips added up to 52 truck trips along 8th Street, 35 truck trips along James M. Wood Boulevard/9th Street, and 45 truck trips along Olive Street, since at those numbers of trips the noise from the truck traffic would increase to the 5 dBA above ambient noise threshold of significance. As there are no feasible mitigation measures that could reduce the noise levels from the trucks traveling on the haul route streets, cumulative impacts would be significant and unavoidable.

**2) Project Design Features:** The City finds that Project Design Features NOI-PDF-1 and NOI-PDF-3, located on page IV.E-24 in Section IV.E, Noise, of the Draft EIR, and set forth below, are incorporated into the Project to reduce its noise impacts.

**Project Design Feature NOI-PDF-1:** Power construction equipment (including combustion engines), fixed or mobile, will be equipped with state-of-the-art noise shielding and muffling devices (consistent with manufacturers' standards). All equipment will be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated.

**Project Design Feature NOI-PDF-3:** Project construction will not include the use of driven (impact) pile systems.

**3) Mitigation Measures:** The City finds that Mitigation Measure NOI-MM-1 located on page IV.E-41 in Section IV.E, Noise, of the Draft EIR, and set forth below, is incorporated into the Project to lessen potential impacts of construction period noise on sensitive receptors.

**Mitigation Measure NOI-MM-1:** A temporary and impermeable sound barrier shall be erected at the locations listed below. At plan check, building plans shall include documentation prepared by a noise consultant verifying compliance with this measure.

Along the eastern property line of the Project Site between the construction areas and the residential uses on the east side of Grand Avenue (receptor locations R1 and R2). The temporary sound barrier shall be designed to provide a minimum 11-dBA and 5-dBA noise reduction at the ground level of receptor locations R1 and R2, respectively.

Along the southern property line of the Project Site between the construction areas and residential use across the Project Site to the south (receptor location R5) and the SP Lofts on the east side of Grand Avenue to the south (receptor location R4). The temporary sound barrier shall be designed to provide a minimum 11-dBA and 5-dBA noise reduction at the ground level of receptor locations R5 and R4, respectively.

Along the western property line of the Project Site between the construction areas and residential uses at the southwest corner of 8th Street and Hope Street

(receptor location R6). The temporary sound barrier shall be designed to provide a minimum 6-dBA noise reduction at the ground level of receptor location R6.

**4) Finding:** Pursuant to PRC, Section 21081(a)(3), the City finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

**5) Rationale for Finding:**

**On-site Construction Noise:** As discussed on pages IV.E-25 through IV.E-43 in Section IV.E, Noise, of the Draft EIR and shown in the noise calculations contained in Appendix E of the Draft EIR, Project on-site construction activities would create the most noise during the demolition and grading/excavation phases of construction. In analyzing the potential noise impacts of Project construction, the Draft EIR conservatively assumed that all equipment would be operating simultaneously at the closest location to the sensitive receptor. Although Project Design Feature NOI-PDF-1 would ensure that construction equipment would have proper noise muffling devices, as shown on page IV.E-27 in Table IV.E-11, *Construction Noise Impacts*, receptor locations R1, R2, R4, R5 and R6 would experience noise levels above the significance criteria of 5 dBA above ambient noise levels for construction activities lasting longer than 10 days in a three-month period. The assumptions used to estimate the noise levels represent the worst-case noise scenario because construction activities would typically be spread out through the Project Site, that is, would not all be located at the closest location to the sensitive receptor, and would be periodic rather than constant as assumed in the noise modeling calculations contained in Appendix E of the Draft EIR. Nonetheless, using this conservative analysis, the Draft EIR concluded that the estimated construction-related noise would exceed the significance threshold by a range of 1.8 dBA at receptor location R4 to up to 10.7 dBA at receptor locations R1 and R5, without implementation of mitigation measures.

As explained on pages IV.E-41 through IV.E-43 in Section VI.E, Noise, of the Draft EIR, and shown on page IV.E-43, Table IV.E-21, *Construction Noise Impacts With Mitigation Measures*, of the Draft EIR, even with implementation of Mitigation Measure NOI-MM-1 (installation of temporary sound barriers), the noise levels from on-site construction activities at receptor locations R1, R2, R4, R5 and R6 would exceed the level of significance for noise impacts. As further discussed therein, implementation of Mitigation Measure NOI-MM-1 would reduce the noise generated by on-site construction activities at the off-site sensitive uses, by a minimum 11 dBA at the residential uses on east side of Grand Avenue (receptor location R1) and on the south side of 8th Street (receptor location R5), and by 6 dBA at the residential uses at the southwest corner of 8th Street and Hope Street (receptor location R6). The specified sound barriers along the Project Site's eastern and southern boundaries would also reduce the construction-related noise levels at the residential use at the southwest corner of 8th Street and Olive Street (receptor location R2) and at the residential use on Grand Avenue (receptor location R4) by minimum 5 dBA.

However, the temporary sound barriers would not be effective in reducing the construction-related noise levels for the upper levels of the residential buildings at the receptor locations, including the seven-story apartment building at receptor location R1, the 33-story apartment building at receptor location R2, the 9-story apartment building at receptor location R4, the 24-story apartment building at receptor location R5, and the 22-story apartment building at receptor location R6. As explained on page IV.E-42 of the Draft

EIR, in order to be effective, the temporary noise barrier would need to be as high as the building which would not be feasible as it would be cost prohibitive and impractical. Other mitigation measures such as moveable noise barriers and modification to the construction equipment mix were considered. However, these were found to be infeasible because moveable noise barriers are generally limited in height, typically 6- to 8-feet high and are not practical in reducing noise associated with moveable construction equipment such as an excavator or bulldozer. With respect to the construction mix, as discussed in Section V, Alternatives, of the Draft EIR, reducing the number of construction equipment by 43 percent would reduce construction noise levels by up to approximately 2.8 dBA, which would not reduce the impacts at the upper levels of the sensitive receptors to a less than significant level. In addition, reducing the construction equipment would increase the overall construction duration and the number of days that sensitive receptors would be impacted by construction activities. Furthermore, due to the close proximity of the off-site noise sensitive receptors (e.g., receptor locations R1 and R5 that are located across the street from the Project Site), it would not be feasible to reduce the on-site construction noise levels to below the significance threshold as a single piece of equipment would result in noise levels above the significance threshold. There are no other feasible mitigation measures to further reduce the construction noise at the upper levels of receptor locations R1, R2, R4, R5, and R6 to below the significance threshold. Therefore, even after implementation of Mitigation Measure NOI-MM-1, Project construction noise impacts associated with on-site noise sources would remain significant and unavoidable.

**Construction Vibration (human annoyance):** As discussed on pages IV.E-46 through IV.E-48 and page IV.E-50 in Section IV.E, Noise, of the Draft EIR and shown in the calculations in Appendix E of the Draft EIR, on-site construction activities such as demolition and grading/excavation would result in short-term vibration impacts associated with human annoyance. As explained therein, the significance threshold for human annoyance from construction generated vibrations is 72 VdB. As shown on page IV.E-47, Table IV.E-23, *Construction Vibration Impacts – Human Annoyance*, at 72.2 VdB, only receptor location R5 would experience vibration levels from on-site construction activities that exceed the significance criteria for human annoyance. Therefore, vibration impacts from on-site construction activities related to human annoyance would be significant at receptor location R5 without mitigation.

In addition, as explained on page IV.E-47 through IV.E-48 of the Draft EIR, the estimated vibration levels generated by construction trucks traveling along the anticipated haul routes were analyzed assuming that they would be within 24 feet of sensitive uses along the truck route (residential and hotel uses). With this assumption, the estimated vibration levels could reach approximately 72.6 VdB periodically as trucks pass the sensitive receptors which would exceed the 72 VdB threshold for human annoyance. Thus, based on the estimated ground-borne vibration levels from construction delivery/haul trucks traveling the anticipated haul route(s), Project vibration impacts associated with human annoyance would be significant prior to mitigation.

However, the Draft EIR concluded that it would not be feasible to reduce the vibration levels from on- and off-site construction activities to a less-than-significant level. As explained on page IV.E-50, mitigation measures considered to reduce vibration impacts from on-site construction equipment included the installation of a wave barrier, which is typically a trench, or a thin wall made of sheet piles installed in the ground to disrupt the travel of the vibration waves. However, to be effective, the wave barrier must be very deep and long, is cost prohibitive for temporary applications such as construction and is,

therefore, infeasible. In addition, constructing a wave barrier to reduce the Project's construction-related vibration impacts would, in and of itself, generate ground-borne vibration from the excavation equipment. Moreover, for off-site construction truck vibration impacts, it would be infeasible to construct wave barriers in the public right-of-way, and conventional mitigation measures, such as providing temporary noise barrier walls to reduce the off-site construction truck traffic noise impacts, would not be feasible as the barriers would obstruct the access and visibility to the properties along the anticipated truck routes. As such, there are no feasible mitigation measures to reduce the Project's potential vibration impacts associated with human annoyance from on- and off-site construction activities, and impacts would remain significant and unavoidable.

**Cumulative Impacts (on-site and off-site construction noise and off-site construction vibration – human annoyance):** As discussed on pages IV.E-51 through IV.E-54 and IV.E-58 through IV.E-60 of the Draft EIR, combined noise associated with construction are generally limited to projects that are in close proximity to the sensitive receptors. As explained therein, of the 74 Related Projects identified in the Draft EIR, seven are within 1,000 feet of the Project Site and of those seven, only Related Project No. 10 and Related Project No. 30 are sufficiently close to the Project Site and the sensitive receptors to have a potential to result in cumulative noise impacts from on-site construction activities. As such, should construction of the Project and these Related Projects overlap, there is a potential that the combined noise would be significant. Noise associated with cumulative construction activities would be reduced to the degree reasonably and technically feasible through a mitigation measure similar to Mitigation Measure NOI-MM-1 (e.g., providing temporary noise barriers) for each individual related project. While Mitigation Measure NOI-MM-1 would reduce the Project's contribution to on-site cumulative noise to the extent feasible, even with this type of mitigation measure applied to the Related Projects and compliance with LAMC noise regulations, cumulative noise impacts would continue to occur. For the reasons described above, there are no other physical mitigation measures that would be feasible to further reduce noise impacts at the upper levels of the noise sensitive receptor locations. As such, even with implementation of Mitigation Measure NOI-MM-1, and a similar measure for the Related Projects, cumulative noise impacts from on-site construction activities would remain significant and unavoidable.

As discussed on pages IV.E-53 through IV.E-59 in Section IV.E, Noise, of the Draft EIR, as to off-site construction noise impacts, based on the Related Projects in the vicinity of the Project Site and their likely truck routes, cumulative noise due to construction truck traffic from the Project and Related Projects with overlapping construction schedules has the potential to increase the ambient noise levels along the haul truck route by the significance threshold of 5 dBA above ambient noise levels. Specifically, if the total number of trucks from the Project and Related Projects were to add up to 52 truck trips per hour along 8th Street, 35 truck trips along James M. Wood Boulevard/9th Street, and 45 truck trips along Olive Street, the estimated noise level of the truck trips plus the ambient noise would increase the ambient noise levels by 5 dBA or above and, therefore, exceed the significance criteria. Conventional mitigation measures, such as providing temporary noise barrier walls to reduce the off-site construction truck traffic noise impacts, would not be feasible as the barriers would obstruct the access and visibility to the properties along the anticipated truck routes. There are no other feasible mitigation measures to reduce the temporary significant noise impacts associated with the cumulative off-site construction trucks, and such noise impacts would remain significant and unavoidable.

In addition, as related projects would be anticipated to use similar trucks as the Project, it is anticipated that construction trucks would generate similar vibration levels along the anticipated haul routes. Therefore, to the extent that other Related Projects use the same haul route as the Project, potential cumulative vibration impacts associated with human annoyance associated with temporary and intermittent vibration off-site from construction haul trucks traveling along the designated haul route(s) would be significant and unavoidable.

**6) Reference:** For a complete discussion of noise impacts, including ground-borne vibration impacts related to human annoyance, please see Section IV.E, Noise, and Appendix E, of the Draft EIR.

## **VIII. Alternatives**

CEQA requires that an EIR analyze a reasonable range of feasible alternatives that could substantially reduce or avoid the significant impacts of a project while also meeting the project's basic objectives. An EIR must identify ways to substantially reduce or avoid the significant effects that a project may have on the environment (PRC Section 21002.1). Accordingly, the discussion of alternatives shall focus on alternatives to a project or its location which are capable of avoiding or substantially reducing any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly. The alternative analysis included in the Draft EIR, therefore, identified a reasonable range of project alternatives focused on avoiding or substantially reducing the project's significant impacts.

### **Summary of Findings**

Based upon the following analysis from Section V, Alternatives, of the Draft EIR, the City finds, pursuant to CEQA Guidelines Section 15096(g)(2), that no feasible alternative or additional mitigation measure will substantially lessen any significant effect of the project, reduce the significant unavoidable impacts of the project to a level that is less than significant, or avoid any significant effect the project would have on the environment.

### **Project Objectives**

An important consideration in the analysis of alternatives to the Project is the degree to which such alternatives would achieve the objectives of the Project. Pursuant to CEQA Guidelines Section 15124(b), Chapter II, Project Description, of the Draft EIR sets forth the Project Objectives defined by the Applicant and the Lead Agency as well as the underlying purpose of the Project. The underlying purpose of the Project is to develop a parcel with a high-quality mixed-use development that provides both new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. The specific objectives of the Project are as follows:

- To maximize new housing units on a site currently used for automobile parking to help address the demand for new housing in the region, the City of Los Angeles, and the Central City Community Plan area.
- To provide a contemporary architectural design that is compatible with existing high-rise development along 8th Street, Grand Avenue, and the vicinity.

- To create a pedestrian-oriented environment by promoting walkability and by creating a safe, inviting street-level identity for the Project Site through the introduction of ground floor, street-fronting, neighborhood-serving, storefront commercial/retail/restaurant uses.
- To construct a high-density, mixed-use development consistent with the principles of smart growth features, such as sustainable design, mixed use, infill development, proximity to transit, walkability, and bicycle connections (“complete” streets).
- To reduce vehicular trips and promote regional and local mobility objectives by locating high-density residential and retail uses in downtown Los Angeles, a high-density employment base, and within two blocks of a regional-serving transit hub (7th Street/Metro Center Station) and commercial services.
- To contribute to economic investment in the Central City Community Plan area through the provision of construction jobs and high-density residential uses with ground floor commercial uses.

### **Alternatives Analyzed**

#### **Alternative 1—No Project/No Build Alternative**

##### Description of Alternative

As discussed on page V-18 in Chapter V, Alternatives, of the Draft EIR, the No Project/No Build Alternative (Alternative 1) assumes that the Project would not be approved, and no new development would occur within the Project Site. Thus, the physical conditions of the Project Site would generally remain as they are today. The existing surface parking lot and four-story parking structure would remain and continue to operate on the Project Site, and no new construction would occur.

##### Impact Summary

As discussed on pages V-18 through V-24 and V-95 in Chapter V, Alternatives, of the Draft EIR, Alternative 1 would avoid all of the Project’s significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. However, Alternative 1 would not meet any of the Project objectives or the Project’s underlying purpose to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability.

##### Finding

Pursuant to PRC Section 21081(a)(3), the City finds that the specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.



### Rationale for Finding

As discussed on pages V-18 through V-24 in Chapter V, Alternatives, of the Draft EIR, under Alternative 1 the existing parking structure and surface parking lot would remain on the Project Site, and no new development would occur. As such, as discussed therein and as shown on pages V-11 through V-15 in Table V-2, *Comparison of Impacts Associated with the Project and Impacts of the Alternatives*, in Chapter V, Alternatives, of the Draft EIR, Alternative 1 would avoid all of the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. However, as discussed on pages V-25 through V-26 and V-95 of the Draft EIR, Alternative 1 would not meet the underlying purpose of the Project to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. In addition, Alternative 1 would not achieve any of the Project objectives, in part because it would not provide any housing or community serving commercial uses or create new construction and commercial jobs, nor would it promote walkability, smart growth, or the regional and local mobility objectives of locating high-density residential and retail uses in downtown Los Angeles, a high-density employment base, and within two blocks of a regional-serving transit hub (7th Street/Metro Center Station) and commercial services.

### Reference

For a complete discussion of impacts associated with Alternative 1, please see Chapter V, Alternatives, of the Draft EIR.

## **Alternative 2— Hotel with Ground Floor Commercial Alternative**

### Description of Alternative

As described on pages V-27 through V-28 in Chapter V, Alternatives, of the Draft EIR, the Hotel with Ground Floor Commercial Alternative (Alternative 2) would include a reduced development project comprised of a 22-story high-rise building with a maximum height of 292 feet which would include 375 hotel rooms and 10,499 square feet of ground floor commercial/retail/restaurant uses. Alternative 2 would include 274 vehicle parking spaces on four levels, including two subterranean levels and two above-ground levels (with 34 of the spaces provided pursuant to covenanted and recorded parking agreements for an off-site use) and 42 short-term and 42 long-term bicycle parking spaces. The ground floor would include the hotel lobby and 7,499 square feet of commercial/retail/restaurant uses. The hotel would include indoor and outdoor recreational amenities for hotel guests including a landscaped amenity deck and, on level 22, 3,000 square feet of restaurant uses. Alternative 2 would implement a similar overall building design, signage, lighting, vehicular and pedestrian access, setbacks, and sustainability features as those proposed for the Project. Overall, the new building under Alternative 2 would comprise 312,111 square feet of floor area, of which 104,037 square feet of floor area would be requested through a Transfer of Floor Area (TFAR). As such, Alternative 2 would provide a total FAR of 9:1. To accommodate Alternative 2, the existing surface parking lot and four-story parking structure would be demolished.

As further discussed therein, the overall duration of construction would be reduced compared to the Project based on Alternative 2 being a smaller project with a shorter tower, and less excavation with one less subterranean level. As with the Project, Alternative 2 would implement a Construction Management Plan and Worksite Traffic Control Plan during construction to minimize potential conflicts between construction activity, through traffic, and emergency access. As with the Project, the Construction Management Plan and Worksite Traffic Control Plan would be subject to LADOT review and approval.

### Impact Summary

As discussed on pages V-28 through V-50 in Chapter V, Alternatives, of the Draft EIR, although Alternative 2 would be a smaller project with less excavation as a result of one less level of subterranean parking, Alternative 2 would not eliminate the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. Additionally, as further discussed therein, the following impacts under Alternative 2 would be less than significant but greater when compared to the less-than-significant impacts of the Project: potential toxic air contaminant impacts during operation; energy use during operation, GHG emissions, and VMT. All other impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project.

### Finding

Pursuant to PRC Section 21081(a)(3), the City finds that the specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

### Rationale for Finding

As discussed on pages V-27 through V-28 in Chapter V, Alternatives, of the Draft EIR, Alternative 2 would develop the Project Site with a hotel that includes ground floor commercial/restaurant/retail uses. As discussed on pages V-28 through V-49, and as shown on pages V-11 through V-15 in Table V-2, *Comparison of Impacts Associated with the Project and Impacts of the Alternatives*, in Chapter V, Alternatives, of the Draft EIR, most of Alternative 2's impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project except for the following impacts which would be less than significant but greater when compared to the less-than-significant impacts of the Project due to the change from housing to hotel uses: potential toxic air contaminant impacts during operation; energy use during operation, GHG emissions, and VMT.

Moreover, as discussed on pages V-37 through V-38 in Chapter V, Alternatives, of the Draft EIR, Alternative 2 would not reduce the Project's significant and unavoidable construction noise and vibration impacts to a less than significant level. As explained

therein, the types of construction activities under Alternative 2 would be similar to the Project, although the amount of construction activities and duration of construction would be reduced due to the reduction in total floor area (approximately 41 percent less floor area) and elimination of one subterranean level. As with the Project, construction of Alternative 2 would generate noise from the use of heavy-duty construction equipment as well as from haul truck and construction worker trips. However, the maximum or peak day of construction activity, which serves as the basis of the construction noise analysis, would be similar between Alternative 2 and the Project because: (i) Alternative 2 would include a similar site plan and includes subterranean parking; (ii) both Alternative 2 and the Project would be developed on the same Project Site and within the same distances to off-site sensitive receptors; (iii) both Alternative 2 and the Project would require the same mix of construction equipment; (iv) both Alternative 2 and the Project would implement the same construction-related project noise design features, including Project Design Features NOI-PDF-1 (using construction equipment equipped with state-of-the-art noise shielding and muffling devices) and NOI-PDF-3 (prohibition on the use of impact driven pile systems); and (v) both Alternative 2 and the Project would implement Mitigation Measure NOI-MM-1 (temporary impermeable sound barrier, along the eastern, southern, and western property lines, during the construction period). Therefore, the estimated noise levels during Alternative 2 construction would be similar to the Project which would exceed the significance criteria at off-site receptor locations, R1, R2, R4, R5 and R6 to the same extent as the Project. Similar to the Project, implementation of Mitigation Measure NOI-MM-1 would reduce the noise impacts at the ground level. However, the temporary sound barriers would not be effective in reducing the construction-related noise levels at these receptor locations due to the height of the residential buildings (ranging from seven stories to 33 stories). Thus, like the Project, as impacts are based on peak construction days, impacts would be similar to those of the Project and therefore, Alternative 2 would result in significant unavoidable on-site construction noise impacts (both project-level and cumulative), less-than-significant off-site construction traffic noise (project-level), and significant unavoidable off-site construction traffic noise (cumulative), although the impacts would occur for a shorter duration.

Similarly, as discussed on page V-39 in Chapter V, Alternatives, of the Draft EIR, while the overall amount of construction would be reduced, Alternative 2's on- and off-site construction activities and the associated construction vibration levels would be similar to those of the Project, as construction vibration impacts are evaluated based on the maximum (peak) vibration levels generated by each type of construction equipment. As such, like the Project, the estimated ground-borne vibration levels at the sensitive receptors at receptor location R5 due to on-site construction equipment and along the anticipated haul routes (8th Street, James M. Wood Boulevard/9th Street, and Olive Street) due to off-site construction trucks, would result in a significant impact related to human annoyance. Like the Project, there are no feasible mitigation measures to reduce the vibration human annoyance impacts for Alternative 2 and, therefore, Alternative 2 project-level and cumulative vibration impacts associated with human annoyance from construction would be similar to the Project and would remain significant and unavoidable, although the impacts would occur for a shorter duration.

As discussed on pages V-50 through V-51 in Chapter V, Alternatives, of the Draft EIR, with the provision of hotel uses and elimination of the proposed residential uses, Alternative 2 would not fully meet the underlying purpose of the Project to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. In

addition, Alternative 2 would not meet the Project objectives of maximizing housing units to help address the demand for new housing in the region, the City, and the Central City Community Plan area, and it would only partially meet the objectives of reducing vehicular trips and promoting regional and local mobility objectives by locating high-density uses in an area with a high-density employment base, and within two blocks of a regional-serving transit hub (7th Street/Metro Center Station), contributing to economic investment in the Central City Community Plan area through the provision of construction jobs and high-density residential uses with ground floor commercial uses, and constructing a high-density, mixed-use development consistent with the principles of smart growth features, such as sustainable design, mixed use, infill development, proximity to transit, walkability, and bicycle connections (“complete” streets). Although Alternative 2 would meet the remaining two objectives of the Project to provide a contemporary architectural design that is compatible with existing high-rise development along 8th Street, Grand Avenue, and the vicinity and to create a pedestrian-oriented environment by promoting walkability and by creating a safe, inviting street-level identity for the Project Site through the introduction of ground floor, street-fronting, neighborhood-serving, storefront commercial/retail/restaurant uses, as a whole, Alternative 2 would not meet the underlying purpose and Project objectives to the same degree as the Project.

#### Reference

For a complete discussion of impacts associated with Alternative 2, please see Chapter V, Alternatives, of the Draft EIR.

### **Alternative 3—Development in Accordance with Existing Base FAR (Reduced Residential Alternative)**

#### Description of Alternative

As discussed on pages V-52 through V-53 in Chapter V, Alternatives, of the Draft EIR, the Development in Accordance with Existing Base FAR (Reduced Residential) Alternative (Alternative 3), would include a reduced density project developed pursuant to the existing zoning designations, height limits, and base 6:1 FAR. Alternative 3 would be comprised of a 23-story high-rise mixed-use building with a maximum height of 288 feet consisting of 228 residential units and 7,499 square feet of ground floor commercial/retail/restaurant uses, with 285 vehicle parking spaces on five levels, including two subterranean levels and three above-ground levels, (which would include 34 spaces provided pursuant to covenanted and recorded parking agreements for off-site use), and 17 short-term and 136 long-term bicycle parking spaces. Overall, the new building would comprise 208,074 square feet of floor area, which would correspond to the maximum area (208,074 square feet) allowed on-site. Additionally Alternative 3 would provide the same ground floor plan and design as the Project, including the commercial/retail/restaurant uses and residential lobby, internal porte cochère, and driveways along Hope Street and Grand Avenue, and indoor and outdoor open space and recreational amenities for residents, including a landscaped amenity deck. Alternative 3 would also implement the same above-grade parking design, signage, lighting, vehicular and pedestrian access, setbacks, and sustainability features as those proposed for the Project. To accommodate Alternative 3, the existing surface parking lot and four-story parking structure would be demolished.

As further discussed therein, the overall duration of construction would be reduced compared to the Project due to Alternative 3 being a smaller project with a shorter tower

and less excavation with one less subterranean level. As with the Project, Alternative 3 would implement a Construction Management Plan and Worksite Traffic Control Plan during construction to minimize potential conflicts between construction activity, through traffic, and emergency access. As with the Project, the Construction Management Plan and Worksite Traffic Control Plan would be subject to LADOT review and approval.

#### Impact Summary

As discussed on pages V-54 through V-71 in Chapter V, Alternatives, of the Draft EIR, although Alternative 3 would be a smaller project with less excavation as a result of one less level of subterranean parking, Alternative 3 would not eliminate the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. All other impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project.

#### Finding

Pursuant to PRC Section 21081(a)(3), the City finds that the specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

#### Rationale for Finding

As discussed on pages V-52 through V-53 in Chapter V, Alternatives, of the Draft EIR, Alternative 3 would develop a mixed-use housing project with ground-floor commercial/restaurant/retail uses. As discussed on pages V-54 through V-71, and as shown on pages V-11 through V-15 in Table V-2, *Comparison of Impacts Associated with the Project and Impacts of the Alternatives*, in Chapter V, Alternatives, of the Draft EIR, most of Alternative 3's impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project. However, as discussed on page V-71 of the Draft EIR, even though Alternative 3 would be a smaller project with less excavation, Alternative 3 would not eliminate the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic, although these impacts would occur for a shorter duration than under the Project.

As discussed on pages V-59 through V-60 in Chapter V, Alternatives, of the Draft EIR, the types of construction activities under Alternative 3 would be similar to the Project, although the amount of construction activities and duration of construction would be reduced due to the reduction in total floor area (approximately 61 percent less floor area) and elimination of one level of subterranean parking. However, the maximum or peak day of construction activity, which serves as the basis of the construction noise analysis, would be similar between Alternative 3 and the Project because: (i) Alternative 3 would include a similar footprint and includes subterranean parking; (ii) both Alternative 3 and the Project

would be developed on the same Project Site and within the same distances to off-site sensitive receptors; (iii) both Alternative 3 and the Project would require the same mix of construction equipment; (iv) both Alternative 3 and the Project would implement the same construction-related project noise design features, including Project Design Features NOI-PDF-1 (using construction equipment equipped with state-of-the-art noise shielding and muffling devices) and NOI-PDF-3 (prohibition on the use of impact driven pile systems); and (v) both Alternative 3 and the Project would implement Mitigation Measure NOI-MM-1 (temporary impermeable sound barrier, along the eastern, southern and western property lines, during the construction period). Therefore, the estimated noise levels during Alternative 3 construction would be similar to the Project which would exceed the significance criteria at off-site receptor locations R1, R2, R4, R5 and R6. Implementation of Mitigation Measure NOI-MM-1 would reduce the noise impacts at the ground level. However, the temporary sound barriers would not be effective in reducing the construction-related noise levels at these receptor locations due to the height of the residential buildings (ranging from seven stories to 33 stories). Thus, like the Project, Alternative 3 would result in significant unavoidable on-site construction noise (both project-level and cumulative), less than significant off-site construction traffic noise (project-level), and significant unavoidable off-site construction traffic noise (cumulative), although these impacts would occur for a shorter duration than under the Project.

Similarly, as discussed on page V-61 in Chapter V, Alternatives, of the Draft EIR, the types of construction activities under Alternative 3 would be similar to the Project. While overall the amount of construction would be reduced, on- and off-site construction activities and the associated construction vibration levels would be similar to those of the Project, as construction vibration impacts are evaluated based on the maximum (peak) vibration levels generated by each type of construction equipment. As such, like the Project, the estimated ground-borne vibration levels at receptor location R5 due to on-site construction equipment and at the sensitive receptors along the anticipated haul routes (8th Street, James M. Wood Boulevard/9th Street, and Olive Street) due to off-site construction trucks, would result in a significant impact related to human annoyance. Like the Project, there are no feasible mitigation measures to reduce the vibration human annoyance impacts for Alternative 3 and, therefore, Alternative 3 project-level and cumulative vibration impacts associated with human annoyance from construction would be similar to the Project and would remain significant and unavoidable, although these impacts would occur for a shorter duration than under the Project.

As discussed on pages V-71 through V-72 in Chapter V, Alternatives, of the Draft EIR, Alternative 3 would provide the same mix of uses as the Project but at a reduced scope and density. As such, Alternative 3 would meet the underlying purpose of the Project to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. However, due to the reduction in residential units, Alternative 3 would not fully achieve the Project's objectives to the same extent as the Project with regards to maximizing new housing units to help address the demand for new housing in the region, the City, and the Central City Community Plan area; constructing a high-density, mixed-use development consistent with the principles of smart growth features, such as sustainable design, mixed use, infill development, proximity to transit, walkability, and bicycle connections ("complete" streets); reducing vehicular trips and promoting regional and local mobility objectives by locating high-density residential and retail uses in downtown Los Angeles, a high-density employment base, and within two blocks of a regional-serving transit hub (7th Street/Metro Center Station) and commercial services;

and contributing to economic investment in the Central City Community Plan area through the provision of construction jobs and high-density residential uses with ground floor commercial uses. With development of similar, although reduced, uses as the Project, Alternative 3 would meet the remaining two Project objectives of providing a contemporary architectural design that is compatible with existing high-rise development along 8th Street, Grand Avenue, and the vicinity, and creating a pedestrian-oriented environment by promoting walkability and by creating a safe, inviting street-level identity for the Project Site through the introduction of ground floor, street-fronting, neighborhood-serving, storefront commercial/retail/restaurant uses. However, as a whole, Alternative 3 would not meet the underlying purpose and Project objectives to the same degree as the Project.

#### Reference

For a complete discussion of impacts associated with Alternative 3, please see Chapter V, Alternatives, of the Draft EIR.

### **Alternative 4—Development in Accordance with DTLA 2040 Plan Alternative**

#### Description of Alternative

The Development in Accordance with DTLA 2040 Plan Alternative (Alternative 4) would develop the same types of uses as the Project but would comply with the proposed draft zoning for the Project Site under the DTLA 2040 Community Plan Update (DTLA 2040 Plan), resulting in less housing units. Under the current draft of the DTLA 2040 Plan, the Project Site is proposed to be designated as part of the Transit Core, which would allow a maximum FAR of between 9:1 and 13:1, with general uses that include multi-family residential, regional retail and services, office, hotel, and entertainment uses.

Alternative 4 would develop a 29-story high-rise building with a maximum height of 372 feet, consisting of 290 residential units, up to 7,499 square feet of ground floor commercial/retail/restaurant uses, and 56,874 square feet of above-grade parking (that would be counted towards the FAR per the draft DTLA 2040 Plan). Overall, Alternative 4 would comprise 312,111 square feet of floor area resulting in an FAR of 9:1. Alternative 4 would include 304 vehicle parking spaces (including 34 vehicle parking spaces per covenanted and recorded parking agreements for an off-site use) within six parking levels, including three subterranean and three above-ground levels, and 20 short-term and 152 long-term bicycle parking spaces. Alternative 4 would provide the same ground floor plan and design as the Project, including the commercial/retail/restaurant uses and residential lobby, internal porte cochère, and driveways along Hope Street and Grand Avenue. Similar to the Project, Alternative 4 would include four above-ground tiers with varying stepbacks from Hope Street, and amenity decks which would be located on the upper level of each tier. Open space would be provided in accordance with the DTLA 2040 Plan within the amenity decks. Alternative 4 would implement the same signage, lighting, vehicular and pedestrian access, setbacks, and sustainability features as those proposed for the Project. Similar to the Project, to accommodate Alternative 4, the existing surface parking lot and four-story parking structure would be demolished.

As further discussed therein, overall duration of construction of Alternative 4 would be reduced compared to that of the Project based on Alternative 4 being a smaller project with a shorter tower (although it would include the same amount of excavation with the same number of subterranean levels). As with the Project, Alternative 4 would implement

a Construction Management Plan and Worksite Traffic Control Plan during construction to minimize potential conflicts between construction activity, through traffic, and emergency access. As with the Project, the Construction Management Plan and Worksite Traffic Control Plan would be subject to LADOT review and approval.

### Impact Summary

As discussed on pages V-75 through V-93 in Chapter V, Alternatives, of the Draft EIR, although Alternative 4 would be a smaller project, Alternative 4 would not eliminate the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. All other impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project.

### Finding

Pursuant to PRC Section 21081(a)(3), the City finds that the specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

### Rationale for Finding

As discussed on pages V-73 through V-75 in Chapter V, Alternatives, of the Draft EIR, Alternative 4 would develop a mixed-use housing project with ground-floor commercial/restaurant/retail uses. As discussed on pages V-75 through V-93, and as shown on pages V-11 through V-15 in Table V-2, *Comparison of Impacts Associated with the Project and Impacts of the Alternatives*, in Chapter V, Alternatives, of the Draft EIR, Alternative 4's impacts would be less than significant or less than significant with mitigation, and less than or similar when compared to the impacts of the Project. However, as discussed on page 93, even though Alternative 4 would be a smaller project, Alternative 4 would not eliminate the Project's significant and unavoidable environmental impacts, including those related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic.

As discussed on pages V-81 through V-82 in Chapter V, Alternatives, of the Draft EIR, the types of construction activities under Alternative 4 would be similar to the Project, although the amount of construction activities and duration of construction would be reduced due to the reduction in total floor area (approximately 41 percent less floor area). As with the Project, construction of Alternative 4 would generate noise from the use of heavy-duty construction equipment as well as from haul truck and construction worker trips. However, the maximum or peak day of construction activity, which serves as the basis of the construction noise analysis, would be similar between Alternative 4 and the Project because: (i) Alternative 4 would include a similar site plan and number of subterranean parking levels as the Project; (ii) both Alternative 4 and the Project would be developed



on the same Project Site, with similar building footprints, and within the same distances to off-site sensitive receptors; (iii) both Alternative 4 and the Project would require the same mix of construction equipment; (iv) both Alternative 4 and the Project would implement the same construction-related project noise design features, including Project Design Features NOI-PDF-1 (using construction equipment equipped with state-of-the-art noise shielding and muffling devices) and NOI-PDF-3 (prohibition on the use of impact driven pile systems); and (v) both Alternative 4 and the Project would implement Mitigation Measure NOI-MM-1 (temporary impermeable sound barrier, along the eastern, southern and western property lines, during the construction period). Therefore, the estimated noise levels during Alternative 4 construction would be similar to the Project, which would exceed the significance criteria at off-site receptor locations R1, R2, R4, R5 and R6. Implementation of Mitigation Measure NOI-MM-1 would reduce the noise impacts at the ground level. However, the temporary sound barriers would not be effective in reducing the construction-related noise levels at these receptor locations due to the height of the residential buildings (ranging from seven stories to 33 stories). Thus, like the Project, Alternative 4 would result in significant unavoidable on-site construction noise (both project-level and cumulative), less than significant off-site construction traffic noise (project-level), and significant unavoidable off-site construction traffic noise (cumulative), although such impacts would occur for a shorter duration compared to the Project.

Similarly, as discussed on page V-83 in Chapter V, Alternatives, of the Draft EIR, the types of construction activities under Alternative 4 would be similar to the Project, although the amount and duration of construction activities would be reduced. As with the Project, construction of Alternative 4 would generate vibration from the use of heavy-duty construction equipment as well as from truck trips. While the overall amount of construction would be reduced, on- and off-site construction activities and the associated construction vibration levels would be similar to those of the Project, as construction vibration impacts are evaluated based on the maximum (peak) vibration levels generated by each type of construction equipment. As such, similar to the Project, vibration levels at receptor location R5 due to on-site construction equipment and along the anticipated haul routes (8th Street, James M. Wood Boulevard/9th Street, and Olive Street) due to off-site construction trucks, would result in a significant impact related to human annoyance. Like the Project, there are no feasible mitigation measures to reduce the vibration human annoyance impacts. As such, vibration impacts associated with human annoyance from off-site construction would be significant and unavoidable, although such impacts would occur for a shorter duration compared to the Project.

As discussed on pages V-93 through V-94 in Chapter V, Alternatives, of the Draft EIR, Alternative 4 would provide the same mix of uses as the Project but at a reduced scope and density in accordance with the draft proposed DTLA 2040 Plan. As such, Alternative 4 would meet the underlying purpose of the Project to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. However, due to the reduction in residential units, Alternative 4 would not fully achieve the Project objectives to the same extent as the Project with respect to maximizing new housing units to help address the demand for new housing in the region, the City, and the Central City Community Plan area; constructing a high-density, mixed-use development consistent with the principles of smart growth features, such as sustainable design, mixed use, infill development, proximity to transit, walkability, and bicycle connections ("complete" streets); reducing vehicular trips and promoting regional and local mobility objectives by locating high-density residential and retail uses in downtown Los Angeles, a

high-density employment base, and within two blocks of a regional-serving transit hub (7th Street/Metro Center Station) and commercial services; and, contributing economic investment in the Central City Community Plan area through the provision of construction jobs and high-density residential uses with ground floor commercial uses. With development of similar, although reduced, uses as the Project, Alternative 4 would meet the Project objectives of providing a contemporary architectural design that is compatible with existing high-rise development along 8th Street, Grand Avenue, and the vicinity, and creating a pedestrian-oriented environment by promoting walkability and by creating a safe, inviting street-level identity for the Project Site through the introduction of ground floor, street-fronting, neighborhood-serving, storefront commercial/retail/restaurant uses. However, as a whole, Alternative 4 would not meet the underlying purpose and Project objectives to the same degree as the Project.

#### Reference

For a complete discussion of impacts associated with Alternative 4, please see Chapter V, Alternatives, of the Draft environmental impact report.

#### **Alternatives Rejected as Infeasible**

As set forth in CEQA Guidelines Section 15126.6(c), an EIR should identify any alternatives that were considered for analysis but rejected as infeasible and briefly explain the reasons for their rejection. According to the CEQA Guidelines, among the factors that may be used to eliminate an alternative from detailed consideration are the alternative's failure to meet most of the basic project objectives, the alternative's infeasibility, or the alternative's inability to avoid significant environmental impacts. Alternatives to the Project that were considered and rejected as infeasible include the following:

**Alternative Project Site:** As discussed on pages V-5 through V-6 in Chapter V, Alternatives, of the Draft EIR, the Project Applicant already owns the Project Site, and its location is conducive to the development of an infill mixed-use project as it is located in downtown Los Angeles within two blocks of the Metro 7th Street/Metro Center Station, which is a regional-serving transit hub. The Project Site is particularly suitable for development of a mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serve the community and provide opportunities for walkability due to the Project Site's proximity to existing residential and commercial uses and various modes of public transportation. Furthermore, it is not expected that the Project Applicant can reasonably acquire, control, or access an alternative site in a timely fashion that would result in implementation of a project with similar uses and square footage. Moreover, if an alternative site in the downtown Los Angeles area that could accommodate the Project could be found, it would be expected that the significant and unavoidable impacts associated with on-site construction noise and on- and off-site vibration (associated with human annoyance) due to short-term construction activities would also occur since a potential alternative site would also likely be an infill site with nearby sensitive receptors, and since the noise and vibration levels associated with on- and off-site construction activities would be similar to the Project and evaluated on maximum (peak) levels. Thus, in accordance with Section 15126.6(f) of the State CEQA Guidelines, this alternative was rejected from further consideration.

**Alternatives to Eliminate Significant Noise and Vibration Impacts During Construction:** As discussed in Section IV.E, Noise, of the Draft EIR, Project construction

activities would result in significant unavoidable construction-related noise impacts related to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic. As discussed on pages V-6 through V-9 in Chapter V, Alternatives, of the Draft EIR, the following approaches were considered, but rejected as infeasible, to substantially reduce or avoid these impacts:

**Approach (a) - Extended Construction Duration with Reduced Construction Equipment:** This approach would use less construction equipment each day, which would extend the construction period, as compared to the Project. This approach was rejected for the following reasons:

- Construction noise levels are dependent on the number of construction equipment (on-site equipment or off-site construction trucks). With respect to on-site construction, even with implementation of the Project's noise mitigation measures, reducing the on-site construction equipment by 43 percent, from seven pieces to four pieces of equipment, construction noise levels would still exceed the significance thresholds at the upper levels of five of the sensitive receptor locations. As such, on-site construction noise levels under this approach would be less than the Project but would still exceed the significance threshold. In addition, the 43 percent reduction would be less than 3.0 dBA, which is the level where noise is perceptible and would also increase the number of days that sensitive receptors would be significantly impacted by construction activities, as well as being inefficient. Furthermore, due to the close proximity of the off-site noise sensitive receptors (e.g., receptor locations R1 and R5 that are located across the street from the Project Site), it would not be feasible to reduce the on-site construction noise levels to below the significance threshold as a single piece of equipment would result in noise levels above the significance threshold. Additionally, as analyzed in Section IV.E Noise, cumulative off-site construction noise impacts would occur if the total truck trips per hour along 8th Street, James M. Wood Boulevard/9th Street, and Olive Street would add up to 52, 35, and 45 truck trips per hour, respectively. Related Project No. 10 would generate up to 50 truck trips per hour along 8th Street and 9th Street. Therefore, even when reducing the number of haul trips by half (from 19 to 10 truck trips per hour), the Project would continue to contribute to a potential cumulative impact associated with off-site construction noise. Additionally, reducing the construction truck trips per hour would extend the demolition period since there will be fewer trucks removing on-site demolition debris. The longer demolition period would extend the duration of the human annoyance from off-site construction traffic. As such, the on-site noise impacts under this approach would not be substantially less than the Project and would remain significant and unavoidable for the on-site construction activities and the cumulative off-site construction noise levels.
- Off-site construction vibration impacts (associated with human annoyance) are based on the peak levels generated by the individual heavy trucks traveling by sensitive receptors. Although the number of truck trips per day would be reduced under this approach, the peak vibration levels would be the same as for the Project. Therefore, vibration impacts associated with human annoyance would also continue to be significant and unavoidable, similar to the Project and for a longer duration.

**Approach (b) - Central Location of Development:** An approach where proposed development is moved closer to the center of the Project Site, thus pulling back the proposed development and associated construction activities from the off-site sensitive receptors, was reviewed and rejected for the following reasons:

- Construction noise levels can be reduced by providing an additional buffer zone between the receptor and the construction equipment since noise levels from construction equipment attenuate approximately 6 dBA per doubling of distance. While the construction noise levels associated with the building phases for the proposed building placed closer to the center of the Project Site would be lower than the Project, the noise level reduction, depending upon the setback from the property line, would be limited due to the size of the Project Site (approximately 111 feet by 342 feet). Specifically, moving the building footprint an additional 30 feet toward the center of the Project Site would reduce the noise construction levels at the sensitive receptor locations less than 3.0 dBA and would still exceed the significance thresholds at the upper levels of the buildings even with mitigation measures. In addition, noise levels during site demolition, site preparation and grading would be similar to the Project, as construction activities for these phases would be up to the property line, and noise impacts at receptor locations R1, R2, R4, R5 and R6 would remain significant and similar to the Project. As such, the on-site construction noise impacts under this approach would remain significant and unavoidable as with the Project. In addition, even if development were to be limited to the surface parking area (i.e., the existing parking structure would be retained), significant and unavoidable impacts would remain given the continued close proximity of construction activities to adjacent sensitive receptors.
- The number of trucks would be similar to the Project and, therefore, the off-site construction vibration impacts (associated with human annoyance) of this option due to heavy trucks traveling by sensitive receptors would be significant and unavoidable since heavy trucks would still have to travel by the same routes as under the Project.

**Approach (c) - Reduced Development:** An approach where the amount of development is reduced to the extent that the significant construction-related noise and vibration impacts of the Project would be reduced was reviewed and rejected for the following reasons:

- Similar to Approach (a), reducing the number of construction equipment (even by up to 43 percent) would not reduce construction noise to a less-than-significant level and as discussed under Approach (b), due to the close proximity of the sensitive receptors and a constrained Project Site that does not have the space to create a meaningful buffer zone, it would not be feasible to mitigate the on-site construction noise impacts of the Project, especially at receptor locations R1 and R5 (across from the Project Site). In addition, even for a reduced development approach, noise levels during site demolition, site preparation and grading would be similar to the Project, as construction activities for these phases would be up to the property line, and noise impacts at receptor locations R1, R2, R4, R5 and R6 would remain significant, similar to the Project.
- Off-site construction vibration impacts (associated with human annoyance), due to heavy trucks traveling by sensitive receptors, would also be significant and

unavoidable, similar to the Project, as vibration impacts are based on the peak levels generated by individual heavy trucks traveling by sensitive receptors.

Therefore, as explained on page V-9 in Chapter V, Alternatives, of the Draft EIR, because of the close proximity of the Project Site and the proposed haul route to existing noise- and vibration-sensitive uses rather than the amount or duration of Project construction activities, none of the above approaches considered and rejected would substantially reduce or avoid the significant unavoidable construction-related on-site and cumulative off-site noise and off-site vibration (associated with human annoyance) impacts of the Project. Moreover, while the duration of impact does not change the measurement of noise or vibration impact level, extending the duration of construction would result in significant impacts to sensitive receptors for a longer period of time. Therefore, an alternative that includes one or more of these approaches would not substantially reduce or eliminate the significant noise and vibration impacts of the Project and would extend the duration of the impacts, as such, no further consideration of these approaches in the EIR was warranted.

### **Environmentally Superior Alternative**

Section 15126.6(e)(2) of the CEQA Guidelines indicates that an analysis of alternatives to a project shall identify an Environmentally Superior Alternative among the alternatives evaluated in an EIR. The CEQA Guidelines also state that should it be determined that the No Project Alternative is the Environmentally Superior Alternative, the EIR shall identify another Environmentally Superior Alternative among the remaining alternatives. Pursuant to Section 15126.6(c) of the CEQA Guidelines, the analysis below addresses the ability of the alternatives to “avoid or substantially lessen one or more of the significant effects” of the Project.

As discussed on pages V-95 through V-96 in Chapter V, Alternatives, of the Draft EIR, of the four alternatives analyzed, Alternative 1, the No Project/No Build Alternative, would avoid all of the Project’s significant and unavoidable environmental impacts. However, Alternative 1 would not meet any of the Project objectives or the Project’s underlying purpose to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability. Therefore, in accordance with the CEQA Guidelines, a comparative evaluation of the remaining Alternatives indicates that Alternative 3, the Development in Accordance with Existing Base FAR (Reduced Residential) Alternative, is the Environmentally Superior Alternative. As further discussed therein, while Alternative 3 would not eliminate the Project’s significant and unavoidable impacts it would result in the greatest overall reduction in the extent of impacts when compared to the Project’s impacts, and would reduce the duration during which the significant impacts would occur. Overall, with the reduction in residential units, Alternative 3 would partially achieve the Project’s objectives, but would not meet the underlying purpose of the Project or satisfy the Project objectives to the same extent as the Project.

## **IX. Other CEQA Considerations**

### **Significant Irreversible Environmental Changes**

Section 15126.2(d) of the CEQA Guidelines indicates that an EIR should evaluate any significant irreversible environmental changes that would occur should the proposed project be implemented. The types and level of development associated with the Project would consume limited, slowly renewable, and non-renewable resources. This consumption would occur during construction of the Project and would continue

throughout its operational lifetime. The development of the Project would require a commitment of resources that would include: (1) building materials and associated solid waste disposal effects on landfills; (2) water; and (3) energy resources (e.g., fossil fuels) for electricity, natural gas, and transportation. The Project Site contains no energy resources that would be precluded from future use through Project implementation. For the reasons set forth in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project's irreversible changes to the environment related to the consumption of nonrenewable resources would not be significant, and the limited use of nonrenewable resources is justified.

#### Building Materials and Solid Waste

As discussed on page VI-7 in Chapter VI, Other CEQA Considerations, of the Draft EIR, construction of the Project would require consumption of resources that do not replenish themselves or which may renew so slowly as to be considered non-renewable, such as certain types of lumber and other forest products, aggregate materials used in concrete and asphalt, metals, and petrochemical construction materials. However, as further discussed below, the Project would adhere to State and local solid waste policies and regulations that further goals to divert waste which will ensure that the Project's consumption of non-renewable building materials such as aggregate materials and plastics would be reduced. Additionally, the use of these materials would not occur in an inefficient or wasteful manner given that, as discussed in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR, Project construction would adhere to the sustainability requirements of Title 24, the Los Angeles Green Building Code, and CALGreen, as well as those required to meet the standards to achieve LEED Green certification or its equivalent as required by Project Design Feature GHG-PDF-1. Thus, although the Project would involve the use of nonrenewable and slowly renewable resources, the consumption would occur in accordance with the existing State and local regulations that govern the use of such materials and resources.

Also, as discussed on pages 83 through 87 of the Initial Study included in Appendix A of the Draft EIR and pages VI-7 and VI-35 through VI-38 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would generate solid waste during construction and operation. However, it would not generate waste in an inefficient or wasteful manner, in that it would comply with all regulations regarding diversion of solid waste. As discussed therein, pursuant to the requirements of Senate Bill (SB) 1374, during construction of the Project, a minimum of 75 percent of construction and demolition debris would be diverted from landfills. In addition, during operation, the Project would provide on-site recycling containers within a designated recycling area for Project residents to facilitate recycling in accordance with the City's Space Allocation Ordinance (Ordinance No. 171,687) and the Los Angeles Green Building Code. In accordance with Assembly Bill (AB) 1826, the Project would also provide for the recycling of organic waste. With such compliance the consumption of non-renewable building materials would be reduced. Additionally, as discussed on pages VI-35 through VI-38, the amount of construction and debris waste which the Project would generate after compliance with diversion regulations would represent approximately 0.008 percent of the Azusa Land Reclamation Landfill's remaining disposal capacity and the amount which would be generated during Project operation would represent approximately 0.001 percent of the remaining capacity for the County's Class III landfills open to the City. Thus, available landfills would be able to accommodate Project-generated solid waste.

## Water

As discussed on pages VI-7 through VI-8 in Chapter VI, Other CEQA Considerations, of the Draft EIR, water consumption during construction and operation of the Project is addressed in Section IV.I.1, Utilities and Service Systems - Water Supply and Infrastructure, of the Draft EIR. As evaluated therein, given the temporary nature of construction activities and the short-term and intermittent water use during construction, the Project would not be consuming large amounts of water nor consuming more water than available for supply by the LADWP. During operation, the estimated water demand for the Project would not exceed the available supplies projected by the LADWP, as confirmed by the Water Supply Assessment (WSA) prepared for the Project and included as Appendix I of the Draft EIR. In addition, the Project would implement a variety of sustainable features related to water conservation to reduce water use in accordance with the City's Green Building Code and Project Design Feature GHG-PDF-1 (sustainability requirements including water efficiency measures) and implementing water conservation measures in excess of code requirements pursuant to Project Design Feature WAT-PDF-1. As further indicated therein, the LADWP would be able to meet the Project's water demand, in addition to meeting the existing and planned water demands of its service area. Thus, while Project construction and operation would result in some irreversible consumption of water, the Project would not result in a significant impact related to water supply.

## Energy Consumption

As discussed on pages VI-8 through IV-9 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project would primarily use non-renewable fossil fuels as an energy source, and thus the existing finite supplies of these resources would be incrementally reduced. Project consumption of non-renewable fossil fuels for energy use during construction and operation of the Project is addressed in Section IV.B, Energy, of the Draft EIR. As discussed therein, construction activities for the Project would not require the consumption of natural gas but would require the use of fossil fuels and electricity. However, such fuel consumption would represent only approximately 0.002 percent of the 2022 annual on-road gasoline-related energy consumption and 0.02 percent of the 2022 annual diesel fuel-related energy consumption in Los Angeles County. Furthermore, as detailed in Section IV.B, Energy, of the Draft EIR, during construction, electric equipment would be powered off when not in use so as to avoid unnecessary energy consumption, and trucks and equipment would comply with CARB's anti-idling regulations as well as the In-Use Off-Road Diesel-Fueled Fleets regulation. Further, on-road vehicles (i.e., haul trucks, worker vehicles) would be subject to federal fuel efficiency requirements. Therefore, the Project would not result in the wasteful, inefficient, and unnecessary consumption of energy resources during construction.

During operation, the Project's electricity and natural gas demand would represent 0.02 and 0.0005 percent, respectively, of LADWP and SoCalGas' projected sales in 2025 and, therefore, the Project's increase in electricity and natural gas demand would be within the service capabilities of those service providers. In addition, as discussed in Section IV.B, Energy, of the Draft EIR, the Project would comply with Title 24 standards and applicable CALGreen requirements which would reduce energy consumption. Further, transportation fuel usage during Project operational activities would represent approximately 0.002 percent of gasoline and diesel usage within Los Angeles County. Additionally, Project operations would not conflict with adopted energy conservation plans and the Project,

which is located in an HQT and TPA, includes a number of features that would reduce VMT, such as increased density, a mixed-use development, and transit accessibility, all of which would reduce energy consumption and associated air quality emissions.

### Environmental Hazards

As discussed on page VI-9 in Chapter VI, Other CEQA Considerations, of the Draft EIR, the Project's potential use of hazardous materials is addressed in the Initial Study for the Project, which is included as Appendix A of the Draft EIR. As evaluated therein, the types and amounts of hazardous materials that would be used in connection with the Project would be typical of those used in residential and commercial developments, including construction related use of fuels, paints, oils and transmission fluids and operation related cleaning solvents, painting supplies, pesticides for landscaping, and petroleum products. However, all potentially hazardous materials would be used and stored in accordance with manufacturers' instructions and handled in compliance with applicable federal, State, and local regulations. Any associated risk would be reduced to a less than significant level through compliance with these standards and regulations.

Therefore, although the Project would result in irreversible environmental changes and would use, store and dispose of hazardous materials, such changes and use would be less than significant, and the limited nonrenewable resources and hazardous materials that would be required by Project construction and operation is justified to meet the City's and State's housing, transportation, and GHG policies.

### Potential Secondary Effects of Mitigation Measures

CEQA Guidelines Section 15126.4(a)(1)(D) states that "if a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed." With regard to this section of the CEQA Guidelines, the potential impacts that could result with the implementation of each mitigation measure proposed for the Project was reviewed. The following provides a discussion of the potential secondary impacts that could occur as a result of the implementation of the proposed mitigation measures, listed by environmental issue area.

### Cultural Resources (Archaeological Resources)

Mitigation Measure CUL-MM-1 included in the Initial Study provided in Appendix A of the Draft EIR states prior to the start of ground-disturbing activities, the Applicant shall retain a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology to carry out the following measure. A qualified archaeologist shall be retained to perform periodic inspections of excavation and grading activities at the Project Site. The frequency of inspections shall be based on consultation with the archaeologist and the City of Los Angeles Department of City Planning and shall depend on the rate of excavation and grading activities and the materials being excavated. If archaeological materials are encountered, the archaeologist shall temporarily divert or redirect grading and excavation activities in the area of the exposed material to facilitate evaluation and, if necessary, salvage. The archaeologist shall then assess the discovered material(s) and prepare a survey, study or report evaluating the impact. The Applicant shall then comply with the recommendations of the evaluating archaeologist, and a copy of the archaeological survey report shall be submitted to the Department of City Planning.



Ground-disturbing activities may resume once the archaeologist's recommendations have been implemented to the satisfaction of the archaeologist. This mitigation measure represents procedural actions and would be beneficial in protecting archaeological resources that could potentially be encountered on site. As such, implementation of this mitigation measure would not result in adverse secondary impacts.

#### Geology and Soils (Paleontological Resources)

Mitigation Measure GEO-MM-1 included in the Initial Study provided in Appendix A of the Draft EIR states that a qualified paleontologist would be retained to perform periodic inspections of excavation and grading activities. In the event that paleontological materials are encountered, the qualified paleontologist would temporarily halt development activity to assess and evaluate the discovered material(s). The certified paleontologist would provide recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource. This mitigation measure represents procedural actions and would be beneficial in protecting paleontological resources that could potentially be encountered on site. As such, implementation of this mitigation measure would not result in adverse secondary impacts.

#### Noise and Vibration

As discussed in detail in Section IV.E, Noise, of the Draft EIR, Mitigation Measure NOI-MM-1 requires temporary and impermeable sound barriers to be installed during construction along: the eastern property line of the Project Site between the construction areas and the residential uses on the east side of Grand Avenue; the southern property line of the Project Site between the construction areas and residential uses across the Project Site to the south; and the western property line of the Project Site between the construction areas and residential uses at the southwest corner of 8th Street and Hope Street. The noise and vibration from installation of the temporary sound barrier would be short-term (i.e., would require one to two days) and would occur within the specified construction hours and days permitted by the City's noise regulations. Installation of the noise barriers would require limited digging or trenching. Thus, installation of the noise barriers would not require a large amount of construction equipment. In addition, noise levels associated with the sound barrier installation activities would be substantially less than the noise levels associated with other phases of construction. Upon completion of construction, the temporary sound barrier would be removed. As such, implementation of this mitigation measure would not result in additional adverse impacts not already accounted for in Section IV.E, Noise of the Draft EIR.

Mitigation Measure NOI-MM-2 requires that prior to the start of construction, the Applicant shall retain the services of a structural engineer or qualified professional to visit the multi-story parking structures adjacent to the Project Site to the north to inspect and document the apparent physical condition of the structures' readily visible features. The inspection survey shall be made to the extent feasible from the public right-of-way and within the Project Site's property line. The Applicant shall also retain the services of a qualified acoustical engineer to review proposed construction equipment and develop and implement a vibration monitoring program capable of documenting the construction-related ground vibration levels at property line of the parking structure adjacent to the Project Site to the north during demolition and grading/excavation phases. In the event the warning level is triggered, the contractor shall identify the source of vibration generation and provide feasible steps to reduce the vibration level, including but not limited

to halting/staggering concurrent activities and utilizing lower vibratory techniques. In the event the regulatory level is triggered, the contractor shall halt the construction activities in the vicinity of the parking structure and visually inspect the building for any damage. The inspection would occur from the public right of way or within the Project Site's property line to the extent feasible. Results of the inspection must be logged, and repairs will be provided in the event any damage occurred. The contractor shall identify the source of vibration generation and provide feasible steps to reduce the vibration level. Construction activities may then restart once the vibration level is measured and below the warning level. This measure involves supervisorial, inspection and monitoring activities along with use of light monitoring equipment. As such, implementation of this mitigation measure would not result in adverse secondary impacts.

### **Growth-Inducing Impacts**

Section 15126.2(e) of the CEQA Guidelines requires a discussion of the ways in which a proposed project could induce growth. This includes ways in which a project would foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth, or increases in the population which may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Additionally, consideration must be given to characteristics of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

As discussed on pages VI-10 through VI-13 of Chapter VI, Other CEQA Considerations, of the Draft EIR, while the Project would include new development and directly generate new residents and employees, the Project would not result in significant growth-inducing impacts because: (i) the Project would be consistent with the SCAG growth forecast since the estimated 1,398 new residents generated by the Project would represent approximately 0.81 percent of the population growth forecasted by SCAG in the City of Los Angeles Subregion between 2019 and 2025 and the Project's 30 estimated new employees would represent approximately 0.05 percent of the employment growth forecasted by SCAG in the City of Los Angeles Subregion between 2019 and 2025; (ii) as an urban, infill Project within an HQT and TPA, the Project would be consistent with regional and City policies to reduce urban sprawl, efficiently utilize existing infrastructure, reduce regional congestion, and improve air quality through the reduction of VMT; (iii) the Project would not extend roads or utility infrastructure to an area not already served by such roads and utility infrastructure nor open any large undeveloped areas for new use; and (iv) any access improvements would be limited to driveways necessary to provide immediate access to the Project Site and to improve safety and walkability. Furthermore, while the Project could potentially generate some indirect population and employee growth, any such growth would not be substantial given that Project workers would not be expected to move from outside the area for the Project's construction and operational jobs, and the Project would provide new housing which could potentially satisfy any indirect housing demand associated with this growth. Therefore, direct and indirect growth-inducing impacts would be less than significant.

## **X. Statement of Overriding Considerations**

The EIR identifies unavoidable significant impacts that would result from implementation of the project. PRC Section 21081 and CEQA Guidelines Section 15093(b) provide that when a decision of a public agency allows the occurrence of significant impacts that are identified in the EIR, but are not at least substantially mitigated to an insignificant level or eliminated, the lead agency must state in writing the reasons to support its action based on the EIR and/or other information in the record. The CEQA Guidelines require, pursuant to CEQA Guidelines Section 15093(b), that the decision-maker adopt a Statement of Overriding Considerations at the time of approval of a project if it finds that significant adverse environmental effects have been identified in the EIR that cannot be substantially mitigated to an insignificant level or be eliminated. These findings and the Statement of Overriding Considerations are based on the documents and materials that constitute the record of proceedings, including, but not limited to, the Final EIR and all technical appendices attached thereto.

Based on the analysis provided in Chapter IV, Environmental Impact Analysis, of the Draft EIR, implementation of the Project would result in significant impacts that cannot be feasibly mitigated with respect to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; Project-level vibration impacts associated with human annoyance from on-site construction activities; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic.

Accordingly, the City adopts the following Statement of Overriding Considerations. The City recognizes that significant and unavoidable impacts would result from implementation of the Project. Having (i) adopted all feasible mitigation measures, (ii) rejected as infeasible the alternatives to the Project discussed above, (iii) recognized all significant, unavoidable impacts, and (iv) balanced the benefits of the Project against the Project's significant and unavoidable impacts, the City hereby finds that each of the Project's benefits, as listed below, outweigh and override the significant unavoidable impacts relating to: Project-level and cumulative construction noise impacts from on-site noise sources; cumulative noise impacts from off-site construction traffic; and Project-level and cumulative vibration impacts associated with human annoyance from off-site construction traffic.

The below stated reasons summarize the benefits, goals and objectives of the Project, and provide the detailed rationale for the benefits of the Project. These overriding considerations of economic, social, aesthetic, and environmental benefits for the Project justify approval of the Project and certification of the completed EIR. Each of the listed Project benefits set forth in this Statement of Overriding Considerations provides a separate and independent ground for the City's decision to approve the Project despite the Project's identified significant and unavoidable environmental impacts. Each of the following overriding considerations separately and independently (i) outweighs the adverse environmental impacts of the Project, and (ii) justifies approval of the Project and certification of the completed EIR. In particular, achieving the underlying purpose for the Project would be sufficient to override the significant environmental impacts of the Project.

- **The Project Would Support Regional and City Land Use and Environmental Goals.** The underlying purpose of the Project is to develop a parcel with a high-quality mixed-use development that provides new multi-family housing and commercial/retail/restaurant uses that serves the community and promotes walkability.

The underlying purpose and objectives of the Project are closely tied to the goals and objectives of the Central City Community Plan, which supports the objectives and policies of applicable larger-scale regional and local land use plans, including SCAG's 2020–2045 RTP/SCS and the City's General Plan.

The Project includes features to support the goals of the 2020–2045 RTP/SCS that address improving the productivity of the region's transportation system and supporting an integrated regional development pattern and transportation network, reducing GHG emissions and improving air quality. Specifically, the Project would be developed within an existing urbanized area that provides an established network of roads and freeways that provide local and regional access to the area, including the Project Site. In addition, the Project Site is served by a variety of nearby mass transit options, including the Metro 7th Street/Metro Center rail station, six Rapid bus lines, three Express lines and 28 Local lines in the Project area. Additional transit lines include nine LADOT Commuter Express lines, five LADOT Downtown Area Short Hop (DASH) bus lines, eight Foothill Transit bus lines, two Orange County Transportation Authority bus lines, one Santa Monica Big Blue Bus line, and one Torrance Bus line. The availability and accessibility of public transit in the vicinity of the Project Site is documented by the Project Site's location within a designated SCAG HQT and City TPA, as defined in the City's Zoning Information File No. 2452 and PRC Section 21099. In addition, the Project would provide 251 bicycle parking spaces and would feature vehicle parking spaces equipped with electric vehicle (EV) charging stations as well as additional facilities capable of supporting future electric vehicle supply equipment (EVSE). As such, consistent with SCAG's goals and objectives, the Project would maximize mobility and accessibility by providing opportunities for the use of several modes of transportation, including convenient access to public transit and opportunities for walking and biking.

The Project would support objectives and policies of the General Plan Framework Element's (Framework Element) Land Use Chapter. The Project would contribute to the needs of the City's existing and future residents, businesses, and visitors by replacing a parking structure and surface parking lot with a contemporary high-rise development with 580 residential units and up to 7,499 square feet of ground floor, neighborhood-serving commercial/retail/restaurant uses. As such, the Project would create additional housing to meet a growing demand in Downtown Los Angeles, provide short- and long-term employment opportunities, and would be consistent with the type of development that is envisioned for the area. In addition, the Project's mix of uses, sidewalk design and landscaping improvements in an area with convenient access to public transit and opportunities for walking and biking would promote a safe and improved pedestrian environment and facilitate a reduction of vehicle trips and VMT.

The Project would promote the City's goals, objectives, and policies of the Framework Element's Urban Form and Neighborhood Design Chapter by introducing a new mixed-use development that would activate the existing site with uses that are in close proximity to transit stations and lines. The Project would also incorporate elements that promote individual and community safety such as security cameras; proper lighting of building entries and walkways to provide for pedestrian orientation and clearly identify secure pedestrian travel and reduce areas of concealment; and

designing entrances to, and exits from buildings, open spaces around buildings, and pedestrian walkways to be open and in view of surrounding sites.

- **The Project Would Support City Housing Goals.** The Project would increase the range of housing choices available to Downtown employees and residents by replacing a parking structure and surface parking lot with 580 multi-family residential units and neighborhood serving commercial, retail, and restaurant uses. These uses would contribute to the employment base of the Central City Community Plan area, add to the housing stock available to local residents, and continue building on the strengths of the existing labor force and businesses in Downtown Los Angeles.

With regard to the General Plan Housing Element, the Project would support the City's objective to provide an equitable distribution of housing opportunities by type and cost by providing a mixed-use development that would include a variety of new multi-family residential units. The Project would therefore also support the City's objective to plan the capacity for and encourage production of housing units of various types to meet the projected housing needs of the future population by introducing a range of new multi-family residential units to a site that currently provides parking uses. The Project would also support the City's objective to encourage the location of new multi-family housing in proximity to transit by locating a mix of multi-family housing types in an area well-served by public transit.

- **The Project Would Represent Smart Growth.** The Project would represent mixed-use development and the intensification of urban density on an urban infill site in the highly urbanized Downtown Los Angeles area within a City-designated TPA and SCAG-designated HQTa in close proximity to transit. Furthermore, the Project would not require the extension of roads or utility infrastructure, and the Project would not result in urban sprawl. The Project would also provide housing in close proximity to existing jobs, thereby contributing to a jobs-housing balance. These characteristics are consistent with good planning practice, and would reduce VMT, fuel consumption, and associated GHG emissions.
- **The Project Would Enhance the Project Vicinity.** The Project would enhance pedestrian activity in the area by providing improved sidewalks and human-scale commercial/retail/restaurant frontages on the ground floor, and by planting new street trees. The Project would support the City's policy to provide for the siting and design of new development that enhances the character of commercial districts by introducing a mixed-use development within the Project Site that would feature a similar mix of land uses to the existing uses surrounding the Project Site. The Project's close proximity to the 7th Street/Metro Center rail transit station and numerous bus lines would also encourage use of public transit, and the provision of bicycle parking areas would promote bicycle use. Ground level uses would also include extensive windows and continuous balconies, to be situated 25 feet above grade to activate the street and sidewalk and introduce a human-scale element and visual interest to pedestrians. As such, the Project would improve Downtown's pedestrian environment and circulation and reduce parking demand and VMT by encouraging use of alternative modes of transportation available in the immediate vicinity of the Project Site.
- **The Project Would Represent Sustainable Development.** The Project would be designed and constructed to incorporate features to support and promote environmental sustainability, including incorporating "green" principles in compliance

with the City's Green Building Code, which also incorporates various provisions of the California Green Building Standards Code (CALGreen), and the sustainability intent of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED®) program in order to meet LEED certified or equivalent building standards, through Project Design Feature GHG-PDF-1. These Project elements include energy conservation, water conservation, waste reduction features, and a pedestrian-friendly site design with large double door glass entrances. The Project would also implement water conservation features that exceed code requirements through Project Design Feature WAT-PDF-1.

The Project would also utilize sustainable planning and building strategies and incorporate the use of environmentally-friendly materials, such as non-toxic paints and recycled finish materials, whenever feasible, and incorporate sustainability features, including, but not be limited to, high-efficiency/low-flow plumbing fixtures and drip/subsurface irrigation systems to promote a reduction of indoor and outdoor water use, and Energy Star-labeled products and appliances, energy-efficient lighting technologies and fenestration designed for solar orientation. Additionally, continuous balconies along portions of the building would provide passive shading for indoor spaces, reducing energy consumption and allowing for increased natural daylighting and natural ventilation via fully operable balcony doors and windows.

In addition, the Project would meet the City's Green Building Code requirements for parking facilities capable of supporting current and future electric vehicle supply equipment, by including 30 percent of the parking spaces capable of supporting future electric vehicle supply equipment and 10 percent of parking spaces equipped with electric vehicle charging stations.

Based on all of the above, the Project reflects a development that is consistent with the overall vision of the Central City Community Plan as well as with other primary land use plans such as SCAG's 2020–2045 RTP/SCS, and the City's General Plan Housing and Framework Elements. As such, the benefits of the Project, including housing, employment, and opportunities for people to live, work, and recreate within one site and in close proximity to public transit, job centers, and amenities throughout Downtown Los Angeles, would outweigh the effects of the significant and unavoidable impacts of the Project, all of which are temporary construction impacts.

## **XI. General Findings**

1. The City, acting through the Department of City Planning, is the "Lead Agency" for the project evaluated in the EIR. The City finds that the EIR was prepared in compliance with CEQA and the CEQA Guidelines. The City finds that it has independently reviewed and analyzed the EIR for the project, that the Draft EIR which was circulated for public review reflected its independent judgment and that the Final EIR reflects the independent judgment of the City.
2. The EIR evaluated the following potential project and cumulative environmental impacts: air quality, cultural resources, energy resources, geology and soils (paleontological resources), greenhouse gas emissions, land use and planning, noise, population and housing, public services (fire protection, police protection, and schools), transportation, tribal cultural resources, utilities (water supply/infrastructure, wastewater, and energy infrastructure, alternatives, and

other CEQA considerations. Additionally, the EIR considered, in separate sections, Significant Irreversible Environmental Changes and Growth Inducing Impacts. The significant environmental impacts of the project and the alternatives were identified in the EIR.

3. The City finds that the EIR provides objective information to assist the decision makers and the public at large in their consideration of the environmental consequences of the project. The public review periods provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review periods and responds to comments made during the public review periods.
4. Textual refinements and errata (specifically, one Final EIR correction and the addition of two bullet points to Project Design Feature TR-PDF-2 as set forth in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of the Final EIR) were compiled and presented to the decision-makers for review and consideration. The City staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the various documents associated with Project review. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents would contain errors and would require clarifications and corrections. Second, textual clarifications were necessitated to describe refinements suggested as part of the public participation process.
5. The Department of City Planning evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the Department of City Planning prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith and reasoned responses to the comments. The Department of City Planning reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR. The Lead Agency has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental impacts identified and analyzed in the EIR.
6. The Final EIR documents changes to the Draft EIR. Having reviewed the information contained in the Draft EIR, the Final EIR, and the administrative record, as well as the requirements of CEQA and the CEQA Guidelines regarding recirculation of Draft EIRs, the City finds that there is no new significant impact, substantial increase in the severity of a previously disclosed impact, significant new information in the record of proceedings or other criteria under CEQA that would require additional recirculation of the Draft EIR, or that would require preparation of a supplemental or subsequent EIR. Specifically, the City finds that:
  - The Responses to Comments contained in the Final EIR fully considered and responded to comments claiming that the project would have significant impacts or more severe impacts not disclosed in the Draft EIR and include substantial evidence that none of these comments provided substantial evidence that the project would result in changed circumstances, significant new information, considerably different

mitigation measures, or new or more severe significant impacts than were discussed in the Draft EIR.

- The City has thoroughly reviewed the public comments received regarding the project and the Final EIR as it relates to the project to determine whether under the requirements of CEQA, any of the public comments provide substantial evidence that would require recirculation of the EIR prior to its adoption and has determined that recirculation of the EIR is not required.
  - None of the information submitted after publication of the Final EIR, including testimony at the public hearings on the project, constitutes significant new information or otherwise requires preparation of a supplemental or subsequent EIR. The City does not find this information and testimony to be credible evidence of a significant impact, a substantial increase in the severity of an impact disclosed in the Final EIR, or a feasible mitigation measure or alternative not included in the Final EIR.
7. The mitigation measures identified for the project were included in the Draft EIR and Final EIR. As revised, the final mitigation measures for the project are described in the Mitigation Monitoring Program (MMP). Each of the mitigation measures identified in the MMP is incorporated into the project. The City finds that the impacts of the project have been mitigated to the extent feasible by the mitigation measures identified in the MMP.
  8. CEQA requires the Lead Agency approving a project to adopt an MMP or the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with the mitigation measures during project implementation. The mitigation measures included in the EIR as certified by the City and revised in the MMP as adopted by the City serve that function. The MMP includes all of the mitigation measures and project design features adopted by the City in connection with the approval of the project and has been designed to ensure compliance with such measures during implementation of the project. In accordance with CEQA, the MMP provides the means to ensure that the mitigation measures are fully enforceable. In accordance with the requirements of PRC Section 21081.6, the City hereby adopts the MMP.
  9. In accordance with the requirements of PRC Section 21081.6, the City hereby adopts each of the mitigation measures expressly set forth herein as conditions of approval for the project.
  10. The custodian of the documents or other materials which constitute the record of proceedings upon which the City decision is based is the City of Los Angeles, Department of City Planning.
  11. The City finds and declares that substantial evidence for each and every finding made herein is contained in the EIR, which is incorporated herein by this reference, or is in the record of proceedings in the matter.
  12. The City is certifying an EIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings and in the EIR as comprising



the project.

13. The EIR is a project EIR for purposes of environmental analysis of the project. A project EIR examines the environmental effects of a specific project. The EIR serves as the primary environmental compliance document for entitlement decisions regarding the project by the City and the other regulatory jurisdictions.

### **FINDINGS OF FACT (SUBDIVISION MAP ACT)**

In connection with the approval of Vesting Tentative Tract Map No. 74876-CN, the Advisory Agency of the City of Los Angeles, pursuant to Sections 66473.1, 66474.60, .61 and .63 of the State of California Government Code (the Subdivision Map Act), makes the prescribed findings as follows:

- (a) **THE PROPOSED MAP IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.**

Section 66411 of the Subdivision Map Act (Map Act) establishes that local agencies regulate and control the design of subdivisions. Chapter 2, Article I, of the Map Act establishes the general provisions for tentative, final, and parcel maps. The subdivision, and merger, of land is regulated pursuant to Article 7 of the Los Angeles Municipal Code (LAMC). The LAMC implements the goals, objectives, and policies of the General Plan, through zoning regulations, including Specific Plans. Specifically, LAMC Section 17.06 B requires that the tract map be prepared by or under the direction of a licensed surveyor or registered civil engineer. The Vesting Tentative Tract Map was prepared by a Registered Professional Engineer and contains the required components, dimensions, areas, notes, legal description, ownership, applicant, and site address information as required by the LAMC. The Vesting Tentative Tract Map has been filed for the merger, and re-subdivision of three lots into one (1) ground lot and nine (9) airspace lots for residential and commercial condominiums, with below and above grade parking, and a haul route for the export of up to 89,750 cubic yards of soil.

In addition to LAMC Section 17.06 B, Section 17.05 C requires that the vesting tentative tract map be designed in compliance with the zoning regulations applicable to the subject property.

The Land Use Element of the General Plan consists of the 35 Community Plans within the City of Los Angeles. The Community Plans establish goals, objectives, and policies for future developments at a neighborhood level. Additionally, through the Land Use Map, the Community Plan designates parcels with a land use designation and zone. The Land Use Element is further implemented through the LAMC. The zoning regulations contained within the LAMC regulates, but is not limited to, the maximum permitted density, height, parking, and the subdivision of land.

The Framework's Long-Range Diagram identifies the Project Site as located within the Downtown Center, an international center for finance and trade, the largest government center in the region, and the location for major cultural and entertainment facilities, hotels, professional offices, corporate headquarters, financial institutions, high-rise residential towers, regional transportation, and Convention Center facilities. The Downtown Center is generally characterized by floor area ratios of up to 13:1 and high-rise buildings.

The 0.83-acre project site is located within the Central City Community Plan Area (Community Plan) and is subject to the Downtown Design Guide. The Community Plan land use designation for the Project Site is Regional Commercial. According to the Community Plan, corresponding zones for the Regional Commercial designation include CR, C1.5, C2, C4, R3, R4, R5, RAS3, and RAS4.

The Project site is zoned C2-4D which permits a variety of uses, such as multiple dwelling residential; a wide range of commercial uses, such as health clubs, restaurants and retail commercial stores; and office uses, hotels, museums, and hospitals.

Height District 4 within the C2 zone does not impose any height limit and the LAMC allows for an approximately 13:1 FAR for the Project Site. However, the "D" limitation restricts the FAR to 6:1 unless a Transfer of Development Rights (TFAR) is approved (Ordinance No. 164,307). As such the Project includes a TFAR entitlement request which would allow the Project's proposed FAR of up to 9.25:1. Therefore, the Project's maximum 9.25:1 FAR would result in 554,927 square feet of floor area which would be consistent with the permitted floor area of the Central City Community Plan. The C2 zone establishes the residential density at one dwelling unit per 400 square feet of lot area. However, the Project site is situated within the Greater Downtown Housing Incentive Area (ZI 2385) which has no limit on the maximum number of dwelling units. The Greater Downtown Housing Incentive Area also allows for zero setbacks along the front, side and rear property lines. The pedestrian walkways are regulated by the Downtown Design Guide and the Project's pedestrian walkways widths along 8th Street, Hope Street and Grand Avenue meet the minimum sidewalk width requirements specified within the Downtown Design Guide. Based on the above development regulations, the proposed merger and re-subdivision of the Project Site into one ground lot and nine airspace lots for residential and commercial condominium purposes, would be consistent with these regulations. The project is consistent with the General Plan and demonstrates compliance with Sections 17.06 of the Los Angeles Municipal Code as well as with the intent and purpose of the General Plan, with regard to lot size, height, density and use.

The Downtown Street Standard calls for 8th Street between Grand Avenue and Hope Street, adjoining the subdivision, to provide a 33-foot half roadway width, a 12-foot-wide sidewalk, and a 5-foot-wide sidewalk easement. However, the existing curb lane is wide enough to provide an independent westbound right-turn lane, three through lanes, and a left turn lane. Street widening is not necessary to alleviate any Project related impact to the circulation of vehicles on the roadway and is not necessary to meet the Mobility Plan's Pedestrian Enhances Network.

Therefore, as conditioned, the proposed Vesting Tract Map demonstrates compliance with LAMC Sections 17.05 C and 17.06 B and is consistent with the applicable General Plan and Specific Plans.

- (b) THE DESIGN AND IMPROVEMENT OF THE PROPOSED SUBDIVISION ARE CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

For purposes of a subdivision, design and improvement is defined by Section 66418 of the Subdivision Map Act and LAMC Section 17.02. Section 66418 of the Subdivision Map Act defines the term "design" as follows: "Design" means: (1) street alignments, grades and widths; (2) drainage and sanitary facilities and utilities, including alignments and grades thereof; (3) location and size of all required easements and rights-of-way; (4) fire

roads and firebreaks; (5) lot size and configuration; (6) traffic access; (7) grading; (8) land to be dedicated for park or recreational purposes; and (9) such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the general plan or any applicable specific plan. Further, Section 66427 of the Subdivision Map Act expressly states that the "Design and location of buildings are not part of the map review process for condominium, community apartment or stock cooperative projects."

Section 17.05 C of the Los Angeles Municipal Code enumerates design standards for Subdivisions and requires that each Tentative Map be designed in conformance with the Street Design Standards and in conformance to the General Plan. Section 17.05 C, third paragraph, further establishes that density calculations include the areas for residential use and areas designated for public uses, except for land set aside for street purposes ("net area"). LAMC Section 17.06 B and 17.15 lists the map requirements for a tentative tract map and vesting tentative tract map. The map provides the required components of a tentative tract map.

The vesting tentative tract map design includes the merger, and re-subdivision of three existing lots into one ground lot and nine airspace lots for condominium purposes for a mixed-use development on an approximately 0.83-acre (34,679 square foot) site.

The design and layout of the map is consistent with the design standards established by the Subdivision Map Act and Division of Land Regulations of the Los Angeles Municipal Code. Several public agencies (including the Bureau of Engineering, Department of Building and Safety, Grading Division and Zoning Division, and Bureau of Street Lighting) have reviewed the map and found the subdivision design satisfactory, and have imposed improvement requirements and/or conditions of approval.

Pursuant to the letter dated April 13, 2023, the Bureau of Engineering requires a 3 foot dedication along Hope Street, and sidewalk easements along Hope Street, 8<sup>th</sup> Street and Grand Avenue, a radius easement line return or corner easement at the intersection with Hope Street and 8<sup>th</sup> Street, a radius property line return or corner dedication at the corner intersection of 8<sup>th</sup> Street and Grand Avenue. Sewers are available and have been deemed adequate in accommodating the proposed project's sewerage needs, subject to conditions of approval. The subdivision will be required to comply with all regulations pertaining to grading, building permits, and street improvement permit requirements. Conditions of Approval for the design and improvement of the subdivision are required to be performed prior to the recordation of the tentative map, building permit, grading permit, or certificate of occupancy.

The 0.83-acre project site is located within the Central City Community Plan Area (Community Plan) and is subject to the Downtown Design Guide. The Community Plan land use designation for the Project Site is Regional Commercial. According to the Community Plan, corresponding zones for the Regional Commercial designation include CR, C1.5, C2, C4, R3, R4, R5, RAS3, and RAS4.

The Project site is zoned C2-4D and the vesting tentative tract map design includes the merger and re-subdivision of an approximately 0.83-acre site into one ground lot and nine airspace lots for condominium purposes for a mixed-use development. The Project would include uses consistent with the Community Plan's Regional Commercial Land Use Designation, and the corresponding C2 Zone, which permits commercial, mixed-use and

residential development. The subdivision design and improvements are consistent with the General Plan and demonstrate compliance with the General Plan with regard to lot size and configuration, as well as other specific physical requirements in the plan relating to floor area, height, density and use.

The Downtown Street Standard calls for 8th Street between Grand Avenue and Hope Street, adjoining the subdivision, to provide a 33-foot half roadway width, a 12-foot-wide sidewalk, and a 5-foot-wide sidewalk easement. However, the existing curb lane is wide enough to provide an independent westbound right-turn lane, three through lanes, and a left turn lane. Street widening is not necessary to alleviate any Project related impact to the circulation of vehicles on the roadway and is not necessary to meet the Mobility Plan's Pedestrian Enhances Network.

Upon approval of the entitlement requests, and as conditioned therein, the design and improvement of the proposed subdivision would be consistent with the intent and purpose of the General Plan.

(c) THE SITE IS PHYSICALLY SUITABLE FOR THE PROPOSED TYPE OF DEVELOPMENT.

The Project Site is currently improved with an existing four-story parking structure and surface parking lot. The Project Site does not contain unique natural geologic features, such as ridges, canyons, ravines, rock outcrops, water bodies, streambeds, or wetlands. The surface condition of the Project Site is a level asphalt parking lot with no on-site landscaping.

The topography of the Project Site is a relatively flat lot. The Project Site is bounded by Hope Street to the west; 8th Street to the south; and Grand Avenue to the east. The Project Site is located within the Central City Community Plan. The Project Site is located within an urbanized area, and is not located in a Methane Zone, liquefaction, Alquist-Priolo Fault Zone, Landslide, Preliminary Fault Rapture Study Area, Flood Zone, or a Very High Fire Hazard Severity Zone.

The tract has been approved contingent upon the satisfaction of the Department of Building and Safety, Grading Division prior to the recordation of the map and issuance of any permits. Pursuant to the Department of Building and Safety, Grading Division email response dated June 28, 2021, the Project Site does not require a geology/soils report prior to the planning approval of the Tract Map.

In addition, the environmental analysis conducted for the Project found that the tract map and development of the Project would not result in any significant impacts in terms of geological or seismic impacts, hazards and hazardous materials, and safety. In general, compliance with existing regulations, tract map conditions, and mitigation measures identified in the EIR ensure that proposed development could be feasibly and safely constructed and operated on the site. Therefore, the Project Site is physically suitable for the proposed type of development.

(d) THE SITE IS PHYSICALLY SUITABLE FOR THE PROPOSED DENSITY OF DEVELOPMENT.

The General Plan identifies, through its Community and Specific Plans, geographic locations where planned and anticipated densities are permitted. Zoning standards for density are applied to sites throughout the city and are allocated based on the type of land use, physical suitability, and future population growth expected to occur.

The vesting tentative tract map design includes the merger, and re-subdivision of one existing lot into one ground lot and nine airspace lots for condominium purposes for a mixed-use development on an approximately 0.83-acre (34,679 square foot) site. According to the Community Plan, corresponding zones for the Regional Commercial designation include CR, C1.5, C2, C4, R3, R4, R5, RAS3, and RAS4.

The Project site is zoned C2-4D and also subject to the area use restrictions of the Central City Community Plan, which permits a variety of uses, such as multiple dwelling residential; a wide range of commercial uses, such as health clubs, restaurants and retail commercial stores; and office uses, hotels, museums, and hospitals.

The C2 zone establishes the residential density at one dwelling unit per 400 square feet of lot area. However, the Project Site is situated within the Greater Downtown Housing Incentive Area (ZI 2385) which has no limit on the maximum number of dwelling units. Therefore, the 580 residential units under the proposed Project is consistent with the allowable density for the Project Site. The Greater Downtown Housing Incentive Area also allows for zero setbacks along the front, side and rear property lines. Street frontage standards, and pedestrian walkways and other design regulations are governed by the Downtown Design Guide.

Height District 4 does not impose any height limit and the Central City Community Plan permits an FAR of 13:1; however, the site's "D" limitation restricts the FAR to 6:1 unless a TFAR is approved (Ordinance No. 164,307). As such, the Project includes a TFAR entitlement request which would allow the Project's proposed FAR of up to 9.25:1. The Project's maximum 9.25:1 FAR would result in 554,927 square feet of floor area, which, if approved, would be consistent with the permitted floor area of the Central City Community Plan.

Upon approval of the entitlement requests, and as conditioned therein, the Project's proposed density is consistent with the general provisions and area requirements of the LAMC and Greater Downtown Housing Incentive Area. The Project Site is easily accessible via improved public streets, highways, and transit systems. The environmental review conducted by the Department of City Planning under Case No. ENV-2017-506-EIR (SCH No. 2019050010) establishes that the physical characteristics of the site and the proposed density of development are generally consistent with existing development and urban character of the surrounding community. Therefore, the Project Site is physically suitable for the proposed density of development.

- (e) THE DESIGN OF THE SUBDIVISION AND THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE OR SUBSTANTIALLY AND AVOIDABLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

The Project proposes an infill development within an area designated for high density residential and commercial uses within the Central City Community Plan area in the City of Los Angeles. The vesting tentative tract map design includes the merger and re-subdivision of one lot into one ground lot and nine airspace lots for residential and

commercial condominium purposes, and a Haul Route for the export of approximately 89,750 cubic yards of soil, for a 0.83-acre site.

The subdivision design and improvements are consistent with the existing urban development of the area. There are no habitat conservation plans or natural community conservation plans which presently govern any portion of the Project Site or vicinity. The EIR prepared for the Project identifies no potential adverse impacts on fish or wildlife resources. The Project Site vicinity is urbanized and generally built out and does not contain riparian or other sensitive natural communities, and does not provide a natural habitat for either fish or wildlife. No water bodies or federally protected wetlands as defined by Section 404 of the Clean Water Act exist on the Project Site. The Project Site does not contain any natural open spaces, act as a wildlife corridor, contain riparian habitat, wetland habitat, migratory corridors, conflict with a Habitat Conservation Plan, nor possess any areas of significant biological resource value.

As discussed in the EIR, the Project Site is located in a previously developed area and is currently developed with an existing four-story parking structure and a surface parking lot with no significant landscaping. Due to the disturbed nature of the Project Site and the surrounding urban areas, and lack of open space, species likely to occur on-site are limited to small terrestrial and avian species typically found in developed, urban settings. Specifically, the Project Site is devoid of any landscaping; therefore, due to the lack of on-site vegetation, there are no special-status plants found, no areas capable of supporting special-status plants, and no special-status animal species occurring within the Project Site due to a lack of suitable habitat on the Project Site. Furthermore, the Project Site is not located in or adjacent to a Biological Resource Area. Therefore, the Project would not have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

The Project Site does not include vegetation that would have potential to support nesting birds and/or bats. With regard to the unlikelihood of nesting birds in the existing seven right-of-way trees, the Project would comply with the Migratory Bird Treaty Act, which prohibits the take, possession, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to federal regulations.

The Project proposes to remove all existing trees and tree removal requests are scrutinized by the Urban Forestry Division of the Department of Public Works to ensure all alternatives to tree preservation have been explored. The public property tree species are not considered protected under the City of Los Angeles Protected Tree Ordinance.

Therefore, the design of the subdivision would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) **THE DESIGN OF THE SUBDIVISION AND THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.**

The proposed subdivision and subsequent improvements are subject to the provisions of the Los Angeles Municipal Code (e.g., the Fire Code, Planning and Zoning Code, Health and Safety Code) and the Building Code. Other health and safety related requirements as

mandated by law would apply where applicable to ensure the public health and welfare (e.g., asbestos abatement, seismic safety, flood hazard management).

The Project is not located over a hazardous materials site or flood hazard area, and is not located on unsuitable soil conditions. The Project would not place any occupants near a hazardous materials site or involve the use or transport of hazardous materials or substances. As noted in the EIR, construction of the project would involve the temporary use of hazardous substances in the form of paint, adhesives, surface coatings and other finishing materials, and cleaning agents, fuels, and oils. All materials would be used, stored, and disposed of in accordance with applicable laws and regulations and manufacturers' instructions. Furthermore, any emissions from the use of such materials would be minimal and localized to the project site.

Operation of the residential, and commercial uses would involve the use and storage of small quantities of potentially hazardous materials in the form of cleaning solvents, painting supplies, pesticides for landscaping, and pool maintenance. The use of these materials would be in small quantities and in accordance with the manufacturers' instructions for use, storage, and disposal of such products. Therefore, neither construction nor operation of the project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

The EIR fully analyzed the impacts of both construction and operation of the Project on the existing public utility and sewer systems and determined that impacts are less than significant. The development is required to be connected to the City's sanitary sewer system, where the sewage will be directed to the Hyperion Treatment Plant. The subdivision will have only a minor incremental increase on the effluent treated by the Hyperion Treatment Plant, which has adequate capacity to serve the project, and which has been upgraded to meet Statewide ocean discharge standards. No adverse impacts to the public health or safety would occur as a result of the design and improvement of the site. Therefore, the design of the subdivision and the proposed improvements are not likely to cause serious public health problems.

- (g) THE DESIGN OF THE SUBDIVISION AND THE PROPOSED IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS ACQUIRED BY THE PUBLIC AT LARGE FOR ACCESS THROUGH OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.

There are three recorded instruments identifying easements for the Project Site for the purpose of providing water and public access. One easement is for water rights, claim or title to water (Per Chicago Title Insurance Company Order No. 00046245-994-X49-DB dated November 28, 2016). A second easement for an irrevocable offer to dedicate an easement for public street, highway, pedestrian and view easement. (Recorded July 22, 1970, as Instrument No. 1887). A third easement, which was recorded on March 19, 1970, as Instrument No. 1811, appears to be for a portion of the parking structure lying within the public right of way. The existing parking structure would be demolished, and any future development would not conflict with any existing easements. The Project would comply with the Downtown Design Guide by providing the required sidewalk easements of five feet along 8th Street and average sidewalk easement of seven feet, and three feet along Grand Avenue, and Hope Street respectively. The Site is surrounded by private properties that adjoin improved public streets and sidewalks designed and improved for the specific purpose of providing public access throughout the area. In addition, the Bureau of

Engineering did not indicate in its report dated April 13, 2023, that the proposed improvements would conflict with any easements. The Project Site does not adjoin or provide access to a public resource, natural habitat, public park, or any officially recognized public recreation area. Necessary public access for roads and utilities will be acquired by the City prior to recordation of the proposed map. Therefore, the design of the subdivision and the proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

The Downtown Street Standard calls for 8th Street between Grand Avenue and Hope Street, adjoining the subdivision, to provide a 33-foot half roadway width, a 12-foot-wide sidewalk, and a 5-foot-wide sidewalk easement. However, the existing curb lane is wide enough to provide an independent westbound right-turn lane, three through lanes, and a left turn lane. Street widening is not necessary to alleviate any Project related impact to the circulation of vehicles on the roadway and is not necessary to meet the Mobility Plan's Pedestrian Enhanced Network, and would not conflict with easements acquired by the public at-large or access through or use of property within the proposed subdivision.

Therefore, as conditioned, the proposed Vesting Tract Map demonstrates compliance with LAMC Sections 17.05 C and 17.06 B and is consistent with the applicable General Plan and Specific Plans.

- (h) THE DESIGN OF THE PROPOSED SUBDIVISION WILL PROVIDE, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES IN THE SUBDIVISION. (REF. SECTION 66473.1)

In assessing the feasibility of passive or natural heating or cooling opportunities in the proposed subdivision design, the applicant has prepared and submitted materials which consider the local climate, contours, configuration of the parcel(s) to be subdivided and other design and improvement requirements.

Providing for passive or natural heating or cooling opportunities will not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map was filed.

The topography of the site has been considered in the maximization of passive or natural heating and cooling opportunities.

In addition, prior to obtaining a building permit, the subdivider shall consider building construction techniques, such as overhanging balconies, eaves, location of windows, insulation, exhaust fans; planting of trees for shade purposes and the height of the buildings on the site in relation to adjacent development.

These findings shall apply to both the tentative and final maps for Vesting Tentative Tract Map No. 74876-CN.





## **LOS ANGELES CITY PLANNING APPEAL FILING PROCEDURES**

Entitlement and CEQA appeals may be filed using either the Online Application System (OAS) or in person Drop Off at DSC (Development Services Center).

**Online Application System:** The OAS (<https://planning.lacity.org/oas>) allows appeals to be submitted entirely electronically online; fee payment is by credit card or e-check.

**Drop off at DSC:** Appeals of this determination can be submitted in person at the Metro or Van Nuys DSC locations, and payment can be made by credit card or check. City Planning has established drop-off areas at the DSCs with physical boxes where appellants can drop off appeal applications; alternatively, appeal applications can be filed with staff at DSC public counters. Appeal applications must be on the prescribed forms, and accompanied by the required fee and a copy of the determination letter. Appeal applications shall be received by the DSC public counter and paid for on or before the above date or the appeal will not be accepted.

Forms are available online at <http://planning.lacity.org/development-services/forms>. Public offices are located at:

### **Metro DSC**

(213) 482-7077  
201 N. Figueroa Street  
Los Angeles, CA 90012

### **Van Nuys DSC**

(818) 374-5050  
6262 Van Nuys Boulevard  
Van Nuys, CA 91401

### **West Los Angeles DSC**

(CURRENTLY CLOSED)  
(310) 231-2901  
1828 Sawtelle Boulevard  
West Los Angeles, CA 90025

City Planning staff may follow up with the appellant via email and/or phone if there are any questions or missing materials in the appeal submission, to ensure that the appeal package is complete and meets the applicable Los Angeles Municipal Code provisions.

**An appeal application must be submitted and paid for before 4:30 PM (PST) on the final day to appeal the determination.** Should the final day fall on a weekend or legal City holiday, the time for filing an appeal shall be extended to 4:30 PM (PST) on the next succeeding working day. Appeals should be filed early to ensure that DSC staff members have adequate time to review and accept the documents, and to allow appellants time to submit payment.



QR Code to Online  
Appeal Filing



QR Code to Forms  
for In-Person Filing